Taxing Virtual Digital Assets : A Fresh Outlook

INTRODUCTION

The first cryptocurrency that was introduced to the world in the year of 2009, was Bitcoin. It was discovered by an aggregate of individuals using the name Satoshi Nakamoto.[1] Bitcoin paved the way for the introduction of many other cryptocurrencies. Some of the famous cryptocurrencies that people can think of investing in are Ether (ETH), Litecoin (LTC), Dogecoin (DOGE), Bitcoin Cash (BCH), Tether (USDT), Cardano (ADA), XRP (XRP), Monero (XMR), Avalanche (AVAX) and Solana.[2] According to a study conducted, a little over 8000 cryptocurrencies are in existence as of 2022.[3]

Indians have the most cryptocurrency owners in the world. The NGO NASSCOM, in partnership with the cryptocurrency exchange platform 'WazirX,' has announced considerable development in India's Crypto-Tech business. In the next ten years, Indians are expected to invest in the cryptocurrency industry to the tune of 241 million dollars.[4] In light of this, the Reserve Bank of India is getting ready to introduce and implement the Electronic Money or Digital Rupee. The marketplaces for buying, selling, and exchanging digital currencies are open twenty-four hours a day.[5]

This research paper will comprise 6 chapters. The first chapter talks about the history of cryptocurrency and the latest developments that have been brought regarding its taxation in accordance with the Income Tax, Act of 1961. The second chapter begins by bringing the core issue to light and deliberating upon the various kinds of literature existing all across the world on this topic. The third chapter addresses how cryptocurrencies will be categorized under the

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[1] Adam Hayes, 'Who Is Satoshi Nakamoto?' (*Investopedia*, 25 September 2022) <https://www.investopedia.com/terms/s/satoshi-nakamoto.asp> accessed 9 November 2022.

[2] Bethany Garner, 'Top 10 Altcoins in October 2022' (*Forbes Advisor*, 2 November 2022) <https://www.forbes.com/uk/advisor/investing/cryptocurrency/top-10-altcoins-2022/> accessed 8 November 2022.

[3] Arti, '10 Cryptocurrencies With Millionaire Maker Potential In 2022' (*Analytics Insight*, 6 January 2022) <https://www.analyticsinsight.net/10-cryptocurrencies-with-millionaire-maker-potential-in-2022/> accessed 8 November 2022.

[4] 'Understand the Taxation of Virtual Digital Asset' (*Taxmann*, 6 June 2022) <https://www.taxmann.com/post/blog/taxation-of-virtual-digital-asset/> accessed 8 November 2022.

[5] Et Online, 'RBI to soon commence pilot launch of Digital Rupee, releases concept note on Central Bank Digital Currency' (*The Economic Times*, 8 October 2022) <https://economictimes.indiatimes.com/news/economy/policy/rbi-releases-concept-note-on-central-bank-digital-currency-to-commence-pilot-launch-of-e-rupee-soon/articleshow/94704437.cms> accessed 8 November 2022.

Income Tax Act, of 1961. The fourth chapter deals with what all events are taxable across the lifestyle of cryptocurrencies. It majorly looks at three prospective taxable events namely; when the cryptocurrencies are created, their preliminary dissemination or when they are procured, and their eventual disposition. The analysis of income tax carried out in the research paper is split into 2 portions – the first portion deals with how the income tax was levied before the amendments were done through the Union Budget of 2022-2023, and the second portion deals with what would the repercussions or ramifications after the amendments done. The fifth chapter deals with how the income tax is levied on cryptocurrencies across various countries and lastly, the sixth chapter sums up that the amendments introduced in the Union Budget present several significant functional problems, several fundamental norms of tax policy are breached and as a result, they should be scrapped.

I. JOURNEY OF CRYPTOCURRENCY/HISTORY

1. 2013 – 2017

It is this period of 213-2017 when there was an unprecedented boom of cryptocurrency in India. However, there existence of hesitations among the public, reluctance to invest in cryptocurrency, not having much knowledge about the same, and much more ambiguities and doubts contributed to the fear of RBI about cryptocurrency not being a viable currency to trade in. As a result of this, people were cautioned by the RBI about its usage. In 2013, it had been explicitly stated by RBI that they were keeping a close eye on any further developments related to Bitcoin and other cryptocurrencies.

RBI had cautioned the public in Feb 2017 giving a stern message that no type of cryptocurrency or virtual currency was recognized as a legal tender in India. Due to this statement by the RBI, several PILs were drafted as a reaction to RBI's statement. As a result of this, the government had no other alternative than to create a committee that would analyze the problems associated with cryptocurrency and recommends some guidelines or measures for it. Due to this, cryptocurrencies were not made illegal in the country.

2. 2018

The committee formed in 2017 as a result of the PILs filed, had prepared a bill concerning cryptocurrencies, however, they did not advocate the view of banning it.

3. 2019 (Banning of cryptocurrency bill)

- Getting involved in the exchange of cryptocurrency, mining, storing, or using it is liable to a penalty of some fine or custody for 10 years.
- Any person having cryptocurrency with him is liable to surrender it within 90 days.
- The technology utilized in the creation of cryptocurrency can be put to use for educational or research purposes.
- A new digital currency may be introduced by RBI in the upcoming years

4. 2020

RBI was given a breather by the SC's judgment revoking the prohibition on cryptocurrencies executed by it.

5. 2021

The result of the SC's judgment, and the public's continuous usage of cryptocurrencies, led to the establishment of a Committee that would address the concerns arising out of cryptocurrency and recommends some corrective measures to combat it. It was also stated by Ms. Nirmala Sitharaman, the finance minister, that it was not the intention of the government to prohibit the usage of cryptocurrency by the public, but it intended to create more knowledge on cryptocurrency via RBI and SEBI.

LATEST DEVELOPMENT

In the Union Budget of 2022-2023, some provisions were made for the taxation of cryptocurrencies. Some of them were: i) if a transfer of cryptocurrency occurred then that would be taxed at 30%, (ii) even if a loss occurs in a transaction, it won't be permitted to be carried forward, (iii) the person receiving the virtual digital asset as a gift would be charged for the same, (iv) RBI would be launching by 2023 and (v) 1% TDS would be levied when a transfer of a virtual digital asset takes place.

With this announcement of the government of India, it has been made clear that trading and investing in cryptocurrencies is not illegal per se, and there may be potential for it to be acknowledged as a medium of currency along with cash and other digital platforms like Paytm, Google Pay, etc. However, the state has still not regarded cryptocurrency as a mode of payment.

Just making it taxable under the Income Tax Act, of 1961 will not make it legal since assets are taxable in India, but its process of obtaining is not taxable.

