





STUDENTS' ECONOMIC FORUM

A monthly publication from South Indian Bank

*To kindle interest in economic affairs...
To empower the student community...*

 www.southindianbank.com
Student's corner
 ho2099@sib.co.in

“FUGITIVE ECONOMIC OFFENDERS BILL 2018”



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Theme 325

“FUGITIVE ECONOMIC OFFENDERS BILL 2018”

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Theme No: 325: “Fugitive Economic Offenders Bill 2018”

A well informed customer will make the policy makers as well as organizations which produce goods and render services more responsive to the customer needs. This will also result in healthy competition among organizations and improve the quality of its products.

The “SIB Students’ Economic forum” is designed to kindle interest in the minds of younger generation. We highlight one theme in every monthly meeting of the “Forum”. This month the topic for discussion is “Fugitive Economic Offenders Bill 2018”.

Who is a fugitive economic offender?

A fugitive economic offender is an individual who has committed some specified offence(s) involving an amount of one hundred crore rupees or more and has absconded from India or refused to come back to India to avoid or face criminal prosecution in India. A Fugitive Economic Offender is a person declared so by a ‘Special Court’ set up under the Prevention of Money-laundering Act (PMLA), 2002, against whom an arrest warrant has been issued in respect of any of the economic offences provided in the schedule to Fugitive Economic Offenders Bill, 2018 and who has left India so as to avoid criminal prosecution, or being abroad, refuses to return to India to face criminal prosecution. Offences under some 15 Acts are listed in the Schedule to the Bill.

What is the need of a new bill?

The Banking sector has been impacted due to the business deals

going awry and inability of the customers to service their loans. Many of the defaulting fraudsters flee the country when they see the writing on the wall. These high net worth, big spending businessmen cleverly leave the Indian shores before the law enforcing authorities and regulators get after them. The absence of such offenders from Indian courts has several deleterious consequences - first, it hampers investigation in criminal cases; second, it wastes precious time of courts of law, third, it undermines the rule of law in India. The country's banks, the investigating agencies, the prosecuting agencies all have been taken for a ride by these unscrupulous people who have stashed away their ill gotten wealth in various entities abroad, various assets and bank accounts and who live a merry life of luxury in the comfort of foreign shores away from our country's jurisdiction. The existing civil and criminal provisions of law are not entirely adequate to deal with these severe problems that have a critical impact on the economy.

The government felt that despite the existence of Indian Penal Code, Prevention of Corruption Act and Prevention of Money Laundering Act, a specific act targeting fugitive economic offenders is the need of the hour to provide an effective, expeditious and constitutionally permissible deterrent to ensure that such actions are curbed.

Fugitive Economic Offenders Bill 2018

The Union Cabinet chaired by Prime Minister Shri. Narendra Modi, approved the proposal of the Ministry of Finance to introduce the **Fugitive Economic Offenders Bill, 2018** in Parliament.

This Bill was introduced in the Parliament on 12 March 2018. As this could not be passed in the Parliament in that session, the Union Cabinet, in its meeting held on 21 April, 2018, decided to promulgate the Fugitive Economic Offenders Ordinance, 2018 and the same was notified on 21 April 2018.

The relevant Rules were notified on 24 April 2018. Cases where the total value involved in such offences is Rs.100 Crores or more will come under the purview of this Bill. Hence, a fugitive offender term applies only to those who owe more than Rs. 100 crore in the domestic territory of India.

Objectives of the bill

- The preamble of the bill clearly says “To provide for measures to deter fugitive economic offenders from evading the process of law in India by staying outside the jurisdiction of Indian Courts, to preserve the sanctity of the rule of law in India and for matters connected therewith or incidental thereto”.
- The Bill is expected to re-establish the rule of law with respect to the fugitive economic offenders as they would be forced to return to India to face trial for scheduled offences (meaning list of economic offences appearing in the schedule to the Fugitive Economic Offenders Act).
- This would also help the banks and other financial institutions to achieve higher recovery from financial defaults committed by such fugitive economic offenders, improving the financial health of such institutions.
- It is expected that the special forum to be created for expeditious confiscation of the proceeds of crime, in India or abroad, would coerce the fugitive to return to India to submit to the jurisdiction of Courts in India to face the law in respect of scheduled offences.

Salient features of the Bill

- Application before the Special Court for a declaration that an individual is a fugitive economic offender;
- Attachment of the property of a fugitive economic offender;
- Issue of a notice by the Special Court to the individual alleged to be a fugitive economic offender;

- Confiscation of the property of an individual declared as a fugitive economic offender resulting from the proceeds of crime;
- Confiscation of other property belonging to such offender in India and abroad, including benami property;
- Disentitlement of the fugitive economic offender from defending any civil claim; and
- An Administrator will be appointed to manage and dispose of the confiscated property under the Act.

If at any point of time in the course of the proceeding prior to the declaration, however, the alleged Fugitive Economic Offender returns to India and submits to the appropriate jurisdictional court, proceedings under the proposed Act would cease by law. All necessary constitutional safeguards in terms of providing hearing to the person through counsel, allowing him time to file a reply, serving notice of summons to him, whether in India or abroad and appeal to the high court have been provided for.





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