Chapter - 1

Introduction

In India, a resident and ordinary resident taxpayer is required to disclose his foreign assets including bank accounts, financial interests, immovable property, signing authorities, etc., if he is an owner, beneficial owner, or beneficiary of such foreign asset. Such reporting is required in the Income Tax Return (ITR) forms under Schedule FA (Foreign Assets) irrespective of whether any income is generated from such foreign assets. True and correct reporting is not merely a formality but is a critical compliance requirement and the failure of which can trigger severe implications under the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015 (BMA). Sections 42 and 43 of the BMA provides for a flat penalty of ₹10 lakh per year for non-disclosure of the foreign asset. Beyond financial penalties, willful concealment may lead to rigorous prosecution, with potential imprisonment of up to seven years as per the provisions of BMA as it stands today.

Person on whom Black Money Act, 2015 applies

The Black Money Act, 2015 applies only to persons who are resident in India (including beneficial owners or beneficiaries) in respect of undisclosed foreign income and assets; it does not apply to non-residents or RNORs**.**

Covered persons include:

- Resident individuals
- Resident HUFs
- Resident firms
- Resident companies
- Resident LLPs
- Any other resident person

Under Section 3 read with Section 2(2) of the Black Money Act, 2015, tax is charged on undisclosed foreign income and assets of a person who is resident in India.

The Black Money Act, 2015 covers not only the legal owner but also:

- Beneficial owner, and
- Beneficiary (e.g., offshore trust)

So, if a resident Indian is:

- The beneficial owner of a foreign bank account, or
- A beneficiary of a foreign trust or structure
    - ➢ the Black Money Act, 2015 applies, even if the asset is held in another person's name.

Key Consequence of Applicability of Black Money Act, 2015

If Black Money Act, 2015 applies, consequences are severe:

- Tax @ 30% on undisclosed foreign income/asset value
- Penalty = 3 × Tax (i.e., 90%)
- Prosecution (rigorous imprisonment up to 10 years in serious cases)
- No set-off of losses
- No basic exemption limit
- No limitation period for assessment of foreign assets

The Government and Central Board of Direct Taxes (CBDT) have been taking initiatives over the years to promote voluntary disclosures. With the introduction of BMA, a one-time compliance window from July 1, 2015, to September 30, 2015 was also provided to the taxpayers to declare undisclosed foreign assets acquired up to March 31, 2015, by paying a total of 60% (30% tax and 30% penalty) of the value of such undisclosed foreign asset. According to official data from the Ministry of Finance, 648 declarations were made during this window wherein the total value of undisclosed foreign assets declared amounted to ₹4,164 crore and the Government collected approximately ₹2,476 crore in taxes and penalties.

Thereafter, in November 2024, as well as in November 2025, Non-intrusive Usage of Data to Guide and Enable (NUDGE) campaigns were undertaken to encourage the taxpayers to voluntarily review and revise their ITRs and include missing foreign assets. The data received through the Automatic Exchange of Information (AEOI) framework, including the Common Reporting Standard (CRS) and the Foreign Account Tax Compliance Act (FATCA) was used to identify the taxpayers and they were intimated through emails and SMS. According to official data from the Ministry of Finance, the First NUDGE campaign enabled 24,678 taxpayers to revisit their ITRs wherein foreign assets of ₹29,208 crore and foreign income of ₹1,089.88 crore were disclosed. Further, as per the details available in the public domain, the CBDT Chairman in one of the post budget interviews mentioned that the additional tax of ₹ 8,800 crore has been collected in two years, and refund claims of ₹ 1,750 crore are prevented in last year by the NUDGE campaign.

Despite these efforts, many "small taxpayers" including students with old foreign bank accounts, employees with ESOPs/RSUs, and returning non-residents remained in technical non-compliance simply because they are unaware of the intricacies of Schedule FA or they could not make timely disclosures in original or revised returns. Small taxpayers often just provide basic income details to their tax consultants, not realizing that foreign-sourced benefits like ESOPs or RSUs or accounts, properties, etc must also be reported in ITR. Such inadvertent mistakes, born out of a lack of awareness, have led many innocent individuals to face the rigours of the BMA and prolonged tax uncertainty. To resolve these legacy cases, Budget 2026 has once again proposed to introduce a voluntary disclosure scheme known as **Foreign Assets of Small Taxpayers - Disclosure Scheme, 2026 (FAST-DS 2026 or scheme)**.

