Centre brings Crypto under PMLA

Prelims: Crypto Currency, PMLA, ED, Virtual Digital Assets.

Mains: Crypto under Money Laundering Act.

Why in News?

The Union Ministry of Finance, through a gazette notification, has brought Virtual Digital Assets (VDA) or the Crypto Currency under the Prevention of Money Laundering Act (PMLA).

What are the Key Points of the Move?

- **Need:**
    - Cryptocurrency transactions continue to lack transparency **and the trail is difficult to establish.**
        - This moves pushes responsibility on the cryptocurrency **markets to bring transparency to cryptocurrency trading.**
    - In the digital era of finance, compliance is a must not just to safeguard interest of investors but **also of the country and in this aspect the crypto industry is becoming increasingly important,** governments and regulators around the world are paying closer attention to this rapidly evolving space.
    - The measure is also expected to **aid investigative agencies in carrying out action against** crypto firms.
- **Norms:**
    - VDA service providers / businesses have now become the **'Reporting Entities' under PMLA Act**, and they have to follow similar reporting standards and KYC norms as the other regulated entities like **banks, securities intermediaries, payment system operators, etc.**
- **Activities covered under PMLA:**
    - Exchange between virtual digital assets (VDA) and Fiat Currencies.
    - Exchange between **one or more forms of VDAs**
    - Transfer of VDAs
    - Safekeeping or administration of VDAs or instruments enabling control over VDAs.
    - Participation in and provision of financial services related to an issuer's offer and sale of a VDA.

What are the Related Concerns?

- The notification **does not offer entities time to adhere** to the fresh norms. The Crypto industry is **also concerned that in the absence of a central regulator,** crypto entities could end up dealing directly with enforcement agencies like the Directorate of Enforcement (ED).
- 17 lakh users Indian VDA users have switched from domestic centralized VDA exchanges to foreign counterparts since the announcement of the tax regime in the Union Budget in February 2022
    - Indian crypto traders have moved over USD 3.8 billion in trading volume from local

exchanges to international crypto platforms.
- This is likely to lead to a **large negative impact on tax revenues, as well as a decrease in transaction traceability**— which defeats the two central goals of the extant policy architecture.
- The downside impact of the VDA tax architecture is likely to further accentuate capital outflow and deter international investors.

What is the Legal Status of Crypto in India?

- In the Union Budget 2022-23, even though the government brought in a tax for cryptocurrencies, it **did not proceed with framing regulations.**
- Earlier, the Reserve Bank (RBI) of India had proposed a ban that was set aside by Supreme Court order.
- In July 2022, flagging the RBI's concerns, the finance minister told Parliament that "international collaboration" would be needed **for any effective regulation or ban on cryptocurrency.**
- From **April 2022,** India introduced a 30% income tax on gains made from cryptocurrencies.
  - In **July 2022,** rules **regarding 1% tax deducted at source on cryptocurrency** came into effect.

Way Forward

- If there are laws and guidelines against crypto laundering, investors will have the fear of being penalized. To make things more streamlined, **exchanges in India must track transfers made by investors within a tax year** exceeding a certain amount and report the same to the tax authorities.
- To overcome the impact of VDA tax architecture, the Government should adopt a **progressive tax structure with differentiated rates for short-term** and long-term gains, in line with international best practices.
  - A new tax regime pertaining to VDA was announced in 2022, switching users from domestic to international counterparts, which furthered the capital outflow.

Source: TH