The provision of no losses not being allowed to be carried forward would be a huge step backward for the people wishing to participate in its trading since cryptocurrencies are very unpredictable i.e., there is no assurance that one will get any gains out of it, there is an equivalent chance of losing everything that has been invested. The major reason for its unpredictable nature is that it is still a very new concept in India despite some years having passed by before people came to know about it in this country. Also, due to the reason, it is a digital asset, its cost is ascertained by the forces of demand and supply.

For instance, some crypto assets like Bitcoin are very inadequate in quantity. Due to Bitcoin having a supply of less than 25 million, however having a huge craze among the youth about it, the demand and supply element becomes active. However, this unpredictable nature of cryptocurrencies will often prevent people from engaging in their trading.

II. ANALYSING THE EXISTING WORKS OF LITERATURE

It becomes very significant to explain the perspective behind the phrasing of that word if one needs to ascertain the consequences arising as a result of the taxation of cryptocurrencies. A large number of data can already be found to be existing on this topic across many countries. In this chapter, the literature pertaining to the taxation of cryptocurrencies in other countries would be analyzed and a distinction would be made between the significant words present in the arena of virtual digital assets and cryptocurrencies.

A comprehensive study of the prevailing data was done by the Supreme Court of India. A report by FATF was widely mentioned by the court.[6] In this report, the term 'virtual currency' was phrased as being of valuation digitally, however, which had not been granted the status of legal currency in any country by then.[7]

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[6] *Internet and Mobile Association of India v. Reserve Bank of India*, Writ Petition (Civil) No. 528 of 2018.

[7] FATF, *Virtual Currencies – Key Definitions and Potential AML/CFT Risks* (Report, June 2014) <https://www.fatfgafi.org/media/fatf/documents/reports/Virtual-currency-key-definitions-and-potential-aml-cft-risks.pdf> accessed 8 November 2022.

FATF had coined 'cryptocurrency' as something which involved mathematical concepts and notions, which was convertible and signed every time a cryptocurrency transmission took place.[8]

ANALYSING THE AMENDMENTS MADE FOR THE TAXATION OF CRYPTOCURRENCIES

a. A new subclause was inserted into Section 2(47) of the Income Tax Act, 1961 which defined the term 'virtual digital asset'. According to this definition, a virtual digital asset would include code, token, non-fungible token (NFT), or any other digital asset that would be notified by the government.

b. Section 115BBH was inserted which taxed income earned from trading in virtual digital assets at 30%. The tax charged on virtual digital assets does not consider the transaction, as a result, tax is levied @30% on it.

c. TDS @1% was also set to be levied by the government in the new announcements made in the budget. As a result, many trading platforms have to charge TDS @1% on their dealings and send that money to the government regularly, irrespective of whether it is in cash or any other medium. This proviso oversees that tax is collected properly and also assists in doing surveillance of cash flow taking place.

III. CRYPTOCURRENCY CLASSIFICATION

Many roles are played by cryptocurrencies. Cryptocurrencies are utilized as a gateway where exchange could take place, reserves for wealth, and accountancy repositories. They are computerized, encoded, and fragmented into segments. These factors made it highly intricate to globally categorize or classify cryptocurrencies under any financial instrument. There may exist some characteristics of cryptocurrencies that are similar to that of money, but cryptocurrency is different. The dilemma of categorizing cryptocurrency in different heads is very crucial from the perspective of taxation.

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[8] Ibid.

According to the Income Tax Act of 1961, tax is levied on both individual and corporate revenue. Inhabitants of India are subject to taxation on earnings outside (the residence rule), whereas non-Indian nationals are subject to taxation on earnings within India (source rule). As a result, if any of the two regulations is followed, income tax in India is levied. Income is the most important element of the income tax system. The question of whether gains from taking part in cryptocurrency transactions would fall under the meaning of "income" as it is stated in Income Tax Act is an issue that is of the utmost importance.

'Income' is defined in a very comprehensive way by the Income Tax Act.[9] Additionally, it specifies the category or the different types of heads under which the income would be ascertained for taxation in accordance with the Income Tax Act.[10] Heads such as 'profits earned from any occupation', 'capital gains', and 'income from other sources' can be found in this list.[11] Every one of these sources of income is governed by different rules that establish the procedure for deciding how to deposit and how much tax is owed. Hence, one of the key essential aspects of determining taxes owed under the IT Act is allocating income under the respective categories.

In the case of Commissioner of Income Tax v. GR Karthikeyan,[12] it was determined by the court that the notion behind giving a comprehensive definition of income under the IT act is not to narrow down its meaning, however, it was done to broaden it and it is of the biggest magnitude, which needs to be provided with a meaning that resonates with it to a large extent. The IT Act would therefore automatically extend to any cryptocurrency-related earnings.

TREATMENT OF INCOME TAX WRT CRYPTOCURRENCIES BEFORE 2022 - 2023

Income can be considered to be within the ambit of 'capital gains' for the sake of taxation. The aim of this head is to tax income arising out of transferring of a capital asset. There is no bar on what constitutes property according to the IT Act rules. 'Capital asset 'under the IT Act is

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[9] Income Tax Act 1961 (IT Act 1961), No. 43, s 24(2) (India).

[10] Ibid, s 14.

[11] Ibid.

[12] (1993) 112 CTR (SC) 302.

defined as any type of property that may lie in the possession of any person, barring some exceptions.[13] The definition of 'property' under the IT Act is very narrow and constitutes very less commodities such as land, building, equities, stocks and shares, art sculptures, ornaments, and portraits.[14]

The main issue that comes up is under which head cryptocurrency owned in the manner of stock be considered. This issue becomes significant due to the fact that based on the manner in which a person keeps a property, it can be classed under two separate heads of income. The taxation regime for the heads of income is very different. Consideration arising out of stock in trade and a transfer is taxed at separate rates on the basis of the duration for which the asset for held and the different types of assets present.

Concerning the categorization of shares in different heads, the Central Board of Direct Taxes ("CBDT'') ruled that certain elements like the nature of transactions, the way in which accounting records are kept in place, and the quantity of purchase and sale transactions entered into. All these factors would be a good pathway to ascertain the true essence or the nature of a transaction. Keeping into consideration the above-mentioned points[15] , it would be feasible to say that transfer of a cryptocurrency can be classed under the head of 'capital asset', however from a trader's perspective it would appear as stock held as trade.

TREATMENT OF INCOME TAX WRT CRYPTOCURRENCIES AFTER 2022 – 2023

However, in the Union Budget of 2022-23, there was no mention of how the cryptocurrencies would be classified, but a new mechanism was introduced which would necessitate classifying cryptocurrencies within different heads. Clause (47A) was provided under Section 2 of the IT Act that gave the definition of 'virtual digital asset'.[16] VDAs definition that is inclusive of a number, token, or code is very sufficient to include cryptocurrencies within their ambit and furthermore also broad enough to take into consideration any progress that occurs in the coming years in the cryptocurrency framework by not just focussing on merely tokens. Additionally,

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[13] IT Act 1961, s 2(14).

