Cabinet approves New Bill to ban Unregulated Deposit Schemes and Chit Funds (Amendment) Bill, 2018

In a major policy initiative to protect the savings of the investors, the Union Cabinet chaired by the Prime Minister Shri Narendra Modi has given its approval to introduce the following bills in the Parliament:-

(a) Banning of Unregulated Deposit Schemes Bill, 2018 in parliament &
(b) Chit Funds (Amendment) Bill, 2018

The Banning of Unregulated Deposit Schemes Bill, 2018

The Union Cabinet chaired by the Prime Minister Shri Narendra Modi has given approval to introduce the banning of Unregulated Deposit Schemes Bill, 2018 in Parliament. The bill is aimed at tackling the menace of illicit deposit taking activities in the country. Companies/ institutions running such schemes exploit existing regulatory gaps and lack of strict administrative measures to dupe poor and gullible people of their hard-earned savings.

Details:

The Banning of Unregulated Deposit Schemes Bill, 2018 will provide a comprehensive legislation to deal with the menace of illicit deposit schemes in the country through,

1. complete prohibition of unregulated deposit taking activity;
2. deterrent punishment for promoting or operating an unregulated deposit taking scheme;
3. stringent punishment for fraudulent default in repayment to depositors;
4. designation of a Competent Authority by the State Government to ensure repayment of deposits in the event of default by a deposit taking establishment;
5. powers and functions of the competent authority including the power to attach assets of a defaulting establishment;
6. designation of Courts to oversee repayment of depositors and to try offences under the Act; and
7. listing of Regulated Deposit Schemes in the Bill, with a clause enabling the Central Government to expand or prune the list.

Salient Features:

The salient features of the Bill are as follows:

- The Bill contains a substantive banning clause which bans Deposit Takers from promoting, operating, issuing advertisements or accepting deposits in any Unregulated Deposit Scheme. The principle is that the Bill would ban unregulated deposit taking activities altogether, by making them an offence ex-ante, rather than the existing legislative-cum-regulatory framework which only comes into effect ex-post with considerable time lags.
- The Bill creates three different types of offences, namely, running of Unregulated Deposit Schemes, fraudulent default in Regulated Deposit Schemes, and wrongful inducement in relation to Unregulated Deposit Schemes.
- The Bill provides for severe punishment and heavy pecuniary fines to act as deterrent.

- The Bill has adequate provisions for disgorgement or repayment of deposits in cases where such schemes nonetheless manage to raise deposits illegally.
- The Bill provides for attachment of properties/ assets by the Competent Authority, and subsequent realization of assets for repayment to depositors.
- Clear-cut time lines have been provided for attachment of property and restitution to depositors.
- The Bill enables creation of an online central database, for collection and sharing of information on deposit taking activities in the country.
- The Bill defines “Deposit Taker” and “Deposit” comprehensively.
- “Deposit Takers” include all possible entities (including individuals) receiving or soliciting deposits, except specific entities such as those incorporated by legislation.
- “Deposit” is defined in such a manner that deposit takers are restricted from camouflaging public deposits as receipts, and at the same time not to curb or hinder acceptance of money by an establishment in the ordinary course of its business.
- Being a comprehensive Union law, the Bill adopts best practices from State laws, while entrusting the primary responsibility of implementing the provisions of the legislation to the State Governments.

Background:

The Finance Minister in the Budget Speech 2016-17 had announced that a comprehensive central legislation wouldbe brought in to deal with the menace of illicit deposit taking schemes, as in the recent past, there have been rising instances of people in various parts of the country beingdefrauded by illicit deposit taking schemes. The worst victims of these schemes are the poor and the financially illiterate, and the operations of such schemes are oftenspread over many States. Subsequently, Finance Minister in the Budget Speech 2017-18 had announced that the draft bill to curtail the menace of illicit deposit schemes had been placed in the public domain and would be introduced shortly after its finalization.

The Chit Funds (Amendment) Bill, 2018

The Union Cabinet, chaired by the Prime Minister Shri Narendra Modi, has given its approval to introduce the Chit Funds (Amendment) Bill, 2018 in Parliament. In order to facilitate orderly growth of the Chit Funds sector and remove bottlenecks being faced by the Chit Funds industry, thereby enabling greater financial access of people to other financial products, the following amendments to the Chit Funds Act, 1982 have been proposed:

- Use of the words “Fraternity Fund” for chit business under Sections 2(b) and 11(1) of the Chit Funds Act, 1982, to signify its inherent nature, and distinguish its working from “Prize Chits” which are banned under a separate legislation;
- While retaining the requirement of a minimum of two subscribers for the conduct of the draw of the Chit and for the preparation of the minutes of the proceedings, the Chit Funds (Amendment) Bill, 2018 proposes to allow the two minimum required subscribers to join through video conferencing duly recorded by the foreman, as physical presence of the subscribers towards the final stages of a Chit may not be forthcoming easily. The foreman shall have the minutes of the proceedings signed by such subscribers within a period of two days following the proceedings;
- Increasing the ceiling of foreman’s commission from a maximum of 5% to 7%, as the rate has

remained static since the commencement of the Act while overheads and other costs have increased manifold;
- Allowing the foreman a right to lien for the dues from subscribers, so that set-off is allowed by the Chit company for subscribers who have already drawn funds, so as to discourage default by them; and
- Amending Section 85 (b) of the Chit Funds Act, 1982 to remove the ceiling of one hundred rupees set in 1982 at the time of framing the Chit Funds Act, which has lost its relevance. The State Governments are proposed to be allowed to prescribe the ceiling and to increase it from time to time.

Source: Press Information Bureau, Government of India, Ministry of Finance. 20-February-2018 13:24 IST.

– – –