



Trading in Cryptocurrency - Legal or not ?

Investing in Cryptocurrency is legal in India.

In April 2018, the RBI issued a circular banning regulated financial institutions from providing services to businesses dealing in exchange/trading of cryptocurrencies, which put the entire Indian cryptocurrency trading industry in turmoil. The Supreme Court in the case of Internet and Mobile Association of India v. Reserve Bank of India deliberated on cryptocurrency and struck down the circular. The Supreme Court observed that the circular disconnected the banking sector from cryptocurrency exchanges despite the RBI not having found anything wrong with the functioning of these exchanges. It was also noted that before issuing the circular, the RBI did not explore the availability of alternative and less intrusive measures such as regulating cryptocurrency trading and cryptocurrency exchanges.

The government has further made an amendment in Schedule – III of Companies Act – requiring all companies to disclose their cryptocurrency transactions categorically in the Balance Sheet.

Government's View on Cryptocurrency

The long term acceptance of cryptocurrency is not positive in India as the "Banning of Cryptocurrency and Regulation of Official Digital Currency Bill 2019" has been proposed with the aim to ban all private cryptocurrencies. The Indian Parliament is yet to approve this bill.

Tax Implications on dealing in Cryptocurrency

a) Investment in Cryptocurrency

'Cryptocurrency' is not a legal currency in India and therefore 'cryptocurrency' should be treated as a Capital Asset u/s 2(14) and the income earned from trading in cryptocurrency shall be taxable under the head - Capital Gains.

If the holding period is more than 3 years, the tax rate shall be 20%

If the holding period is less than 3 years, the tax rate shall be Normal Slab Rates (5% - 20% - 30%)

b) Trading in Cryptocurrency

Trading in cryptocurrency is not an illegal business Therefore, the taxpayer dealing in cryptocurrency as a business shall be tax at normal slab rates (5% - 20% - 30%). The income earned from cryptocurrency cannot be taxed u/s 68 of IT Act @ 60% as trading in cryptocurrency is legal in India.