



Rajput Jain & Associates

Chartered Accountants

An ISO 9001:2008 Certified Firm



BITCOIN IN INDIA



About

Rajput Jain & Associates, Chartered Accountants, is one of the leading providers of financial and business advisory, internal audit, statutory audit, corporate governance, & international taxation and regulatory services. With a global approach to service delivery, we are responds to clients' complex business challenges with a broad range of services

across industry sectors and national boundaries. The Firm has been set up by a group of energetic, open minded, highly skilled and motivated professionals who have gained experience from top consulting companies and are extensively experienced in their chosen fields has providing a wide array of Accounting, Auditing, Assurance, Risk, Taxation, & Business advisory services to various clients & their stake holders. We have been associated with various national & International recognized associations in the field of our profession; Association of International tax consultants (AITC) is one



Cryptocurrency Taxation Scenario in India



Bitcoin is an cryptocurrency created in 2008 by an anonymous individual or group of people using the name Satoshi Nakamoto. When the currency's implementation was launched as open-source software in 2009, it was put into use. Bitcoin is a decentralized virtual currency that can be sent from user to user on the peer-to-peer bitcoin network without the use of intermediaries. It has no central bank or single administrator. Network nodes encrypt transactions, which are then recorded in a distributed public ledger known as a blockchain.

Virtual currencies have been the focus of the decade, drawing the attention of tax authorities primarily due to the high prices at which they have been seen buying and selling on exchanges in India and around the world, and the regulatory mechanism of taxation must be determined in view of the new legal landscape.

WHY IS THE CRYPTOCURRENCY MARKET NOT WELCOMED BY THE INDIAN GOVERNMENT & REGULATORS?

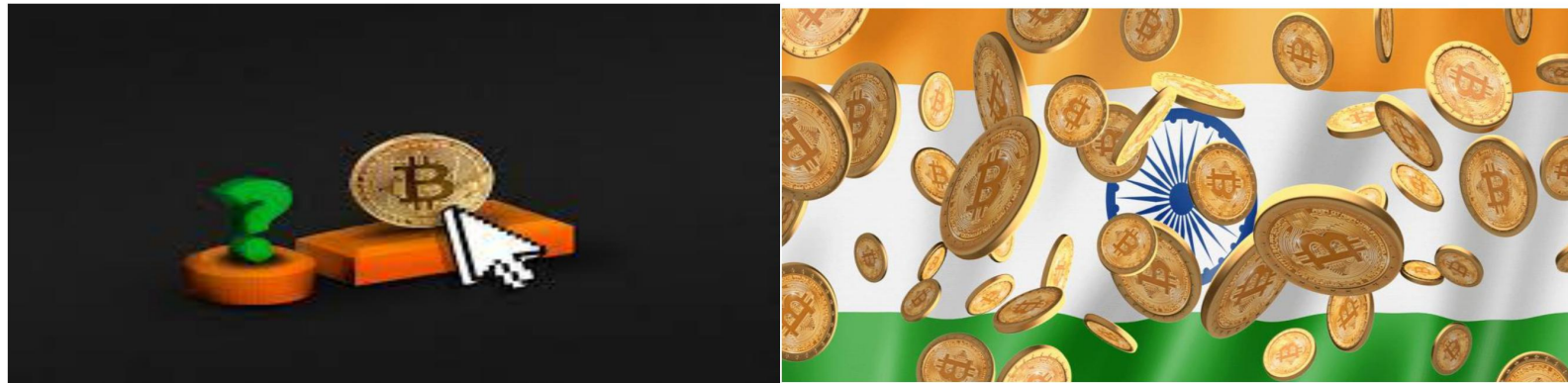
Bitcoin, Ethereum, and Mon-roe are examples of virtual currencies that operate in a gray environment in India. The government of India launched a moratorium on the cryptocurrency industry in December 2017. Tax officials sent notices to more than 5 lakhs crypto traders, in a measure that might result in massive tax profits. Since there is no clarification on their whole presence, representatives from India's top 7 Bitcoin exchanges, including Unocoin, Zebpay, Btcx-India, and CoinSecure, approached the Authority for Advance Ruling (AAR).

The RBI banned banks from working with cryptocurrency-related entities in April 2018. The Indian Govt has also released time to time warnings or alerts about the dangers of trading virtual currency. Regulators, on the other hand, have so far refrained from assigning them a legal or illegal status.

The Income tax department provided the 1st clarification on this issue. According to them, crypto traders failing to pay taxes on any Assets. May results in a attached penal consequences of tax implications , and a proposal has been drafted to which address this issue. This proposal contains a few of significant tax provisions relating to cryptocurrency trading activity.

The CBIC is considering a draft that will be presented to the GST Council for the consideration the matter.

WHETHER CRYPTO IS CONSIDERED AS CURRENCY OR NOT?



- Whereas many developed nations accept bitcoins as legal tender, many countries have banking bans on bitcoin, whether it is explicitly legal or illegal.
- Vietnam is one of them, allowing cryptocurrency trading but not accepting them as a tool of payment.
- However, In India, The Foreign Exchange Management (FEMA) Act, 1999 [Sec.2 (h)] describes currency as currency notes, postal notes, postal orders, money orders, cheques, drafts, travellers cheques, letters of credit, bills of exchange and promissory notes, credit cards, and other related instruments as notified by the Reserve Bank of India. As a result of it cryptocurrency be classified as currency under current definitions of FEMA?

- While the Reserve Bank of India has not declared Bitcoin to be legal tender, the fact that it is a widely adopted payment method is pertinent. As a result, the RBI should consider it as money rather than commodities. In the India, digital assets may be categorized as "intangible Assets," similar to other software system, with separate legislation enacted to prohibit and punish illegal use of cryptocurrencies (As the CBIC posits, the decision of the panel to levy GST on digital currencies could also be useful in regulating digital currencies).
- taxation will be simplified in case cryptocurrencies were classified as goods and Bitcoin exchanges' activities on behalf of consumers were treated as services. In conclusion, this new proposal will alter/ modify the way India deals with virtual currencies.