Process flow of the scheme:

Taxpayers are required to file the declaration electronically

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Within 1 month from the end of the month in which declaration is filed, the prescribed income-tax authority shall communicate the amount payable through an order

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Within 2 months from the end of the month in which such order is received, the declarant has to pay the amount. Where the declarant fails to pay the amount or part thereof within such period, the declarant must pay such amount within a further period not exceeding 2 months, along with simple interest @1% for every month or part of a month. The declarant shall intimate the details of payment to the prescribed income-tax authority.

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Within 1 month from the end of the month of receipt of payment intimation, an order certifying the payment shall be passed electronically. Such order shall be conclusive.

Features of FAST-DS 2026

The scheme operates under two main categories, depending on the nature of the non-disclosure:

Feature	Category A (Complete Non-Disclosure)	Category B (Income Taxed, Asset Not Declared)
Eligibility	Undisclosed income/ assets up to ₹ 1 Crore.	Disclosed income but missed reporting asset up to ₹ 5 Crore.
Payment Required	30% tax + 30% penalty (levy) : Total = 60%	Flat fee of ₹ 1,00,000 per asset.
Immunity	Full immunity from prosecution and penalty.	Full immunity from prosecution and penalty.
Duration	Scheme will open on 16th August, 2026. Last date for filing the declaration is 31st December, 2026.	Scheme will open on 16th August, 2026. Last date for filing the declaration is 31st December, 2026

NOTE : Declaration is to be made online in Form 1.

Foreign Assets of Small Taxpayers Disclosure Scheme, 2026 (FAST-DS 2026)

This is a one-time, six-month window proposed to allow eligible taxpayers to regularize their past non-disclosures. The scheme categorizes declarants into two groups:

Category	Description	Limit	Financial Obligation
Category A	Undisclosed foreign income or assets (not reported at all).	Up to ₹ 1 Crore	60% total : 30% tax + 30% additional tax (in lieu of penalty).
Category B	Disclosed income/ paid tax but failed to report the specific asset.	Up to ₹ 5 Crore	₹ 1,00,000 flat fee per year of non-disclosure.

Salient Features of FAST-DS 2026

The scheme is built on several key pillars:

Feature	Explanation
1. No Set-off or Relief	The declarant cannot claim any set-off, relief or adjustment in any proceedings in respect of the amount declared or the taxes/amounts paid under the Scheme.
2. Non-refundable Payments	Any amount paid under the Scheme pursuant to a declaration is not refundable.
3. Integration with Pending Proceedings	Where assessment proceedings are pending under the Income-tax Act (ITA) or the Black Money Act (BMA), the Assessing Officer (AO) is required to take the declaration into account while finalising the assessment.
4. One Declaration for Multiple Years	Where an asset has remained undisclosed for multiple years, the taxpayer generally needs to make one declaration in respect of the year of acquisition, with payment of the applicable one-time amount/fee.
5. Correct & Complete Disclosure	The declarant must provide true, accurate and complete information. Any suppression, misrepresentation or incorrect disclosure may result in denial or withdrawal of the immunity/ benefits available under the Scheme.

In brief : No set-off → No refund → Pending proceedings considered → One-time declaration → Full and correct disclosure

Benefits and Immunities under FAST-DS 2026

Benefit / Immunity	Explanation
Immunity from Tax, Penalty & Prosecution	Declaration → Payment → Form 4 → Immunity from any further tax or penalty, and from prosecution under the Black Money Act in respect of matters covered by the declaration for FY 2025-26 and earlier years.
Exclusion from Total Income	Declared income or investment in the foreign asset → will not be included in the total income of the declarant for any assessment year under the Income-tax Act or BMA.

Waiver of Annual Penalty	Declaration filed and accepted → foreign asset deemed to have been disclosed from the year of acquisition → annual penalty of ₹ 10 lakh is avoided.

Exclusions under FAST-DS 2026

The Scheme does not apply in the following cases:

Exclusion	Effect
Proceeds of Crime / PMLA Proceedings	Cases involving proceeds of crime or proceedings under the Prevention of Money Laundering Act (PMLA), 2002 → Not eligible under the Scheme
BMA Proceedings Already Completed	Assessment years where proceedings under the Black Money Act (BMA) have already been completed → Not eligible under the Scheme

Foreign assets acquired during the period of Non-Residency

Taxpayers who acquired foreign assets or earned foreign income during a period when they were non-residents of India. A person may, for example, have acquired a property, maintained a foreign bank account, or made investments outside India while he was a non-resident. Subsequently, upon becoming a resident of India, the person may have failed to disclose such foreign assets in the Foreign Assets (FA) Schedule of the income-tax return.

