



Govt. Establishes Adjudicating Authority and Appellate Tribunal

The government has approved the appointment of Adjudicating Authority and establishment of Appellate Tribunal under Prohibition of Benami Property Transactions Act (PBPT), 1988.

- The Adjudicating Authority and Appellate Tribunal will be based in Delhi. Benches of Adjudicating Authority will be in Kolkata, Mumbai, and Chennai.
- The Prohibition of Benami Property Transactions Act (PBPT), 1988 seeks to establish four authorities to conduct inquiries or investigations regarding Benami transactions: (i) **Initiating Officer**, (ii) **Approving Authority**, (iii) **Administrator** (iv) **Adjudicating Authority**.
- If an Initiating Officer believes that a person is a Benamidar (person in whose name the Benami property is transferred or held), he may issue a notice to that person.
- The Initiating Officer may hold the property for 90 days from the date of issue of the notice, subject to permission from the Approving Authority.
- At the end of the notice period, the Initiating Officer may pass an order to continue the holding of the property.
- If an order is passed to continue holding the property, the Initiating Officer will refer the case to the Adjudicating Authority.
- The Adjudicating Authority will examine all documents and evidence relating to the matter and then pass an order on whether or not to hold the property as Benami.
- **The act also establishes an Appellate Tribunal to hear appeals against any orders passed by the Adjudicating Authority.**
- **Appeals against orders of the Appellate Tribunal will lie to the high court.**

Benefits

- The establishment of benches will result in effective and better administration of cases referred to the Adjudicating Authority.
- Speedy disposal of appeals filed before the Appellate Tribunal.

Tribunal

A tribunal is a quasi-judicial body established by an Act of Parliament or State Legislature under Article 323A or 323B to resolve disputes that are brought before it. Article 323A provides for Administrative tribunals and 323B provides for Tribunals for other matters.

The Prohibition of Benami Property Transactions Act, 1988.

- The Act defines a Benami transaction as a transaction where a property is held by or transferred to a person but has been provided for or paid by another person. Therefore, the property is not held in the name of the real owner, but in somebody else's name.
- Property transactions where: (i) the transaction is made in a fictitious name, (ii) the owner is not aware of or denies knowledge of the ownership of the property, or (iii) the person providing the consideration for the property is not traceable will also fall under Benami transaction.
- Under the Act, the penalty for entering into Benami transactions is rigorous imprisonment of one year up to seven years, and a fine which may extend to 25% of the fair market value of the

Benami property.

- The penalty for providing false information to be rigorous imprisonment of six months up to five years, and a fine which may extend to 10% of the fair market value of the Benami property.
- The Act also states that Benami properties can be confiscated by the government without payment of compensation. The term “property” now covers movable, immovable, tangible and intangible properties.
- This Act, along with the stringent Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015, to penalize those with unaccounted wealth abroad and the Fugitive Economic Offenders Act, 2018, which allows a designated special court to declare a person as a fugitive economic offender and to confiscate their property, including ‘Benami’ ones, will help the government in its fight against black money both within and outside the country.

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