

No relief in ₹10L tax fine for not disclosing foreign assets

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Mumbai: Income tax authorities are increasingly issuing show-cause notices seeking explanations on foreign investments not disclosed in 'schedule-FA' in tax returns. A recent order of the Mumbai bench of the ITAT, which upheld a penalty of Rs10 lakh under the Black Money Act for each year of default, has created ripples.

"The high penalty was aimed at those who hoard black money abroad in the form of undisclosed foreign assets. However, the lack of effective guidance in filling details in schedule-FA, and almost nil publicity in earlier years about this mandatory requirement, has led to many honest taxpayers ma-

king errors. It is a golden principle of jurisprudence, upheld by the SC, that the penalty should be commensurate with the offence committed. The flat penalty of Rs 10 lakh for each year should not be applied for infractions in schedule-FA where there is enough disclosure elsewhere in the tax return and annexed documents. Tax tribunals in some instances have deleted the penalties that were levied by the I-T officers," Rutvik Sanghvi, a chartered accountant, said.

In this case, the ITAT rejected the taxpayer's argument that leniency should be shown because her foreign assets were not 'undisclosed assets' located outside India. She claimed that the source of funds for her investments

was explained to the tax authorities (investments in global dynamic opportunity fund were made out of funds transferred under the LRS), and she had also declared the income arising from such investments in her tax returns. She argued that her failure to disclose these assets in the required schedule for three years was an unintentional mistake, and that she had rectified it in her return for FY18.

Government officials told **TOI** that information received from the US under its Foreign Account Tax Compliance Act (FATCA) and from other countries under exchange of information process, coupled with the use of advanced technology, enables them to zoom in on cases of non-disclosure.