Example

Suppose Mr. A was a non-resident of India from 2018 to 2025 and, during that period, purchased a house in the UK from income earned while he was non-resident. In 2026, he becomes resident in India. He is then required to consider the applicable foreign-asset disclosure requirements. If he inadvertently fails to report the UK property in the FA Schedule, FAST-DS may provide a route to regularise the omission, subject to the prescribed conditions and applicable monetary limit.

Investment made out of Foreign income or Sale of another asset

Under FAST-DS 2026, the valuation mechanism provides for appropriate adjustment where the same funds or value have been used to acquire another asset. This prevents double taxation or double counting of the same amount.

Situation	Treatment / Adjustment	Purpose
Foreign income subsequently used to acquire an investment	Appropriate adjustment is made for the amount of foreign income utilised for the investment.	Prevents the same amount from being effectively taxed or valued twice.
New undisclosed asset acquired by selling an old undisclosed asset	The fair market value (FMV) of the old asset is reduced by the amount invested in acquiring the new asset.	Avoids double counting of the value represented by the same funds.
Movement/utilisation of funds	The valuation takes into account how the funds or proceeds have moved from one asset/ investment to another.	Ensures a fair and accurate determination of the amount/value subject to the Scheme.

EXAMPLE

Suppose an assessee has an old undisclosed asset worth ₹1.50 crore and sells it for ₹1.40 crore. The proceeds are then used to acquire a new undisclosed asset worth ₹1.40 crore.

The valuation mechanism recognises that the ₹1.40 crore represented by the old asset has been reinvested in the new asset, rather than treating the same ₹1.40 crore as two separate undisclosed assets for valuation purposes.

Key principle: The rules are designed to follow the actual flow and utilisation of funds, so that the same economic value is not counted or taxed twice.

Comparative benefits and limitations : Practical narratives

Consider a scenario where an individual had acquired shares in a foreign tech company back in 2018 for ₹ 50 lakh using his undisclosed funds. As of March 31, 2026, the fair market value of these shares is determined to be ₹ 99 lakh.

Implications under Black Money Act, 2015	**On declaration under the FAST-DS 2026 scheme**
• Tax demand of 30% on the value of asset i.e. ₹ 29.7 lakh, • Penalty of 300% of tax, i.e. ₹ 89.1 lakh, • Additional penalty of ₹ 10 lakh per year (the Assessing Officer at his discretion may levy penalty for all the years in which the asset remained undisclosed, i.e. since 2018), • Risk of prosecution.	• 60% (30% tax on value of asset and 100% of such tax) of the value of asset being ₹ 99 lakh, i.e. ₹ 59.4 lakh • No further tax or penalty • No penalty for non-disclosure • No prosecution

In another scenario, a businessman in India invested his duly taxed income in an immovable house property in Dubai. However, out of a lack of awareness, he failed to disclose such property in Schedule FA in his ITR.

Implications under Black Money Act, 2015	**On declaration under the FAST-DS 2026 scheme**
▪ Penalty of ₹ 10,00,000 per year which the Assessing Officer at his discretion may levy for all the years in which the asset remained undisclosed, ▪ Risk of prosecution.	▪ Since the income through which investment was made is already offered for tax, a flat fee of just ₹ 1,00,000. ▪ No penalty for non-disclosure ▪ No prosecution

If he had also failed to disclose the rental income earned on such immovable property in Dubai, then he will have to declare such undisclosed foreign income under the first category and shall have to pay 60% of tax on such income.

In another scenario, an individual is in receipt of an assessment order under BMA for Assessment year 2019-20 dated 31st January, 2026 wherein tax demand is raised on account of undisclosed foreign asset, further, penalty proceedings are also initiated. The individual is now considering settling his dispute by paying 60% of the value of such asset as on 31st March, 2026.

FAST-DS 2026 is not introduced as a standard amnesty scheme for the mitigation of ongoing litigation or concluded assessments. Rather, it serves as a specialized compliance window intended to empower small taxpayers to regularize legacy omissions. FAST-DS 2026 specifically excludes any income or asset relating to an assessment year for which assessment proceedings have already been completed under the BMA. Consequently, such individual will not be eligible to claim benefit of the scheme and shall be required to continue with the existing dispute resolution framework.