INTERNATIONAL SCENARIO OF BITCOIN (CRYPTO)

- The way bitcoin is traded varies greatly depending on the nation. Bitcoin is treated as a currency in the USA and may be either a fixed asset or an inventory asset.
- the United Kingdom regards it as a "private currency."
- In the other hand, Bitcoins are treated differently in Australia, varying from a traded asset to an investment, with different treatment to the related services of as mining or trade facilitation.
- Singapore regards Bitcoin as a legal money,
- However, Japan taken it as a commodity in his country.

SITUATION OF BITCOIN (CRYPTO) IN INDIAN

RBI has suggested its own controlled institutions (such as banks) to hold/stop providing any kind of service to business entities or individuals who used to purchase or sell cryptocurrencies for fiat (INR) on and off-ramps. This makes it prohibits to purchase or sell cryptocurrencies in INR from banks.

Despite these prohibits, India ranks among the top 5 nations in the world in terms of currencies held (although these cannot be exchanged at the moment), with 44 percent of the global share. Given the uncertainty around Bitcoin and the fact that it is still in its early stages of growth, one thing is certain: Bitcoin will take time to gain widely acceptance as a currency or medium of trade in India.

This would result in the typical response of such exchanges, which is to relocate their headquarters outside of India, resulting in the loss of significant amount of future tax revenues. The handling of bitcoins would be ideal if the government allowed the exchange of these currencies(Virtual cryptocurrency).

The currencies should be regarded as current assets, & the margins that bitcoin exchanges charge their customers should be subject to GST. This would ensure that Virtual cryptocurrency trade is regulated as well as increasing tax revenue to the Nation.

In March, the Supreme Court set aside a 2018 RBI circular which prohibiting banks & financial firms from offering services related to cryptocurrencies.

The Govt of India is considering implementing an 18 % GST levy on bitcoin transactions, This development that could probably increase Rs 7,200 crore annual GST.

- According to The Times of India, the Central Economic Intelligence Bureau (CEIB) has sent a proposal to the Central Board of Indirect Taxes and Customs (CBIC) on the subject.
- According to the survey, the CEIB estimates that bitcoin transactions in India are worth Rs 40,000 crore per year. The CEIB had undertaken research into the possibility of implementing GST on cryptocurrencies.
- According to The Times of India, the CEIB, a part of the finance ministry, said that bitcoins can be classified as "intangible assets" and considered as current assets. The **CEIB** recommended that margins made when selling cryptocurrencies be subject to GST.
- Bitcoin, the most expensive cryptocurrency, has increased by more than 400% in 2020-21, reaching a peak of more than \$54000. in May 2021.

Recent Update from Govt of India on clarification on position cryptocurrency in India.

Anurag Singh Thakur, Minister of State for Finance, stated that in response to a question in the Rajya Sabha- whether the government collects income tax on cryptocurrency earning and also whether GST is collected from crypto exchanges.

- **The gain from crypto trade and services by cryptocurrency exchanges are liable to be taxable, According to the government, because revenue from whatever source is obtained is included in the Income Tax Act, 1961, and supply of any service,, if not expressly exempted, is taxable under the Goods and Services Tax (GST).**
- **"Regardless of the nature of the business, total earnings for taxes shall include all income from whatever source derived...the gains resulting from the sale of cryptocurrencies/assets are liable to tax under a head of income," Mr. Thakur further explained. Similarly, "supply of any service is taxable under GST if not expressly exempted, and no service related to cryptocurrency exchange has been exempted."**

However, since there is no clause/provision in the income tax return to collect data on crypto profits, the government does not keep track of them, according to the minister.

- The Central Board of Indirect Taxes and Customs (CBIC) assigns each service a special Services Accounting Code (SAC) under GST. The GST collections specific to cryptocurrencies are available with the government, according to Thakur, so there is no specific SAC for cryptocurrencies.

The clarifications amid from government's announcement earlier this week that cryptocurrencies could be controlled& regulate in India. Companies operating with virtual currencies have compulsory now report profit or loss on crypto truncation, the Amount of cryptocurrencies Company possess, and investments or advances by any person/entity for the purpose of selling or investing in cryptocurrency must disclose in their balance sheets,

- According to the ministry of Corporate Affairs. in a notification released on Wednesday. The ministry confirmed the amendments made in the Schedule III of the Companies Act, which will take effect on April 1, 2021,. Thakur said in a written reply to a query in the Rajya Sabha that the government would take decide on recommendations of the Inter-Ministerial Committee's (IMC) on cryptocurrencies in India. As a result, if there is a a legislative proposal, it would be brought to Parliament.

CONCLUSION

- *In today's scenario, cryptocurrency has the potential to strengthen the backbone of India's digital infrastructure while also safeguarding all digital network transactions. In this situation, levying taxes on cryptocurrency transactions should be viewed as a positive step rather than a constraint.*
- *If virtual currencies are treated as goods, some transactions will be taxed twice: once on supply (which would otherwise be exempt for a money transaction) and then again on consideration, resulting in higher taxation. This increased incidence of taxation places businesses operating in cryptocurrencies at a significant disadvantage, reducing their purchasing power. When it comes to international transactions, the situation becomes even more complicated.*
- *It is a two-way street for crypto transactions to be traced and used legally, as well as for the government to generate revenue that can be used efficiently. It is also vehemently argued that imposing a tax on cryptocurrency as a policy matter can help to create an ideal environment in which traders can be assured that their money is safe and the risks associated with trading are minimised.*

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