

What is NFT?

NFT means Non Fungible Token. Yes that's it. Goodbye.

Oh no it is more than that, first we will understand the meaning of Non Fungible. Well, it means something that cannot be exchanged for another item because of its uniqueness.

For Example- If Mr. John has a unique monalisa art it means he has a non-fungible asset. But if Mr. John has Rs.100 note and if he exchanges the note with 5 notes of Rs.20 then still the value is same, so it means Rs.100 note is a fungible asset which can be easily exchangeable. Same thing goes for if we exchange a \$ for a Bitcoin they are all fungible assets.

NFT are the legit way of transferring the ownership of an item even physical items on record. NFT only represents ownership and that is recorded in a block chain so nobody can tamper with it. NFT's can also be used to sell concert tickets, Domain names, rare gaming items, Arts, Sports videos etc.

Well you are thinking now what is a block chain?

In simple words, Block chain means transfer of money between two people without the involvement of bank. In a Block chain, all of the transactions are recorded publicly on the internet.

Well its confusing for some people, Lets understand the concept of block chain with a simple example.

If Mrs. Michelle wants to buy a dress from a ZARA showroom and it costs Rs.15k and she pays the amount by a Debit card. The showroom staff will swipe the card in the POS machine, then a notification will go to the Mrs. Michelle's Bank and if the balance is sufficient then the bank will give its approval and the transaction will complete and the amount is credited to the ZARA Showroom's Bank.

But in case of Block chain, If Mrs. Michelle pays the amount in Bitcoin then the block chain will verify the balance and gives the approval and in this case there is no involvement of bank and the record will be public in block chain. It eliminates the middlemen i.e. Bank.

How NFT Works?

NFT's are the tokens that live on a block chain and represent ownership of a unique items. It is unique because of a unique fingerprint, Token name, Token symbol and it is stored in a block chain and it sell that token by creating a transaction on the block chain. Block chain allows to track who's the current owner of a token and how much it has been sold in the past. Only attributes stored in the block chain. NFT'S worth is determined by what people are willing to pay for it.

Practical instance of NFT:-

-CEO of twitter Jack Dorsey created a NFT of his first tweet and sold it for approx. \$2.9 Million.



-NBA sold the LeBron James highlight for \$200000 as a NFT Trade.



-Ritviz and Nucleya are the first musicians in India to get involved in NFT trade and dropped NFT Photographs, Artwork etc. They auctioned their digital token on WazirX NFT Marketplace.



Taxation on NFT

Currently there is no official framework to tax Crypto and NFT's, But soon in the winter session of parliament government is expected to Implement taxation rules on Cryptocurrencies and NFT's because of loss of revenue to the government.

But the real question is how it will be taxed?

There are many aspects of Tax which might get attracted.

Let's discuss all of them.

1) GST Aspect:-

As per many tax experts, GST might attract to tax crypto and NFT and it will be treated as a supply of services and the exchange will have to pay tax on the transaction and might pass on GST liability (18%) to the customer. But the question lies here is can the customer take the input tax credit because as per section 16 of the CGST Act Input tax credit can be availed when the expenditure is incurred in the course or furtherance of business. Burden of proof is on customer.

2) Capital Gain:-

Gain on transfer of capital assets attracts capital gain tax as per the Income tax act, 1961.

Capital assets includes:

- Any kind of property held by an assessee, whether or not connected with business or profession of the assessee.
- However, the following items are excluded from the definition of capital asset
 - (i) Any stock in trade, Consumables, stores or raw materials held for the purposes of his business or profession.
 - (ii) Personal effects that is movable property (including wearing apparel and furniture) held for personal use by the taxpayer or any member of his family dependent on him but excludes:-
 - (a) Jewellery
 - (b) Archaeological collections
 - (c) Drawings

- (d) Paintings
- (e) Sculptures
- (f) Any work of art.

Well as per the definition of capital asset NFT can be classified as an art but NFT includes anything includes art so it is not suitable to treat this as an art. If government wants to treat this as a capital asset then it may amend the capital asset definition.

If it is treated as a capital asset then if NFT is sold which was held for more than 3 years then the seller will attract long term capital gain tax and needs to pay tax @ 20% with indexation benefit. If it was held for 3 years or less and then the seller will attract short term capital gain tax and applicable slab rates will apply.

3) Equalization levy:-

Chapter VIII of Finance Act, 2016 is amended by Finance Act, 2020 and provisions regarding equalization levy are inserted (Section 165A). Equalization levy now also extends to consideration received or receivable by an e-commerce operator for e-commerce supply or services on or after the 1st day of April, 2020 and is levied @2% on such consideration and made or provided or facilitated by it:

- (i) To a person resident in India or
- (ii) To a Non-Resident in the specified circumstances such as sale of advertisement which targets a customer, who is resident in India or a customer who accesses the advertisement through internet protocol address located in India and sale of data which targets a customer or person resident in India or who uses internet protocol located in India or
- (iii) To a person who buys such goods or services or both using internet protocol address located in India.

E-Commerce operator means a non-resident who owns operates or manages digital or electronic facility or platform for online sale of goods or online provision of services or both.

In this instance, the non-resident facilitators of NFT Trade shall pay an equalization levy @2% for providing the facilities to trade to the resident Indians.

My take on NFT:-

Well, It is an exciting platform and with the change in technology, the transaction can be done more smoothly and efficiently and it is not yet regulated by the government but soon it may issue rules and regulations for this. NFT's are exciting and you can create a NFT out of anything even a GIF's, JPEG also but it should be unique and it should have demand then only you can survive in this marketplace. It is still early days but in my opinion NFT is the future.

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