The above scenarios illustrate that while FAST-DS 2026 acts as a vital "lifeline" for many by offering significant financial savings and legal immunity, its benefits are strictly reserved for those with pending or uninitiated proceedings. For those with finalized assessments, the door remains closed.

Where identity theft is established by the Special Court and assessee is found not to own or hold the alleged foreign bank accounts/assets, no Black Money Act liability for foreign accounts created through identity theft fraud, basis confirmation from Special Court

Brief Facts of the case : The assessee, Sh. Tarun Trikha, was subjected to proceedings under the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015 (BMA) in respect of certain foreign bank accounts/assets allegedly standing in his name. Based on information available with the tax authorities, the assessee was alleged to have undisclosed foreign assets and an addition of approximately ₹ 23,91,64,565/- crore was made under the BMA. The assessee denied ownership or operation of any foreign bank account or overseas asset and contended that his identity had been fraudulently misused. He explained that he had been illegally shown as a director of TVI Express Holidays (P) Ltd. without his consent or authorization. An FIR was lodged and, pursuant to investigation, the authorities found that the accused persons had fraudulently used the assessee's identity. The matter was also considered by the Special Court for Economic Offences, which found that the assessee was not connected with TVI Express and was not responsible for its activities. The assessee also furnished details of his Indian income and income-tax returns for Assessment years 2010-11 to 2018-19, contending that his financial position did not permit him to have made investments of the magnitude attributed to him. The CIT(A) accepted the assessee's explanation and deleted the additions made under the BMA.

CIT(A)'s Decision: The CIT(A) deleted the entire addition of ₹ 23,91,64,565/- made under the Black Money Act, accepting the assessee's contention that the foreign bank accounts/assets attributed to him were the result of identity theft and fraudulent use of his identity.

The CIT(A)'s findings, as subsequently noted and approved by the Delhi ITAT, were essentially that:

- The assessee did not actually own or hold the alleged foreign bank accounts/assets.
- The assessee had consistently denied having any foreign bank account during both the assessment and appellate proceedings.
- The FIR and subsequent investigation/charge-sheet established that the assessee had been fraudulently shown as a director of TVI Express Holidays (P) Ltd. without his consent, resolution or authorization.
- The Special Court for Economic Offences had found that the assessee was not connected with TVI Express and was not responsible for the acts of that entity.
- The assessee's disclosed Indian income and income-tax returns for the relevant years did not demonstrate that he had the financial capacity to make investments of such magnitude outside India.
- Therefore, the foreign accounts/assets could not be regarded as assets belonging to the assessee for purposes of imposing tax under the BMA.

Accordingly, the CIT(A) concluded that the assessee was not liable to tax under the Black Money Act in respect of those foreign accounts/assets and deleted the additions**.** The Revenue challenged the deletion before the Delhi ITAT, leading to the present decision.

Core issue before the ITAT

Whether the assessee could be subjected to tax under the Black Money Act on alleged undisclosed foreign bank accounts/assets when he denied owning or controlling those assets and the material on record, including the Special Court's findings, established that his identity had been fraudulently misused to create/attribute those accounts and investments to him ?

More specifically, the Tribunal had to determine whether the ₹ 23,91,64,565/- representing the alleged foreign assets could legally be treated as the assessee's undisclosed foreign assets under the BMA, despite the assessee's consistent denial of ownership and the findings confirming identity theft.

Revenue's Arguments : The Revenue challenged the CIT(A)'s deletion of the ₹ 23,91,64,565/- BMA addition, essentially contending that the foreign bank accounts/assets identified by the Department were liable to be treated as belonging to the assessee.

The Revenue's case, as emerging from the ITAT ruling, was broadly that:

- The foreign bank accounts/investments had been identified in the assessee's name, and therefore the corresponding assets were liable to be considered for taxation under the BMA.
- The Assessing Officer had made the addition on the basis of information relating to the assessee's alleged foreign assets/accounts, and the Revenue sought restoration of that addition.
- The Revenue disputed the assessee's explanation that he was merely a victim of identity theft, seeking to sustain the assessment notwithstanding his denial of ownership.
- The Revenue effectively questioned the CIT(A)'s reliance on the subsequent FIR, investigation, charge-sheet and Special Court proceedings to conclude that the assessee had no connection with the foreign assets.
- The Revenue therefore argued that the CIT(A) was not justified in deleting the BMA addition and that the assessment made by the Assessing Officer ought to be restored.