[14] Ibid, s 2(14)(ii).

[15] Central Board of Direct Taxes, Circular No. 4/2007 dated 15 June 2007 (India).

[16] Finance Bill (2022-23), s 3(b) (India).

this definition of VDA eliminates the Indian currency as well as foreign currency from its hold and strives to define it as per the Foreign Exchange Management Act, of 1999 (FEMA).

There is also explicit inclusion of non-fungible tokens (NFTs) within the interpretation rendered by clause (47A) of Section 2, but only those tokens will be considered that the government gives information of. Some freehold can be found in this definition, as the government has retained the authority to add or omit any kind of digital asset that would have been given under the VDAs definition in accordance with the terms provided.

CHALLENGES AHEAD

The term 'currency' as per the Foreign Exchange Management Act, 1999 (FEMA) covers within its ambit foreign currency as well apart from just Indian currency. Generally, not many countries have recognized Bitcoin as a legal currency, apart from El Salvador, that officially gave recognition to Bitcoin as a legal currency that could be utilized for day-to-day expenses. [17] So, with this declaration, it could be perceived that the notion that VDA under the IT Act would only consider Bitcoin and levy tax on its transfers, is effectively eliminated. A reading of the language that doesn't culminate in the taxation of Bitcoin transfers could render the total system of crypto-taxation futile for raising funds.

Nevertheless, it is not the intention of the legislature to eliminate Bitcoin from the purview of VDA. Despite the fact that Bitcoin may be legally recognized as a monetary currency in several nations, 'currency' as defined under FEMA is narrow as it comprises only certain items like cheques, drafts, and similar instruments.

THE UNFORTUNATE INDIVIDUALS

People in possession of debit cards or credit cards that earn them points may unintentionally fall under the attributes of VDAs. In this scenario, after a deal is completed, the person in possession of a debit card may be entitled to for some points that could be instantaneous or point that he may receive in the future. The points received after making payment through a debit card can be used in future dealings to purchase items at a discounted price. These points don't fall under cashback which would have been subject to tax under 'income from other sources. So, no taxation is done on points received by a person after making a debit card

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[17] Euronews and Reuters, 'Bitcoin battered and bruised as El Salvador officially adopts the crypto as a legal currency' (*Euronews*, 9 September 2021) <https://www.euronews.com/next/2021/09/07/el-salvador-makes-history-as-bitcoin-is-officially-adopted-as-a-currency-but-notwithout-i> accessed 8 November 2022.

payment. However, tax is levied when the points are utilized by the person who had used the debit card. If the money is spent on business transactions, for instance purchasing inventory, the value of inventory would be decreased in ratio to the financial gain from using those points. There are no tax repercussions if the ensuing transaction is done for private purposes. Due to the existence of the phrase "any information, code, number or token generated through cryptographic means or otherwise" within the VDAs interpretation, a tax obligation would soon come into play as soon as the points are acquired, irrespective of the fact that if the points have been employed for business dealings.[18]

CONSEQUENCES FACED BY THE INDUSTRY

The government's clear motive was to inhibit the practice of trading based on conjectures. Despite the fact that there was a downfall in the market of cryptocurrency due to the fallout from the Russia-Ukraine crisis, the new tax mechanism was held liable for the problems faced by the industry. A number of individuals work in the cryptocurrency system performing a distinct function. No matter what kind of transaction is made, any exchange of a virtual digital asset is taxable at a flat rate of 30%. To put it simply, an individual generating income from the exchange of cryptocurrency tokens kept as inventory will be considered equivalent to an individual who moved tokens kept as an investment. However, this may prove to be fatal for the advancement of the industry provided that income earned by the traders dealing in cryptocurrencies will not levy taxes at ordinary rates of tax, rather they would be taxed at a higher rate. Additionally, investors will be liable to be taxed at the existing rate regardless of the tenure of holding. Therefore, the new framework departs from the universally recognized norms of tax law in which the substance of each operation is granted fundamental significance and a unique demarcation has been observed over the securities and inventories.

IV. TAXABLE EVENTS

The term 'taxable event' commonly alludes to the emergence of a circumstance that eventually culminates in taxation. Consequently, when a taxable event is being ascertained, distinguishing that particular event becomes very significant. Numerous incidents in the community of cryptocurrency have ability to be regarded as an event of taxation. This portion of the research

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[18] International Tax Team, 'India Budget 2022: Decrypted' (*Nishith Desai Associates*, 1 February 2022) <https://www.nishithdesai.com/generateHTML/5267/3> accessed 8 November 2022.

paper highlights these events. It segregates these incidents into three groups, - (a) formation/development/discovery of a cryptocurrency, (b) the primary dissemination or procurement of new tokens, and (iii) trading, exchange and transfer, or disposition of certain tokens

- *Discovery of new cryptocurrency*

The creation of a new type of "cryptocurrency" is a highly important advance in the cryptocurrency regime. Any individual or group of individuals can create a cryptocurrency as long as they have accessibility to the relevant software's credentials.[19]

Cryptocurrencies may be formed in a few ways. In the following ways they may be formed:- i) there may exist scenarios where the coin minters[20] make all the tokens in a single pack all at once,[21] (ii) there might exist some cryptocurrencies functioning on the concept of 'continuous mining' in which nodes [22] produce better and efficient components on a constant account as per the clear method established by the rule that regulates the framework.[23] (iii) Thirdly, a dual sort of approach needs to be put into action in which a certain quantity of the end token is mined before, while on the other hand the remaining constituents are then 'forged' by constant extraction following the deployment of the platform.[24]

Various scheduling processes could also be employed to issue additional units or develop fresh ones under the continuous mining paradigm and the dynamic concept. In spite of the fact that there are other similar compromise processes, this working paper only covers the two best-known alternatives. The first proposed protocol was a verification of a corporate network, that

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[19] Cambridge Centre for Alternative Finance, '*Global Cryptoasset Regulatory Landscape Study*' (Study, April 2019) <https://www.jbs.cam.ac.uk/wp-content/uploads/2020/08/2019-04-ccaf-global-cryptoasset-regulatory-landscape-study.pdf> accessed 8 November 2022.

[20] European Parliament, Cryptocurrencies and blockchain: Legal context and implications for financial crime, money laundering and tax evasion' Policy Department for Economic, Scientific and Quality of Life Policies (July, 2018) <https://www.europarl.europa.eu/cmsdata/150761/TAX3%20Study%20on%20cryptocurrencies%20and%20blockchain.pdf> accessed 8 November 2022.

[21] *See* Cambridge Centre for Alternative Finance (n 19).

[22] Bela Shrimali and Hiren B. Patel, 'Blockchain state-of-the-art: architecture, use cases, consensus, challenges and opportunities' (2022) 34(9) Journal of King Saud University – Computer and Information Sciences 6793.

[23] *See* Cambridge Centre for Alternative Finance (n 19).

[24] Ibid.

hinges on formulas that are frequently tricky to compute yet whose conclusions are easier to validate.

Thus, every authenticator (alluded to as a "miner") conducts arithmetic operations to ascertain the operation and communicates their findings with the system, collaborating in the competition since an incentive is commended to the worker who manages to find the remedy first. Tackling the arithmetical dilemma necessitates algorithmic endeavors, culminating in increased power usage.

The evidence of work is used by Bitcoin.[25] After the equation has been dealt with, the coin minters may be eligible for (i) a reward given in the form of freshly minted tokens, and (ii) a fee that constitutes a small portion of the transaction in place.[26]

The proof-of-stake mechanism is a more recent mechanism that has gained popularity as a more resource-efficient counterpart for the concrete evidence technique. According to their ownership in the blockchain, individuals are provided with various levels of authentication privileges under this approach. Validators are termed as "forgers" or "stakers" in this arrangement rather than "miners." The number of tokens held, the duration of the holding tenure, and the worth of the goods secured as security on the blockchain are all diverse methods for evaluating holdings. Participants in the authentication phase, known as ‘forgers’ or ‘stakers’ , must hold a minimal share in the blockchain. Forgers "stake" their personal tokens in order to have the competence to certify an event and thus are awarded some monetary award or fresh tokens. Thus, verifying a transaction doesn't necessitate doing any algebraic calculations.[27] Therefore, with exception of the solid evidence mechanism, the miners do not authenticate operations utilizing processing capability.

Pinned on the blockchain are nevertheless the coins that have an operational server. The node operator will be penalized fiscally against their interest if they either unlawfully seek to certify an erroneous deal that the other miners have not authorized or neglect to appropriately verify

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[25] OECD (2020), *Taxing Virtual Currencies: An Overview of Tax Treatments and Emerging Tax Policy Issues* (Report, October 2020) <www.oecd.org/tax/tax-policy/taxing-virtual-currencies-an-overview-of-tax-treatments-and-emergingtax-policy issues.htm> accessed 9 November 2022.

[26] Ibid.

[27] Ibid.

a deal.[28] The cryptocurrency community appears to be heading forward toward the acceptance of substantiation since it consumes a lot less power than its competitor. In a momentous decision, Ethereum opted to shift away from the irrefutable evidence paradigm and toward the hard evidence paradigm.[29]

The dilution effect is another important idea that comes as a consequence of processing and mounting, despite being relatively independent of the actual dissemination and procurement of digital currencies. When additional value components are created, such as when paying out block benefits, entrenched holders of a value unit (such as a coin) experience a loss known as dilution.[30] The fair marketplace worth of all outstanding value pieces gradually decreases to dilution, all the other variables being uniform.[31]

RAMIFICATIONS AT THE CREATION OF MOMENT CRYPTOCURRENCIES WRT INCOME TAX

- **Prior to 2022-2023**

Irrespective of whether an individual is active in the market of cryptocurrency or not, procurement and exchange of cryptocurrency conducted before the FY 2022-23 would be taxable as capital gains or business income, as specified in previous parts of the research paper. Additionally, this assertion is backed by the statement issued by J.B, Mohapatra, who is serving as the chairman of the Central Board of Direct Taxes (CBDT). In an interview after the budget had been announced in the parliament, he had said that "cryptocurrency operations before 1st

[28] PwC, *PwC Annual Global Crypto Tax Report 2021* (Report, December 2021) <https://thesuite.pwc.com/insights/pwc-annual-global-cryptotax-report-2021> accessed 9 November 2022.

[29] Yvonne Lau, 'Ethereum founder Vitalik Buterin says long-awaited shift to 'proof-of-stake' could solve environmental woes' (*Fortune Magazine*, 27 May 2021) <https://fortune.com/2021/05/27/ethereum-founder-vitalik-buterin-proof-of-stake-environment-carbon/> accessed 9 November 2022.

[30] *See* PwC (n 28).

[31] Ibid.

April 2022 won't be devoid of taxation, and would be evaluated depending upon the tax return filings made by people".[32]

In the first place, the IT Act's description of 'business' is comprehensive and all-encompassing, comprising of trade, commerce, or manufacture or any operation done in the nature of trade, commerce, or manufacture.[33] The SC in the famous case of Barendra Prasad Roy v ITO had come to the conclusion that 'business' was of paramount importance and denoted any operation carried out constantly and meticulously by an individual by putting his hard effort and skills with an objective of generating money.[34] By using the same reason for cryptocurrencies, it is possible for the income tax officers to ascertain the type of transaction considering the way in which books are kept, the number of transactions entered into, and the proportion between the number of buying and selling of goods done, tenure of holding it, and the intention of making a profit.[35]

Cryptocurrency mining: Whenever a miner satisfactorily addresses a specific cryptographic task, the blockchain application rewards the miner with a specified number of units of cryptocurrency as payment. However, in situations when the miner is operating in the mining industry, such compensation may be chargeable in the miner's hands as business income. As a consequence, a miner's total income generated from mining activities is susceptible to a 30% tax. This unavoidably necessitates for a method of value. Furthermore, any costs accrued by the miner while mining, including electricity charges, may constitute tax breaks for company expenses.[36] Furthermore, any consideration obtained by him will also be classified as 'business income'.

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[32] ANI, 'Investing in Crypto? Transactions done before April 2022 won't be tax-free' (*Livemint*, 3 February 2022), <https://www.livemint.com/news/india/investing-in-crypto-transactions-done-before-april-2022-won-t-be-tax-free-read-here-> accessed 9 November 2022.

[33] IT Act 1961, s 2(13).

[34] [1981] 129 ITR 295 (SC).

[35] Central Board of Direct Taxes, Circular No. 4/2007 dated 15 June 2007 (India).

[36] IT Act 1961, s 37.

An assessment would need to be done to ascertain if the cryptocurrency that was given as a reward needs to be considered as just a normal income and classified under 'income from other sources' or capital receipt not subject to taxation. The necessary test that needs to be done to ascertain whether it can be considered as a normal income is to see if it can be seen to be coming under the category of 'property'[37] as any receipts received on account of a 'property' for no money or any type of consideration makes it liable to be taxed under IT Act.[38] After the announcement that the Finance Act 2022-23 would be inclusive of VDAs as a distinct category in the extended definition of 'property', it is probable that cryptocurrency won't be considered as property before the beginning of FY 2022-23

New bitcoin units are produced and dispersed as staking bonuses to the person who staked his assets to authenticate the new element. If the customer held crypto units staked by him as inventories, the miner might be necessitated to contribute taxes on the person's acquisition of such incentives as business income. In Commissioner of income tax v. Neha Builders[39], it was determined that when deciding if the income received in the form of rent on a property possessed by a person engaged in the business of real estate would be considered as gains or income received from a housing property that if the property is employed as an inventory or stock used in trade, in that instance the mentioned property would be deemed to have become the identity of that particular inventory and any revenue generated from the commodity would be classed under the head 'business income'.

Moreover, any stake-related fees will constitute business costs, quite like mining expenditures. However, in cases in which an individual is not active in the crypto sector, acquiring further modules may be charged in the validator's hands in a way analogous to mining.

- **Post-FY 2022-23**

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[37] IT Act 1961, s 269A(e).

[38] IT Act 1961, s 56(2)(x).

[39] (2008) 296 ITR 661 (Guj).

Section 115BBH was incorporated into the IT Act by the Finance Act, 2022 which made transfers of VDA taxable at the rate of 30%.[40] Aside from the cost of acquisition, no deductions are permissible and losses from transactions cannot be brought forward or offset by other losses, as per section 115BBH.

ISSUES WITH TAXATION OF CRYPTOCURRENCY EVENT

Taking the example of Bitcoin which functions on a work proofing mechanism or stake proofing mechanism, when a customer puts his signature on a transaction, miners authenticate the operation and safeguard the information of the operation contained in the virtual asset. Utilizing potent computing resources, they tackle daunting complexities to meet their objectives. These workers and stakers obtain a mining incentive, which can eventually assume the character of money. The tokens are not handed out by an institution; rather, they are acquired through network connections. As a result, there does not exist any person in and of themselves. As a consequence, it's uncertain whether mining and staking bitcoin would be considered a "transfer" under the definition of the term.

- *Preliminary cryptocurrency swaps or purchases*

After the creation of a cryptocurrency, it can be firstly obtained or dispersed in numerous ways. One such way is a pre-token sale where pre-minted coins are given in rounds exclusive to limited people, majorly at discounted prices. Such types of events are mainly for authorized buyers. The system or application is frequently not even functioning at the outset of such events, and purchasing a coin is governed by limitations like lock-in periods. In many cases, the network or software is not even operational at the time of these kind of events., and purchasing a coin is governed by limitations like lock-in periods. The allocated assets typically indicate a right on the supply of functional assets that might very well be utilized on the platform or program when it becomes active in the scenario that the platform or application is not functional at the moment of the auction.[41] For instance, earlier Telegram was dispersed by way of pre-token sales.[42]

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[40] Finance Bill 2022, s 28.

[41] *See* Cambridge Centre for Alternate Finance (n 19).

[42] Ibid.

Initial Coin Offerings (ICOs, also referred to as Initial Token Offerings) is another technique for carrying out the process of raising new tokens. Through the release of virtual items in place for fiat money or similar coins, ICOs ultimately empower coin issuers to generate funds for their ventures.[43] Such options might be by way of the public release of coins or private release and might also be developed during the period when the system won't be functional.[44] By adopting the term 'white papers', ICOs can be advertised on the digital medium to prospective buyers. There exists a few digital media places that cater to the advertisement of ICOs.[45] ICOs have been majorly utilized for disseminating utility tokens, instead of virtual currency.[46] ICOs have been intended to be governed by a number of governmental institutions around the world, such as the Securities and Exchange Commission of the United States, which has regarded them to be a relatively common technique for printing fresh tokens. In certain regions, ICOs have even been explicitly outlawed.[47] Tezos and Bancor are two instances of cryptocurrencies that are issued through ICOs.

An airdrop is a mechanism of issuing brand-new token components to owners of a preexisting token, normally upon predefined parameters.[48] Normally, airdrops are conducted uncompensated (i.e., for free), primarily to raise knowledge of a novel asset, notably amid "influencers," and enhance volatility in the initial days of a prospective token venture.[49] Stellar Lumen and Decred are illustrations of cryptocurrencies with first distribution using this technique.[50]

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[43] European Securities and Market Authority, *Advice Initial Coin Offerings and Crypto-Assets* (Report, 9 January 2022) <https://www.esma.eu0072opa.eu/sites/default/files/library/esma50-157-1391_crypto_advice.pdf> accessed 9 November 2022.

[44] *See* Cambridge Centre for Alternate Finance (n 19).

[45] *See* European Securities and Market Authority (n 43).

[46] *See* OECD (n 25).

[47] Ibid.

[48] *See* Cambridge Centre for Alternative Finance (n 19).

[49] *See* OECD (n 25).

[50] *See* Cambridge Centre for Alternative Finance (n 19).

As mentioned hastily in the part above, forking is an activity that culminates in the formation of a novel cryptocurrency whenever an irreconcilable modification to the blockchain software program's rules ends in a division. The new cryptocurrency which evolves also has a distribution method in circumstances like these. In most cases, a 1:1 ratio is used to transfer these new tokens to current token holders.[51]

INCOME-TAX RAMIFICATIONS AT THE TIME OF PRELIMINARY CRYPTOCURRENCY SWAPS OR PURCHASES

Pre FY-2022-23

When additional units are acquired without payment, such as through airdrops or hard forks, they should be tax-positive in the hands of the purchaser, and the components so received seem to be presumably unsellable or contain an inherent worth. For example, in a recent judgment[52], when determining whether the CBDT circular dated 1 August 2012 was applicable, the Mumbai Tribunal stated emphatically that any giveaways of medications procured by general practitioners with the intention of advertising and boosting their confidence are not comparable to obtaining free items and are, therefore, not chargeable as business income.. Nonetheless, the transaction will be assessed as business income if the cryptocurrencies are tradable and possess intrinsic worth.

When cryptocurrencies are provided to a person who is not involved in the trading of cryptocurrencies and the pieces so received are neither marketable nor have an intrinsic worth, the receipt of the fresh things should ideally be tax-free in the beneficiary's disposal. The justification for this is that such units won't be significant to the purchaser and won't be counted as income. It is feasible to claim that obtaining bitcoin is not chargeable under the category "revenue from other means" irrespective of whether the units are tradable since the cryptocurrency was not covered in the classification of "property."

Additionally, the acquisition of new units in the manifestation of inventories would be tax neutral in cases where a person engaged in cryptocurrency trading purchases additional units in exchange for money and the newly acquired units have intrinsic value, such as through initial

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[51] Ibid.