Assessee's Arguments : The assessee's primary contention before the ITAT was that the alleged foreign bank accounts and investments did not belong to him at all, and that his identity had been fraudulently misused by third parties. The key submissions were:

- **No ownership of foreign assets:** The assessee categorically denied having any foreign bank account, investment or asset outside India.
- **Identity theft established:** He submitted that he had been fraudulently shown as a director of TVI Express Holidays (P) Ltd. without his consent, approval or authorization. The FIR, investigation and charge-sheet supported his version.
- **Special Court's finding:** The assessee relied heavily on the order of the Special Court for Economic Offences, which established that he was not connected with TVI Express and was not responsible for the activities of that entity.
- **Consistent stand before tax authorities:** He pointed out that his denial of ownership of the foreign accounts had been consistent throughout the assessment as well as appellate proceedings.

- **Lack of financial capacity:** The assessee furnished his Indian income details and returns for Assessment years 2010-11 to 2018-19 to demonstrate that he did not possess the financial means to make foreign investments running into such a substantial amount.
- **No basis for BMA liability:** Since he was neither the actual owner nor beneficiary of the alleged foreign accounts/assets, those assets could not be regarded as his undisclosed foreign assets for purposes of the BMA.

Accordingly, the assessee argued that the ₹ 23,91,64,565/- addition was fundamentally based on a mistaken attribution of assets to him arising from identity fraud, and therefore the CIT(A) had correctly deleted the addition.

Decision of the ITAT : The ITAT upholds CIT(A)'s order deleting addition of Rs. 23,91,64,565/- on account of non-disclosure of foreign assets under BMA by acceding to Assessee's claim that he was a victim of identity theft, as established by the order of Special Court for Economic Offence and holds no foreign bank account or investments/assets; Considering that the Assessee, in fact, does not hold any foreign bank account or asset located outside India and that he has been fraudulently framed, ITAT concurs with CIT(A)'s view that, "*the appellant is not liable to tax under the BMA in respect of those accounts*"; ITAT notes on filing an FIR and after the investigation (as per charge-sheet), it was found that the concerned accused were involved in illegally showing the appointment of the Assessee as Director of a firm called TVI Express Holidays (P) Ltd. without the consent, resolution and permission of Assessee; ITAT states that the Assessee has consistently denied having any foreign bank account in the assessment proceedings as well as in the appellate proceedings; Taking note of details submitted by the Assessee regarding income earned by him in India and relevant return of income for the period 2010-11 to 2018-19, ITAT observes that the Assessee does not have any means to make such huge investments outside India; On perusal of the order of the Special Court, ITAT discerns that the Assessee was not connected to TVI Express and not responsible for any act of the said entity; In the wake of Assessee's denial of having any foreign bank account in the assessment proceedings as well as in the appellate proceedings and that he has been a victim of an identity theft, which is established as per the order of Special Court for Economic Offence, ITAT renders, *"CIT(A) had deleted the additions made under BMA by relying on the above facts on record. After careful consideration of the detailed findings, we do not see any reason to disturb the same"*

Legal principle emerging : The important point is that BMA liability is linked to the assessee actually holding an undisclosed foreign asset/

account. Where the very ownership or connection of the assessee with the foreign assets is disproved—and identity theft is judicially established - the machinery of the BMA cannot be invoked simply because the assessee's identity appears in records relating to those accounts. The ITAT therefore affirmed the CIT(A)'s deletion of the ₹ 23,91,64,565/- addition, observing that there was no reason to disturb the CIT(A)'s detailed findings.

[In favour of assessee] (Related Assessment year : 2021-22) – [DDIT(Inv.) v. Tarun Trikha [TS-1228-ITAT-2026(DEL)] – Date of Judgement : 11.08.2026 (ITAT Delhi)]

Chapter - 2

Reporting requirement to Disclose details of foreign assets held in the Foreign Assets (FA) schedule forming part of the ITR form

[Section 263(1)(a)(ix) of the Income Tax Act, 2025]

Schedule FA has been an integral component of the ITR forms since the assessment year 2012-13. Under this schedule, ordinarily resident Indians are required to disclose details of their foreign assets and income, irrespective of whether the income is taxable in India or not. The enactment of the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015, reinforced the obligation for Indian residents to disclose such foreign assets and income.

Why is the Government emphasizing this?

There is a significant international information-exchange framework involving mechanisms such as CRS (Common Reporting Standard, developed by the OECD) and FATCA (Foreign Account Tax Compliance Act). The Income Tax Department has been using information received under such arrangements to identify possible mismatches between foreign financial information and Indian tax returns. The Department has specifically encouraged taxpayers to review foreign-asset and foreign-income disclosures.

For example, suppose a taxpayer has a US brokerage account.

The taxpayer may think: "I never disclosed it because there was no Indian TDS."

But information about the account may nevertheless reach Indian tax authorities through international information exchange. That makes accurate Schedule FA reporting particularly important.

Requirement to Disclose Foreign Assets [Section 263(1)(a)(ix) of the Income Tax Act, 2025]

The income-tax return forms (ITR's) require a resident Indian to disclose the details of foreign assets held by an assessee in the Foreign Assets (FA) schedule forming part of the ITR. Additionally the Section 263(1)(a)(ix) of the Income Tax Act, 2025 (erstwhile fourth proviso to section 139(1) of the

Income Tax Act, 1961 requires that even if a person (resident Indian) who is not required to file his/her return of income but holds foreign assets at any time during the year has to file his/her return of income disclosing such assets.

Text of Section 263(1)(a)(ix) of the Income Tax Act, 2025 reads as under :

(*ix*) a person, who is a resident, other than not ordinarily resident, and who at any time during the tax year,—

(*A*) holds, as a beneficial owner or otherwise, any asset (including any financial interest in an entity) located outside India, or has signing authority in any account located outside India; or

(*B*) is a beneficiary of any asset (including any financial interest in an entity) located outside India, except where any income arising from such asset is includible in the income of person referred to in item (*A*);

Text of Fourth proviso to section 139(1) of the Income Tax Act, 1961 reads as under :

PROVIDED ALSO that a person, being a resident other than a not ordinarily resident in India within the meaning of clause (6) of section 6, who is not required to furnish a return under this sub-section and who at any time during the previous year,—

(a) holds, as a beneficial owner or otherwise, any asset (including any financial interest in any entity) located outside India or has signing authority in any account located outside India; or

(b) is a beneficiary of any asset (including any financial interest in any entity) located outside India,

shall furnish, on or before the due date, a return in respect of his income or loss for the previous year in such form and verified in such manner and setting forth such other particulars as may be prescribed.

Which ITR ?

For an individual/HUF with foreign assets, the appropriate return will generally be one that contains Schedule FA - typically ITR-2 where there is no business/profession income and ITR - 3 where there is business/ profession income. ITR - 1 and ITR - 4 do not contain Schedule FA.

Thus, Schedule FA is exclusively available in ITR 2 and ITR 3 forms, meaning individuals with foreign assets and income shall file their returns using either of these forms.

Disclosures required

The following details are required to be disclosed in Foreign Assets (FA) schedule of the ITR :

- Foreign bank accounts;
- Any asset held outside India (Foreign shares, Securities, Debentures, Life Insurances, Annuity Contract, Immovable Property or any other capital asset);
- foreign brokerage or investment accounts;
- Financial or beneficial interest in any overseas entity (partner in an overseas LLP or firm, a beneficiary of a foreign private trust);
- Signing authority in any account located outside India (Trading, Depository, Bank or Custodian Account); and
- Income from any source outside India (Dividend, interest, or capital gain).

Reporting in this schedule is made irrespective of the type of ownership, whether legal or beneficial ownership. However, the reporting is required by a resident person only. No disclosures are required in case of a non-resident or resident but not ordinarily resident person.

Schedule FA framework

For a resident taxpayer, the prescribed Schedule FA covers the following categories:

Schedule FA	Broad category
A1	Foreign depository/bank accounts
A2	Foreign custodial accounts
A3	Foreign equity and debt interests
A4	Foreign insurance/annuity contracts
B	Financial interest in an entity outside India
C	Foreign immovable property
D	Other foreign capital assets
E	Foreign account where taxpayer has signing authority

Relevant period for disclosure

Taxpayers shall disclose any foreign assets or income relating to the previous year 2025-26 (now after 01.04.2026 - tax year) when filing the ITR forms for the assessment year 2026-27. This means that individuals need to report details of any Foreign Assets they held, and Income earned during the period from 01.04.2025 to 31.03.2026 in Schedule FA, while submitting their ITR for the Assessment year 2026-27.