[52] *ACIT v. Solvay Pharma India Ltd*, ITA No. 1922/Mum/2019 (Mumbai).

coin offerings (ICOs). In a related manner, units delivered as investments to an individual not participating in cryptocurrency trading should not be subject to taxation at the point of purchase.

It should be possible for cryptocurrency distributors to write off the cost of dispersed bits as an operating expense. In the case of Nokia India Pvt. Ltd. v. ACIT[53], the court upheld that the taxpayer's giveaway of free mobile handsets as a method of advertising while involved in the manufacturing and trading of such devices was adjusted to account for as operating expenses. It is possible to rely on the judgement given by the court in the above case.

Post-FY 2022-23

One may argue that receiving VDAs through pre-token sales, ICOs, or airdrops somehow doesn't count as a transfer and, as a consequence, does not trigger Section 115BBH despite whether the recipient of cryptocurrency is entangled in the exercise of trading currencies or not, the VDA was procured by the individual concerned with or without consideration, and the VDA obtained is sellable or not.

CHALLENGES AHEAD

The IT Act's Section 115BBH, which went was incorporated on April 1, 2022, aims to charge all transfers of virtual digital assets at thirty percent. In other words, a fixed rate of 30% is applied to taxes on the initial purchase or dispersal of VDAs. A tax rate of 30% on transfers is significant, especially when combined with the exclusion of all expenses other than cost and the exclusion of any set-off or loss carryover for digital currency losses. Thus, the taxation system selected for cryptocurrency is equivalent to that for gambling, speculative, and horse racing winnings. The government appears to want to discourage trading in cryptocurrencies for speculative purposes.

- *Discharge of cryptocurrency*

A number of peer-to-peer trades may take place in the economy once consumers in the cryptocurrency market have previously bought tokens. A number of distinct reasons can lead

[53] ITA No. 955/2018.

to the disposal of cryptocurrencies. For illustration, whenever a token is obtained as a gift, constitutes part of an estate, is misplaced, or is robbed, it can be swapped for fiat money, liquid assets, other cryptos, or even without any payment at all.

Depending on the use case, these transactions may have different tax implications. The conclusion of the tax calculation will rely on a variety of parameters, along with the form of the activity, whether or not money was obtained, the standing of the cryptocurrency bearer, and more. It will be necessary to evaluate each of the above use cases in the context of the prevailing tax structure to see if they can be made accustomed to the established arrangement as is or whether additional changes are needed.

RAMIFICATIONS OF INCOME TAX AT THE PERIOD OF DISCHARGE OF CRYPTOCURRENCIES

Pre FY-2022-23

Cryptocurrency exchanges for fiat money or other cryptocurrencies: Any revenue generated from a purchase in which a person working in the field of cryptocurrencies retains a cryptocurrency as equities and correspondingly exchanges it for fiat money or equivalents of some other crypto might well be subject to taxation as 'business income'. When the consideration—that is, the worth of the acquired units or the fiat currency—surpasses the valuation of the stock they exchanged., that person is said to have made income. A person who holds cryptocurrencies as a capital asset could be liable for tax on any funds garnered from the transaction. The amount of tax that needs to be given by this individual will not be the full retail price but instead, the profit realized on the deal, which is the price of the fiat money or the pieces of a different cryptocurrency much less than the cost of obtaining the discarded units.

Exchange of cryptocurrencies for goods or services: It is debatable whether or not someone who holds cryptocurrencies as stock in trade and exchanges those holdings for other products or operations will be liable to taxation under 'business income'. In this context, the Delhi High Court's sudden ruling in the matter of Commissioner of Income Tax v. Nalwa Investment Ltd[54] can be depended upon. In that particular instance, the court decided whether the taxpayer's stock-in-trade holdings in place of the combining firm's shareholdings would be liable to taxes

[54] ITA 822/2005.

as business revenue upon the end of the combining corporation's shareholdings. As per section 47(vii) of the IT Act, share exchanges that occur during a merger are granted tax neutrality, thus the taxpayer contended that the transactions shouldn't really be taxable. The court ruled that the assessee would have been authorized to assert that the shares in dispute were maintained as capital assets, which could have provided the advantage of tax relief. It is difficult to overlook the notion that the assessee's holdings were supplanted with additional stock during the merger procedure, and these new shares would now be evaluated wholly based on alternative factors. The assessee will consequently be required to consider the discrepancy between the valuation of the inaugural company's equity and the valuation of the subsequent remaining stock as of the moment of such revelation as profit gained in that arrangement and be taxable simply put.

The swap of components in place of products or offerings may be regarded as the handover of a capital asset, and corporation tax may be implemented to it, despite the fact that a person doesn't really retain cryptocurrency as stock-in-trade or rather typically acknowledges units as a payment method for the acquisition of products or services in commercial dealings, classifying cryptocurrency at an equal level with "money". It is worth remembering that, in the second scenario, if anybody proposes to deliver goods or services in consideration of crypto units, that individual would be susceptible to commercial income tax. Additionally, if an individual uses cryptocurrency as a capital asset and trades it for additional products or services, that trade will represent a conveyance in pursuance of section 2(47) of the IT Act. As a result, capital gains tax will apply to any advances generated on such disposal.

Gift: The VDA is now included in the definition of "property" according to a change made to the interpretation of clause (x) of sub-section (2) of Section 56. In light of this change, when an individual acquires VDAs as a gift i.e free of cost, the person receiving that particular VDA would be taxed if the combined valuation of the virtual digital assets surpasses Rs. 50,000/-. When a VDA is acquired by an individual for a sum less than the market valuation, the person will be obligated to pay tax on the shortfall. The lack of a consistent value method will create tensions in transactions when cryptocurrencies are swapped for goods and services

V. TAXATION OF CRYPTOCURRENCY IN OTHER COUNTRIES

1. USA: cryptocurrency is taxed under the head of ‘capital gains.’ However, there exists different tax for short-term and long-term capital gains. For the short term, taxing is done within the slab of 10% - 37%, and on the other hand, taxation of short-term capital gains is done at the rate of 0-20%.
2. UK: cryptocurrency will be taxed at the rate of 10% for an average trader with normal earnings. However, as one goes up in the tax slab rates, the income tax will increase and he will be taxed at the rate of 20%.
3. Netherlands: taxation in the nation, fluctuates on the basis of a person’s earnings and his status. The maximum tax rate that can be levied on cryptocurrency in this country is 31%.
4. Australia: transactions done by using cryptocurrency as consideration are taxable under the head ‘capital gains’. In case capital gains extend up to a period of more than 1 year then they would be charged at the rate of 50%.
5. Canada: cryptocurrency is given the status of a ‘commodity’ in this country and the highest tax rate that can be charged is 33%. [55]
6. Italy: income generated from the use of cryptocurrency is taxable at a fixed rate of 26%.[56]

COUNTRIES WHERE NO TAX IS CHARGED ON CRYPTOCURRENCY

1) Germany: it can't be said that tax won't be charged on cryptocurrency in Germany. However, Germany does have some weird regulations that make it simple for the people to refrain from paying taxes. In this country, cryptocurrency is not considered a form of capital, instead, it is considered as someone’s income earned on his own account i.e private cash. This is necessary as one won't have to pay taxes if he keeps it for longer than a year before selling, exchanging, or using it.
2) Belarus: in the year 2018, Belarus took a huge step by making cryptocurrency legal and spared all persons and enterprises from paying tax on cryptocurrency till 2023 rather than following the footsteps of other countries by bringing regulations for governing its use.

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[55] Pankaj Bansal, ‘Countries with highest and lowest Cryptocurrency tax’ (*News Patrolling*, 3 February 2022) <https://newspatrolling.com/countries-with-highest-and-lowest-cryptocurrency-tax/> accessed 9 November 2022.

[56] Vanya Gautam, ‘Countries where Cryptocurrency is taxed’ (*India Times*, 12 February 2022) <https://www.indiatimes.com/worth/investment/countries-where-crypto-is-taxed-561760.html#:~:text=The%20Budget%202022%20announcement%20stated,consideration%20above%20a%20monetary%20threshold> accessed 9 November 2022.

3) El Salvador: this was the first nation to legalize Bitcoin. The motive behind this step was to bring more funding to their country to boost its progress. Additionally, foreigners are also spared from giving tax on gains or revenue earned on account of Bitcoin. Due to the legalization of Bitcoin, payment done by Bitcoin needs to be given assent to. No one can deny accepting payment from a person if he does via Bitcoin.
4) Portugal: Portugal was another country that made income earned on account of using cryptocurrency free from taxation. In addition to that, dealing in cryptocurrency transactions is exempt from tax since it is no longer regarded as earnings from the investment.
5) Singapore: numerous cryptocurrency exchanges are located in Singapore for pretty valid reasoning. For a majority of people and companies, Singapore is viewed as a sanctuary for refraining from paying taxes on cryptocurrency. This can be attributed to Singapore not providing for a tax on capital gains, which implies that both consumers and enterprises are not susceptible to it. As a result, there won't is any need for paying tax on capital gains when someone sells or trades in cryptocurrency. However, one can’t refrain from paying taxes always. A business accepting money in the form of cryptocurrency must pay income tax on that amount. Along the same lines, if a firm’s main activity is associated with trading in cryptocurrency, then the firm won't be able to excuse itself from paying Income Tax.
6) Malaysia: tax is not chargeable for using cryptocurrency as a form of payment in this country. Deals involving cryptocurrency for individuals in their capacity are exempted from paying taxes in this country since the government does not perceive cryptocurrency to be a form of capital or legal cash. However, it comes with caution. Crypto payments are exempt from taxes if they are irregular or sporadic, as per its Revenue Board. In other terms, if someone deals as a day broker, nonetheless, he would be needed to pay taxes on it.
7) Malta: Malta, a cryptocurrency tax sanctuary, is also dubbed as the ‘land of cryptocurrency. A "system of accounting, medium of exchange, or measure of wealth," as defined by the nation, is defined as Bitcoin and other cryptocurrencies. Accordingly, assuming that cryptocurrency is regarded as "a store of value," people will not be required to pay taxes on long-term profits from trading it. As a result, holders should be happy. That means crypto operations are perceived as equivalent to normal trading of shares on the share market. Due to this, they are taxed at 35%. Nevertheless, contingent on your income and place of residence, there are structural possibilities inside the Maltese taxation framework that allows individuals to lessen this rate of taxation to between 0% and 5%.

8) Cayman Islands: The Cayman Islands being listed here shouldn't be a shock. Since its tax rules are permissive, this country has been widely regarded as a tax sanctuary for traders and enterprises beyond the cryptocurrency marketplace. The Cayman Islands are a crypto tax paradise for both enterprises using cryptocurrency and private investors. Businesses are not subject to corporate taxes under the Cayman Islands Monetary Authority, and residents are not subject to income or capital gains taxes. Instead, the idyllic Caribbean region makes money via tourists, work permits, and GST.
9) Puerto Rico: If someone lives in the US, he has heard of Silicon Valley billionaires moving to Puerto Rico to reap the benefits of the country's extravagant culture and lenient tax requirements. Puerto Rico is a U.S. territory that has not been constituted, but in terms of federal taxes, it is regarded as a foreign country. The nation so establishes its tax regulations. It's fantastic information regarding crypto taxation. The territorial rate of income taxation that Puerto Rican citizens pay is significantly lower than the federal income tax rate in the US. Even more, you are fully excused from paying taxes on any crypto assets he bought while living in Puerto Rico.

VALUATION

The cost of cryptocurrencies must always be ascertained for tax concerns due to the significant amount of fluctuation affiliated with them and the absence of uniformity in the variables influencing their valuation. In accordance with the findings of the OECD's examination of different nations, there seems to be little information on appraisal for taxation requirements. and if such assistance is provided, it emphasizes the complexities of establishing the price of digital currencies.[57] These are a few of the nations that have presented evaluation instructions:

The value of cryptocurrencies in Canada is dictated by whether they are classified as stock or capital assets for taxation concerns, following the CRA. Cryptocurrencies should be monitored and documented on a modified cost structure when kept as capital assets. Ordinarily, a property's revised pricing encompasses the purchase price as well as any procurement charges,

[57] *See* OECD (n 25).

like brokerage and litigation costs. If the cryptocurrencies are regarded as stock, one of the 2 techniques of stock valuation listed below must be applied systematically each year:

i. Depending on which is less, each commodity in the stock is priced at either its cost at the time of acquisition or its actual marketplace worth at the closing of the fiscal year. In this instance, "cost" represents the initial expense of the relevant inventory item (such as a block of bitcoin) as well as any legitimate acquisition expenses.[58]

   Or

ii. After every year, everything in the inventories is evaluated at its true market value, which is usually the expense to substitute it or the income from disposing of it.