What happens if the foreign asset was sold?

Suppose:

- you bought US shares in 2023;
- sold them in September 2025;
- therefore had no US shares on 31st March, 2026.

That does not automatically mean there is nothing to report. The Schedule FA wording covers assets/accounts held at any time during the tax year. Therefore, an asset that existed during part of the reporting period may still have to be reported, with the relevant acquisition/sale/value information.

Signing authority is also significant

Consider an employee who has signing authority over a foreign company's bank account. The employee may say : "The money is not mine."

That may be relevant to whether the funds constitute the employee's asset, but signing authority itself is specifically contemplated by Schedule FA. Schedule E covers an account located outside India in which the taxpayer has signing authority and which is not otherwise reported in the preceding categories. So signing authority in an account located outside India are required to be disclosed in Foreign Assets (FA) schedule of the ITR.

What if the account is jointly held?

Suppose you and your spouse jointly hold a foreign bank account. You should not simply assume that only the person whose name appears first on the statement reports it. The nature of the taxpayer's interest - legal ownership, beneficial ownership, beneficiary status, etc. - needs to be considered. The Schedule FA instructions specifically contemplate beneficial interests and require disclosure of foreign assets/accounts in respect of which the resident is a beneficial owner, beneficiary or legal owner.

Taxability of the Income

It is to be noted that Schedule FA seeks disclosures of certain assets, rights, and income, it does not impact the taxability of an income. Income earned from the assets held outside India shall be taxable as per the relevant provisions of the Income Tax Act, even if it is not required to be disclosed in Schedule FA.

Thus, the dividend income earned in the last quarter of the previous year 2025-26, i.e., between 01.01.2026 and 31.03.2026 shall be taxable in the hands of the assessee, even if it is not reported in Schedule FA. Hence, the Dividend Income of INR 20,000 will be reported in Schedule FA, while the Dividend Income of INR 90,000 will be subject to tax in the assessment year 2026-27.

Conversion into INR

The reporting in Schedule FA shall be made after converting the investment and income in Indian currency. Such conversion shall be made as per the following:

Assets or Income	Conversion method	Date of conversion
Peak balance	Conversion at TTBR*	On the date of peak balance
Value of investment	Conversion at TTBR*	On the date of investment
Foreign sourced income	Conversion at TTBR*	Closing date (31.12.2025)

Conditions to be fulfilled to taxability of undisclosed assets under Black Money Act

A resident other than a "not ordinarily resident" (i.e., broadly, a Resident and Ordinarily Resident/ROR) must furnish an income-tax return if, at any time during the tax year, if he—

- has an asset located outside India
- holds, as a beneficial owner or otherwise, any asset located outside India, including a financial interest in a foreign entity;
- has signing authority in a foreign bank/account; or
- is a beneficiary of a foreign asset or foreign financial interest, subject to the statutory exception where the income from that asset is already includible in the income of another specified person.

No explanation is offered by the Assessee about the source of such investment, or in the opinion of the Assessing Officer, the information offered is not satisfactory.

Thus, provisions relating to taxability of undisclosed assets located outside India under Black Money Act, and notes above mentioned conditions to be fulfilled.

NOTE

Under Section 263(1)(b), such a person is required to file the return regardless of whether he has taxable income or a loss.

Assessing Officer is permitted to issue notice for the assessment or reassessment without any time limit

As per the provisions of this Act, there is no time limit for the initiation or for issuing such notice under section 10 for the assessment proceeding for undisclosed foreign income and/or undisclosed foreign asset. It means that assessment proceeding may be initiated by the Assessing Officer depending upon the year in which information is received by the Assessing Officer and such year may be after several years, say 20 or more, without any time limit.

Required to issue 2 assessment orders against the single Income Tax Return

Assessing Officer is required to issue 2 assessment orders against the single Income Tax Return under section 143(3) of the Income Tax Act, 1961 and under section 10(3) of the Black Money Act, 2015 for the incomes as taxable under the Income Tax Act, 1961 and incomes as taxable under the Black Money Act, 2015.

Not required to file a separate return under the Black Money Act, 2015

Taxpayer is not required to file a separate return under the Black Money Act, 2015. Hence taxpayer is required to fill the appropriate columns in Income Tax Return as to be filed under Income Tax Act, 1961.