The valuation of any profit or deficit must be changed into British pounds by the individual in their tax statement in the United Kingdom when a cryptocurrency is transferred on platforms that do not employ the British pound, according to HMRC guidelines publicly disclosed. The operation must be transformed to British pounds using a suitable exchange percentage, though, if it does not have a cost in British pounds (for illustration, if one cryptocurrency is traded for a different cryptocurrency). A database of its characteristics should be maintained, and the assessment technique must be properly enforced.[59]

The following parameters are recognized by the IRS in the United States for individuals to report cryptocurrency market values[60]:

a) The price of crypto is established by the price that the exchange platform notes in USD upon acquiring it through a crypto market. The real price of crypto will be the price it was being dealt with at the moment the deal would have been noted in the ledger if it had been an on-chain deal, irrespective of whether the operation was aided by a centralized or a decentralized platform or not;

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[58] Canada Revenue Agency, 'Guide for cryptocurrency users and tax professionals' (*Government of Canada*, 26 November 2021) <https://www.canada.ca/en/revenue-agency/programs/about-canada-revenue-agency-cra/compliance/digital-currency/cryptocurrencyguide.html> accessed 9 November 2022.

[59] HM Treasury, *Cryptoassets Taskforce* (Report, July 2018) <https://www.gov.uk/government/publications/cryptoassets-taskforce> accessed 9 November 2022.

[60] IRS, 'Frequently asked questions on virtual currency transactions' (*IRS*) <https://www.irs.gov/individuals/international-taxpayers/frequently-asked-questions-on-virtual-currency-transactions> accessed 9 November 2022.

b) In situations where no trading platform is active, the actual worth of the virtual currency is assessed as of the day and time the event is registered inside this shared database, or in the same manner as if it would have been registered on the accounting system if it had been an on-chain trade. The valuation computed by a bitcoin or crypto researcher that monitors global cryptocurrency benchmarks and assesses the cryptocurrency's price at a particular timeline and period will be acknowledged by the IRS as proof of actual market value. In cases where a person decides not to employ an analyst worth, the customer is obligated to show that the price chosen is a real depiction of the cryptocurrency's worth; and
c) When receiving bitcoin where the declared price is inaccessible, the worth of the cryptocurrency is identical to the worth of the goods or activities that were traded for the cryptocurrency at the moment when the trade occurred.

VI. CONCLUSION

The administration is not in any way willing to permit the profits gained from virtual digital assets to be used to avoid paying taxes, and in order to safeguard the interests of the country, it is also keen in tracking movement of the cash. Since virtual digital assets might be leveraged to fund illegal and terroristic acts, the effort to excise the income from these assets is excellent from the standpoint of industrial prosperity, however the TDS requirements are also excellent for safeguarding the interests of the country. A non-fungible token's interpretation is not entirely clear. Individuals interpret the language in accordance with their comprehension and comfort.

The administration has instituted a straightforward system that imposes a hefty, consistent rate of taxation on all kinds of activities. A simplified tax structure will undoubtedly contribute to giving taxpayers confidence and minimizing misunderstandings shortly. The cryptocurrency sector, though, might well be impacted in the long term by implementing a standard rate since a heavy tax rate will be imposed on each exchange, significantly escalating the expense of taxes.

Furthermore, beginning July 1, 2022, anybody trading money for cryptocurrencies with an Indian citizen will need to subtract tax at 1% from the traded money, pursuant to specified limitations. The imposition of this type of withholding fee on every trade could have a detrimental effect on the ecosphere viability and inhibit development. When the payment of

the consideration is completely or partially in kind, the payer should first make certain that the relevant tax has indeed been made. It will be tricky to execute this, and doing so may leave the payer in arrears. Accordingly, from the viewpoint of withholding tax adherence, there may be some logistical problems, notably for bitcoin dealers, such as tracking the movement of the identities or tax domicile of vendors, etc. As a withholding tax technique just enhances overheads rather than generating profits for the government, it also performs no real function for the tax department. Even while it may be suggested that such a burdensome demand would potentially help the officials gather data about cryptocurrency transactions, the reality that this kind of procedure is extremely difficult to implement at a community level means that even the hypothetical availability of data doesn't really warrant its inclusion.

Additionally, the proposed tax system for cryptocurrencies in the 2022 Budget Presentation breaches impartiality, one of the cornerstones of wise taxation reform. According to the concept of impartiality, tax reforms should seek to be unbiased to guarantee that judgments are taken primarily only on their economical benefits and not for taxation purposes.[61] The objectives of legislators are evident in departures from an impartial tax regime. It is evident that regulators are seeking to dissuade cryptocurrency trades in this situation, but the preventative measures ought to be set up in a way that takes into consideration the societal consequences of particular activities. Impediments should have as their main goal ensuring that the result of overall societal efficiency is a result of decentralized decision-making and market competitiveness.[62] Before the adoption of such deterrents, it is crucial to assess whether using tax impediments is the most efficient method for achieving the desired aims. Considering the current situation, the enforcement of a high tax burden seems spontaneous and perhaps even unreasonable given the societal expenses involved with cryptocurrency trading.
Moreover, it seems that the measure is a premature endeavour to use taxation as the preferred method of disincentivizing conduct when regulations would be a significantly more rational, productive, and long-term course of action.

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[61] Jason Furman, 'The Concept of Neutrality in Tax Policy' (Testimony Before the U.S. Senate Committee on Finance Hearing on "Tax: Fundamentals in Advance of Reform", Washington D.C., 15 April 2008) <https://www.brookings.edu/wp-content/uploads/2016/06/0415_tax-_neutrality_furman-1.pdf> accessed 9 November 2022.

[62] *See* Jason Furman (n 61).

In light of this, it is suggested that going forward India classify cryptocurrencies as capital investments or inventories, depending on the situation, as it might have been, as it was prior to the revision of 2022, and levy tax in accordance. Furthermore, the retention clause needs to be eliminated. Considering that the objective of adopting such a measure is to assure tax conformity, the withholding need may be substituted with another type of logbook, redemption, or paperwork requirement. By doing this, the banking system and the sector won't be negatively impacted in the future, and accountability is also ensured.

Alternatively, if the government decides to implement the new income-tax system and classify cryptocurrencies as a distinct class of assets, it will need to make it clear what the tax consequences will be when mining and staking bitcoins. The taxability of cryptocurrency generation is now unclear because it is unclear whether the activities of mining and staking bitcoins are included in the definition of "transfer," as was stated in the research paper's preceding paragraphs. The taxpayers, particularly cryptocurrency traders, might encounter significant logistical issues as a consequence of the reformed income-tax framework's need for a withholding duty, such as maintaining a record of the buyers' identities or tax residences. To overcome these issues, a thorough analysis of the withholding requirement should be performed.

Meanwhile, as seen by the growing investment in the field, interest in the bitcoin market is continuing to rise. As a result, the tax system must be used in conjunction with initiatives aimed at raising knowledge among citizens and local officials. The administration ought to do this by planning educational seminars and public awareness campaigns. This will not only enable the taxpayers to understand any prospective tax repercussions, but it will also assure that tax officials have the tools they need to keep an eye on and trace digital operations.

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