In case of undisclosed foreign income of an assessee the same would be subject to tax under the provisions of the Black Money Act only for every assessment year commencing on or after 1st April, 2016.

While in case of undisclosed foreign income of an assessee the same would be subject to tax under the provisions of the Black Money Act only for every assessment year commencing on or after 1st April, 2016, namely assessment year 2016-17 onwards, insofar as undisclosed foreign asset located outside India is concerned, the previous year in which such asset is acquired is not relevant.

In other words an undisclosed foreign asset would be subject to tax under the Black Money Act notwithstanding the date of its acquisition, which may even be a previous year prior to the assessment year commencing on 1st April, 2016; and shall be charged to tax under this provision on the value of such asset in the previous year in which such asset comes to the notice of the Assessing Officer.

Consequences of faulty reporting

Under the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015, residents with assets or income from foreign sources must accurately and timely furnish their income-tax returns. Failure to do so or providing inaccurate information in Schedule FA can result in a penalty of Rs. 10 lakhs. Additionally, the individuals may face rigourous imprisonment for a term of six months to seven years, along with fines.

An Indian tax resident who fails to disclose a foreign bank account or foreign investment, and cannot satisfactorily establish the source of acquisition of such assets, is liable to tax under the Black Money Act. Mere assertions unsupported by documentary evidence cannot rebut official information received from foreign competent authorities, and execution of constitutional documents such as the Memorandum and Articles of Association of a foreign company constitutes strong evidence of investment in that entity

Brief Facts of the Case

The assessee, Ashok Shankar, was an Indian tax resident during the relevant Assessment year 2020-21. A search conducted by the Income-tax Department led to the discovery of information suggesting that the assessee possessed undisclosed foreign assets. Information received from the Competent Authorities of the UAE revealed that the assessee maintained a foreign bank account in the UAE with a deposit of AED 5,000; and the assessee had made an investment in a UAE company, Santech, UAE.

The assessee had not disclosed either the foreign bank account or the investment in the Foreign Assets (FA) Schedule of his return of income, nor had he made any declaration under the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015 (BMA). During the assessment proceedings, the assessee claimed that the AED 5,000 had been transferred by a friend merely to facilitate the commencement of a business in Dubai and did not represent his undisclosed income. However, he failed to furnish the identity of the friend or any documentary evidence to support this explanation. The assessee also denied having invested in the UAE company, but the Revenue relied on documents showing that he was a signatory to the Memorandum and Articles of Association (MOA/AOA) of the company, indicating his involvement in the investment. The Assessing Officer treated the foreign bank balance and the investment as undisclosed foreign assets and brought them to tax under Sections 3, 4 and

5 of the BMA by passing an assessment order under Section 10(3) of the Act.

The CIT(A) upheld the assessment, following which the assessee filed an appeal before the Delhi ITAT, challenging the additions under the BMA.

Core Issue before the ITAT

Whether an Indian tax resident who failed to disclose a foreign bank account and investment in a UAE entity in the Foreign Assets (FA) Schedule of the income-tax return, and who could not satisfactorily explain the source of such foreign assets, was liable to tax under Sections 3, 4 and 5 of the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015 (BMA).

Assessee's Arguments : The assessee advanced the following arguments before the Delhi ITAT:

1. **Deposit in the UAE bank account was not undisclosed income:** The assessee contended that the AED 5,000 credited to the foreign bank account did not represent his income or investment. According to him, the amount had been transferred by a friend solely to facilitate the commencement of a business in Dubai.
2. **No investment in the UAE company:** The assessee denied having made any investment in Santech, UAE, and disputed the Revenue's allegation that he owned any undisclosed foreign asset in the company.
3. **No taxable undisclosed foreign asset under the BMA:** It was argued that, since neither the bank deposit nor the alleged investment represented his undisclosed income or asset, the provisions of Sections 3, 4 and 5 of the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015 were not attracted.
4. **Assessment based on incorrect assumptions:** The assessee submitted that the Assessing Officer had proceeded on mere assumptions without establishing that the foreign bank deposit or the alleged investment constituted undisclosed foreign assets liable to tax under the BMA.
5. **Deletion of addition sought:** On the above grounds, the assessee pleaded that the additions made under the BMA and sustained by the CIT(A) were unsustainable in law and deserved to be deleted.

Revenue's Arguments : The Revenue supported the assessment order and the order of the CIT(A) on the following grounds: