गलती to क्षमा: The Philosophy Behind FAST-DS

Foreign Assets of Small Taxpayers – Disclosure Scheme, 2026

BGSS & Associates | 22 August 2026



FAST-DS 2026: Beyond the Headlines

The Apparent Simplicity

Category 1 → 60%

Category 2 → ₹1 lakh

The Real Challenge

Deciding **which number applies at all** — Classification • Valuation • Source Tracing • Grey Areas • Closure

From गलती to क्षमा

Bhagavad Gita XI:41–44

Arjuna's path: Recognition → Acknowledgement → Request for Forgiveness

> "The Gita calls it क्षमा after स्वीकार; tax law calls it immunity after disclosure."



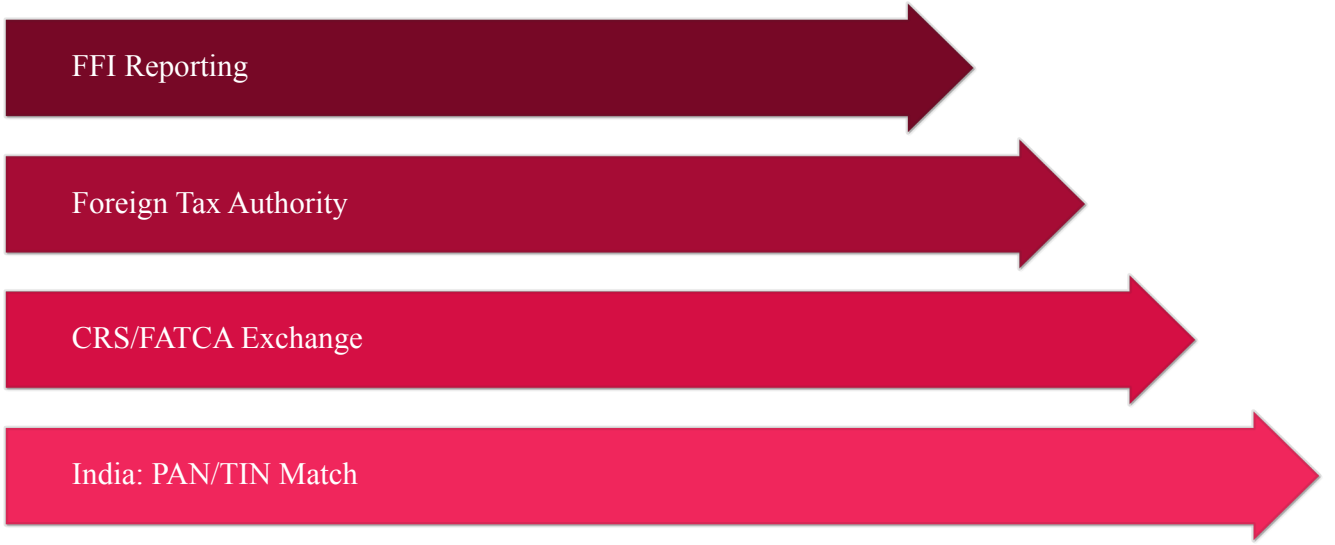
FAST-DS Is a Forensic Reconstruction Exercise



Form 1 is the **output** of the investigation — not the beginning of it.

Who owned it?	When resident?	Source of funds?	Income generated?
Asset evolution?		Statutory value?	

The State Can Now See What Taxpayers Forget



Old Question

"Will the Department ever know?"

New Question

"What information **may already have reached India**?"

⚠ CRS/FATCA mismatch ≠ proof of tax evasion

FAST-DS Is Not Only for "Black Money"

- Foreign ESOP / RSU
- Old Student Account
- Returning NRI
- Foreign Salary Savings
- Pension / 401(k)
- Nominee / Trust Interest

The Scheme addresses a **much wider compliance population** than "black money" suggests.

The Scheme at a Glance

16 Aug

Scheme Commencement

2026

31 Dec

Form 1 Deadline

2026

31 Mar

Valuation Date

2026

Category 1

Aggregate eligible base ≤ **₹1 crore**

Payment = **60%**

Category 2

Aggregate qualifying FMV ≤ **₹5 crore**

Fee = **₹1 lakh** (declaration-level, not per asset)

One Scheme, Two Completely Different Philosophies

Category 1 — Economic Omission

Underlying source/income has a substantive Indian tax problem

- Undisclosed foreign asset
- Undisclosed foreign income

Payment: 60% | Threshold: ₹1 crore

Category 2 — Reporting Omission

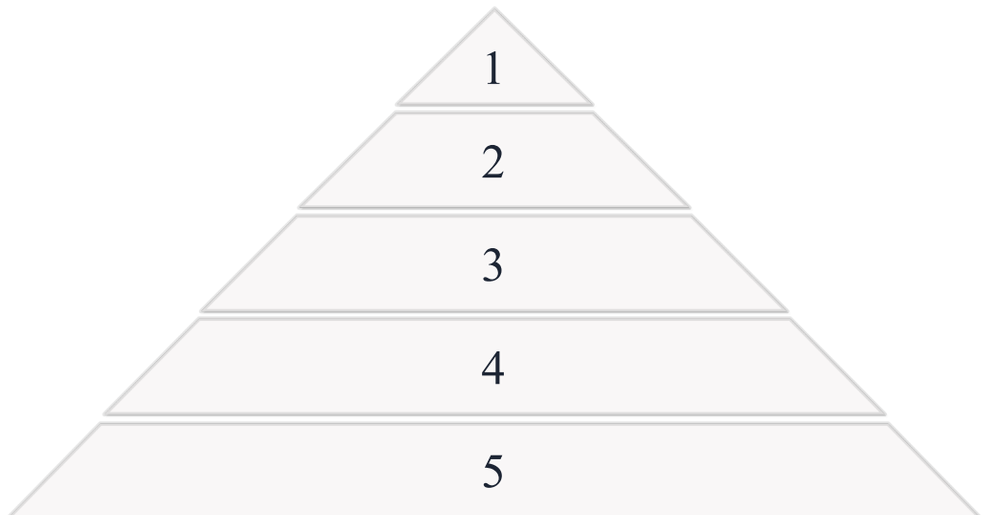
Clean source, but foreign-asset reporting was missed

- NR-period foreign income (2A)
- Income already offered to Indian tax (2B)

Fee: ₹1 lakh | Threshold: ₹5 crore

Begin with "What funded the asset?" — not "Was Schedule FA missed?"

Read FAST-DS in Layers



1 Case-Specific Interpretation

2 Underlying IT / BMA Concepts

3 CBDT FAQs

4 Forms 1–4

5 Finance Act 2026 — Sections 130–144

The Hierarchy Rule

Statute first. Rules second. Forms and FAQs **explain** — but do not replace — the law.

Forms are not merely procedural templates. They reveal how the Scheme expects assets, income, valuation and categories to be reported.

Five Questions Govern Every FAST-DS File

1	**Relationship** Owner? Beneficial owner? Nominee? Signatory? Trustee? Beneficiary?
2	**Residence** When acquired/earned? NR, RNOR or ROR?
3	**Source** Tax-paid? NR salary? Loan? Gift? Inheritance? Untaxed income?
4	**Subsequent Income** Rent? Interest? Dividend? Distribution?
5	**Valuation** Only now determine FMV and threshold.

Classification precedes valuation.

PART II — ELIGIBILITY & CLASSIFICATION

Eligibility Is Wider Than "Resident Today"

Potentially Eligible

- Current resident with historic omission
- Current NR/RNOR who was resident in the relevant year

Door 1

No return furnished

Door 2

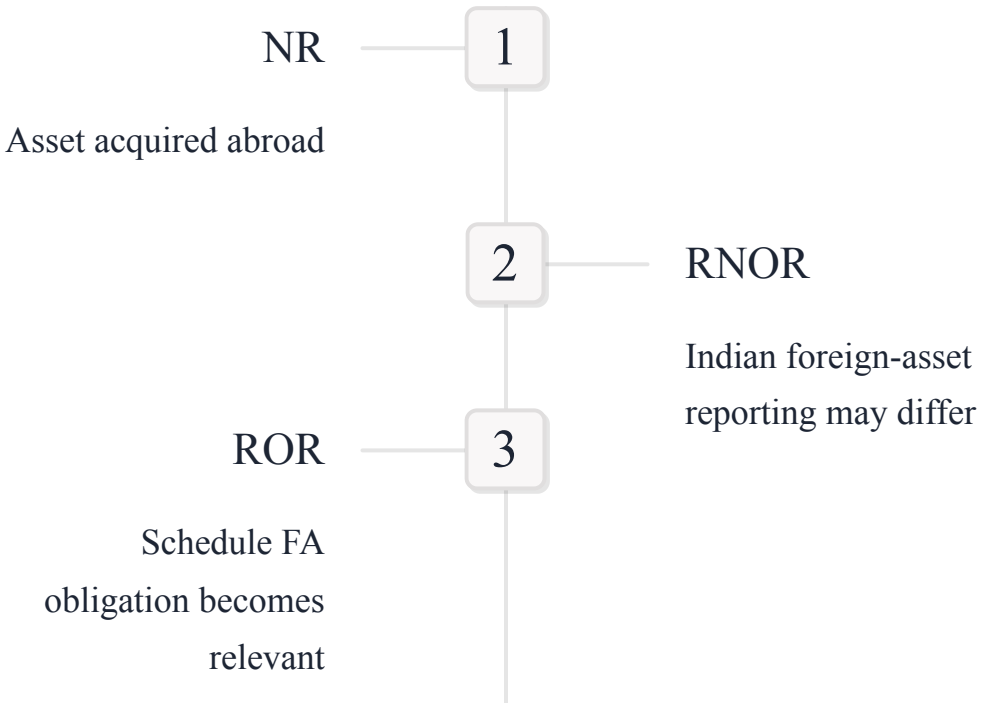
Return filed, but foreign asset/income omitted

Door 3

Asset/income escaped assessment

Build a **year-by-year residence and return-status matrix** before analysing the asset.

Residential Status Must Be Mapped Twice



Two Separate Questions

Q1: What was residence when asset was acquired / income arose?

Q2: When did Schedule FA reporting become applicable?

⚠ Category 2A expressly refers to NR-period income. Do not casually substitute RNOR for NR.

Reporting Obligation ≠ Economic Ownership

Corporate Bank Signatory

Reporting obligation may exist.

Economic ownership of corporate cash = potentially zero.

Trustee

Schedule FA trust reporting may exist.

Personal ownership of trust corpus = potentially zero.

Nominee / Second Holder

Name appears on account/title.

Beneficial interest may be different.

REPORTING OBLIGATION ≠ OWNERSHIP ≠ FAST-DS VALUATION

Category 1: The Problem Is the Money, Not Merely the Reporting

Potentially Covers

- Undisclosed foreign asset
- Undisclosed foreign income

Category 1 Base

Prescribed FMV of qualifying asset + Undisclosed foreign income

Aggregate ceiling: **₹1 crore**

Payment: **60%**

Core Asset Test

Can the taxpayer **satisfactorily explain** the source of investment?

Category 1 is an **economic omission** route.

Category 2 Is Narrower Than "The Source Is Genuine"

Category 2A	Category 2B
Asset acquired from foreign income earned while taxpayer was **non-resident**	Asset acquired from income **offered to tax in India**

Then: foreign-asset reporting was omitted.

Key Distinction

"Explainable source" is **not** itself the Category 2 test.

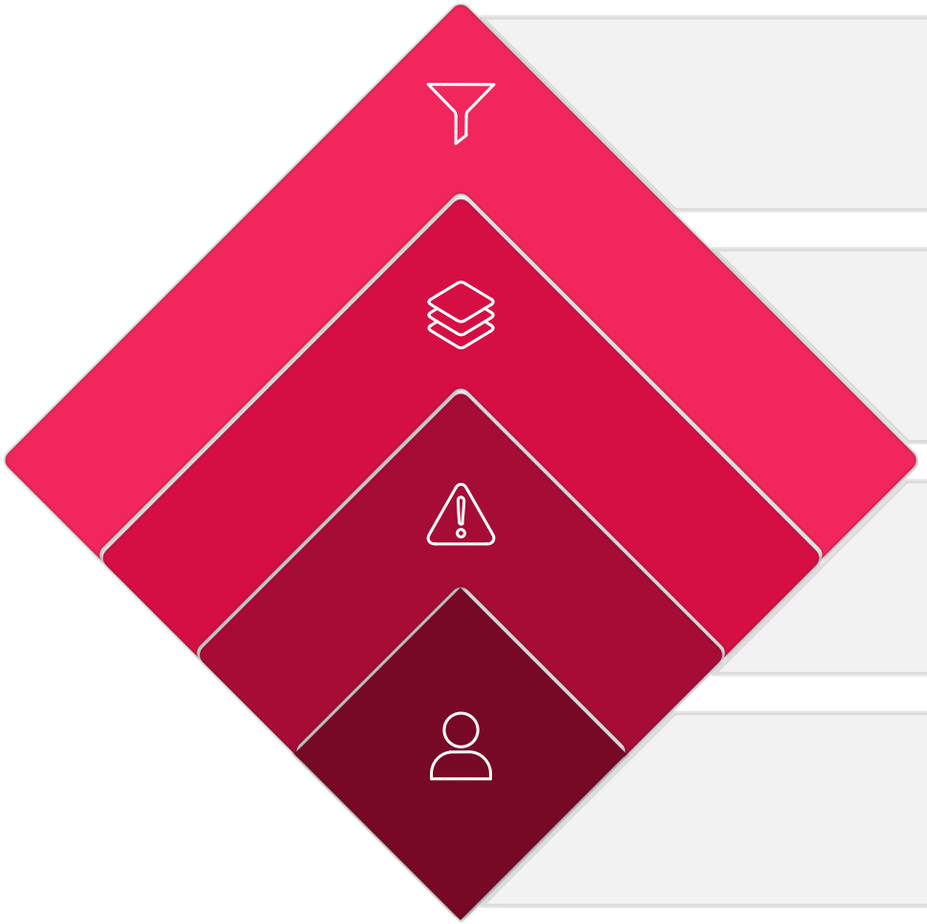
⚠ That creates the Scheme's most interesting middle cases.

The Category 2 Gap: Bona Fide Source, Wrong Kind of Source

Source	Apparent Statutory Fit
NR foreign salary	Strong 2A candidate
Indian salary already taxed	Strong 2B candidate
Gift / Inheritance	Grey area
Loan / Capital receipt	Grey area
Exempt income / RNOR foreign income	Requires analysis

Not Category 1 does not automatically mean Category 2. Do not force a bona fide reporting error into a category that does not fit.

The Classification Decision Tree



Post-Classification

Value → Aggregate → Threshold → Exclusions

Category Decision

Category 1 / 2A / 2B or Interpretive Gap

Unexplained Income?

Unexplained investment or taxable foreign income?

Ownership Check

Is it the taxpayer's asset?

⚠ Only after classification: Value → Aggregate → Threshold → Exclusions

The Asset and Its Income May Belong to Different Categories

Example: US Shares

Acquired while NR from foreign salary → **Potential Category 2A**

After becoming ROR, shares generate dividends taxable in India but omitted → **Potential Category 1 income**

Acquisition Source

↓ Asset Classification

Post-Acquisition Income

↓ Independent Income Classification

⚠ Exception: If omitted income was reinvested, follow the money into the successor asset.

Three Threshold Numbers Must Never Be Confused

₹20L	₹1Cr	₹5Cr
BMA Relief Context	Category 1 Ceiling	Category 2 Ceiling
Specified small non-immovable foreign assets	Aggregate — not per asset	Aggregate FMV — countries combined

⚠ Thresholds are aggregate. Multiple accounts/assets are combined. Do not cherry-pick assets simply to remain below the threshold.

A Notice Does Not Automatically Close the FAST-DS Door

Critical Distinctions

AEOI Communication

≠ Completed BMA assessment

IT Enquiry

≠ PMLA proceeding

Pending BMA Assessment

≠ Completed BMA assessment

Build a Proceedings Matrix

Statute | Section | Year | Asset | Date Commenced | Pending/Completed | Order Passed?

⚠ Section 140 contains specific exclusions. Do not apply a vague rule that "any investigation makes the taxpayer ineligible."

What Does a Valid Declaration Actually Buy?

Section 136

Declared income/investment receives prescribed non-inclusion treatment

Section 139

Immunity from further BMA tax, penalty and prosecution — for the declared item

Three Boundaries of the Shield

- **Asset-specific**
- **Person-specific**
- **Statute-specific**

Form 4 is a defined statutory shield — not a universal clean chit.

Interplay With Other Laws: FAST-DS Does Not Regularise the Universe

Inside the Section 139 Shield

Black Money Act, 2015

Valid declaration + payment → statutory BMA immunity for the declared item

Outside the Shield — Separate Analysis Required

- FEMA
- Companies Act, 2013
- PMLA, 2002
- Benami Property Act, 1988
- AML/KYC | Foreign-country tax law
- Estate/gift/succession law

⚠ **Special PMLA Point:** Where income/asset represents proceeds of crime and specified PMLA proceedings are initiated, section 140 can make FAST-DS itself inapplicable.

Tax disclosure ≠ FEMA regularisation ≠ ownership regularisation ≠ money-laundering immunity.

Valuation Is the Engine Room of FAST-DS

31 March 2026 — Central Valuation Date

- Higher of cost / market value
- Quoted market price
- Net-asset formula
- Cumulative bank deposits
- Indexed-cost fallback
- Currency conversion



Do not prepare one offshore "net-worth statement." Prepare an **asset-by-asset valuation workbook.**

A Foreign Property Is Valued as an Asset, Not as Net Equity

Broad Property Rule

FMV = **Higher of** Cost of Acquisition **OR** Prescribed open-market value at 31 March 2026

Illustration

Cost = ₹70 lakh | Market value = ₹48 lakh

Prescribed value does **not** automatically fall to ₹48 lakh merely because market value declined.

Property FMV

Statutory prescribed value

Mortgage

Separate question — does not reduce FMV

Debt and valuation are separate questions.

₹4 Crore Property, ₹3 Crore Loan, ₹1 Crore Equity: Which Number Matters?

Economic View

Property FMV: **₹4.00 cr**

Less Mortgage: **₹3.00 cr**

Economic Equity: **₹1.00 cr**

FAST-DS Valuation View

Prescribed property FMV is **not automatically reduced** by the mortgage.

FMV may remain **₹4 crore**

Threshold Warning

Category 1: ₹4 cr asset → ₹1 cr ceiling is the first problem.

Category 2: ₹4 cr consumes ₹4 cr of ₹5 cr ceiling.

⚠ Economic equity ≠ statutory FMV. Payment of 60% on gross amount may be harsh — but that is the law.

What If the ₹1 Crore Down Payment Cannot Be Explained?

Same Property

FMV: ₹4 crore | Mortgage: ₹3 crore (documented) | Down payment: ₹1 crore — source not established

Option A

Only ₹1 crore = undisclosed component

Option B

Entire property = undisclosed foreign asset

Option C

Source-based apportionment of the asset

⚠ **INTERPRETIVE ISSUE — SPECIFIC CLASSIFICATION MEMORANDUM REQUIRED.** Does the law permit source-based apportionment of one FAST-DS asset? This is not an arithmetic question.

BMA Has an Express Property-Apportionment Rule. Does FAST-DS?

BMA Section 5(2) — Express Formula

Reduction = Property value × Assessed income ÷ Total property cost

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Illustration

Property cost: ₹50 lakh | Income assessed: ₹20 lakh | Property value: ₹1 crore

Reduction = ₹1 cr × 20/50 = **₹40 lakh**

Residual: **₹60 lakh**

FAST-DS Position

Section 133 valuation framework + Rule 3 tracing/anti-duplication mechanics exist.

FAST-DS does **not expressly reproduce** a universal section-5(2)-style formula.

⚠ Use BMA section 5(2) as an **interpretive comparator** — not automatically as the FAST-DS computation formula.

Open technical issue.

Mixed Funds: Arithmetic Is Not the Legal Conclusion

Case Facts

Property cost: ₹80 lakh

Tax-paid funds: ₹64 lakh

Untaxed taxable foreign income: ₹16 lakh

FMV: ₹95 lakh

The Questions

Split?

₹16L Cat 1 + balance Cat 2?

Contamination?

Partial problem affects entire asset?

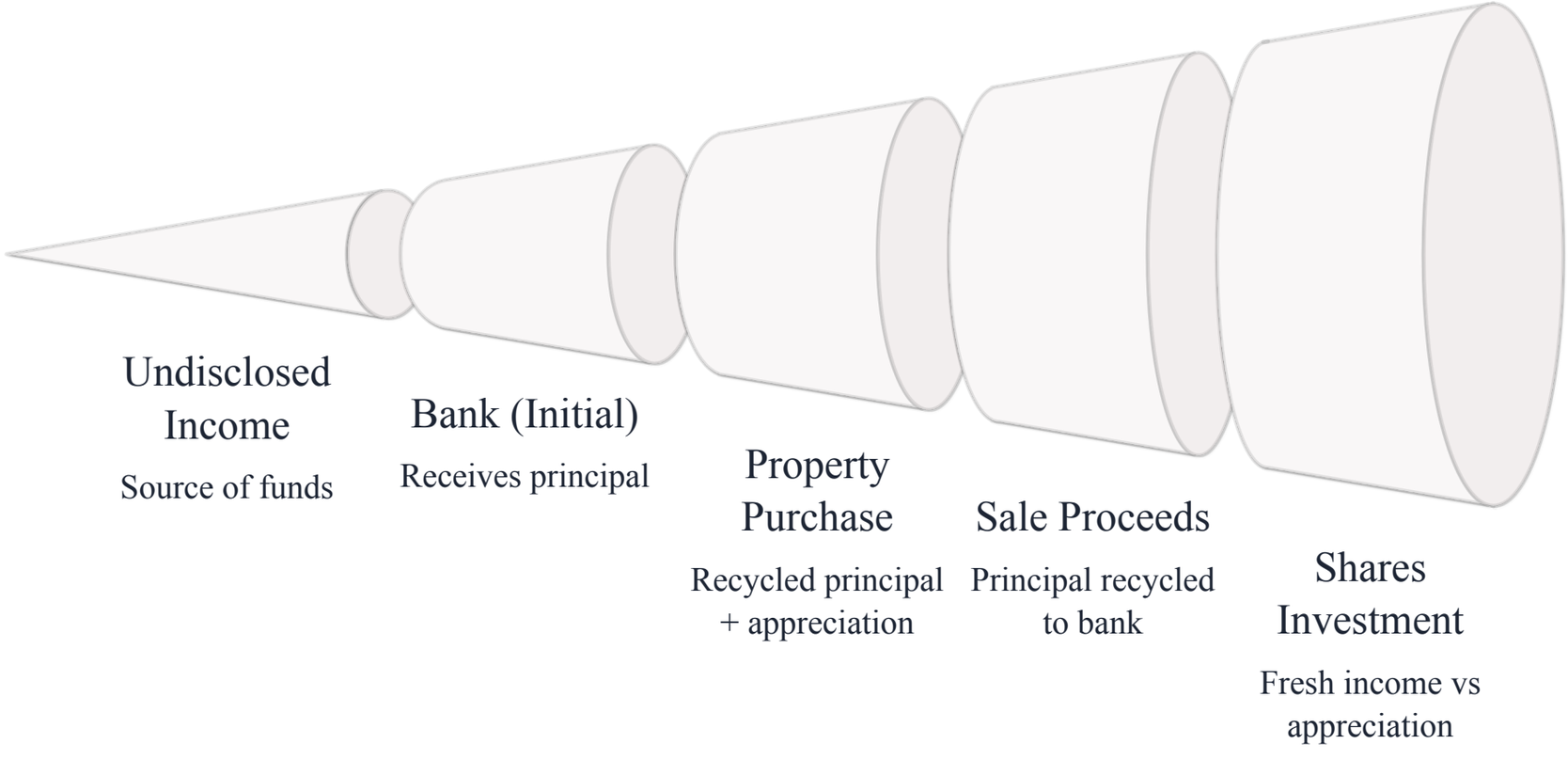
Separate?

Regularise undisclosed income separately?

⚠ Note: Payment of tax on FMV of ₹95 lakh will not alter cost of acquisition at actual sale. Consider: should property be sold and offered to tax under FAST-DS?

Mathematics follows classification. Classification does not follow mathematics.

Follow the Money: The Same Value Should Not Be Counted Repeatedly



Recycled Principal

Should not multiply indefinitely

Appreciation

Can still remain in successor asset

Fresh Income

Remains separately relevant

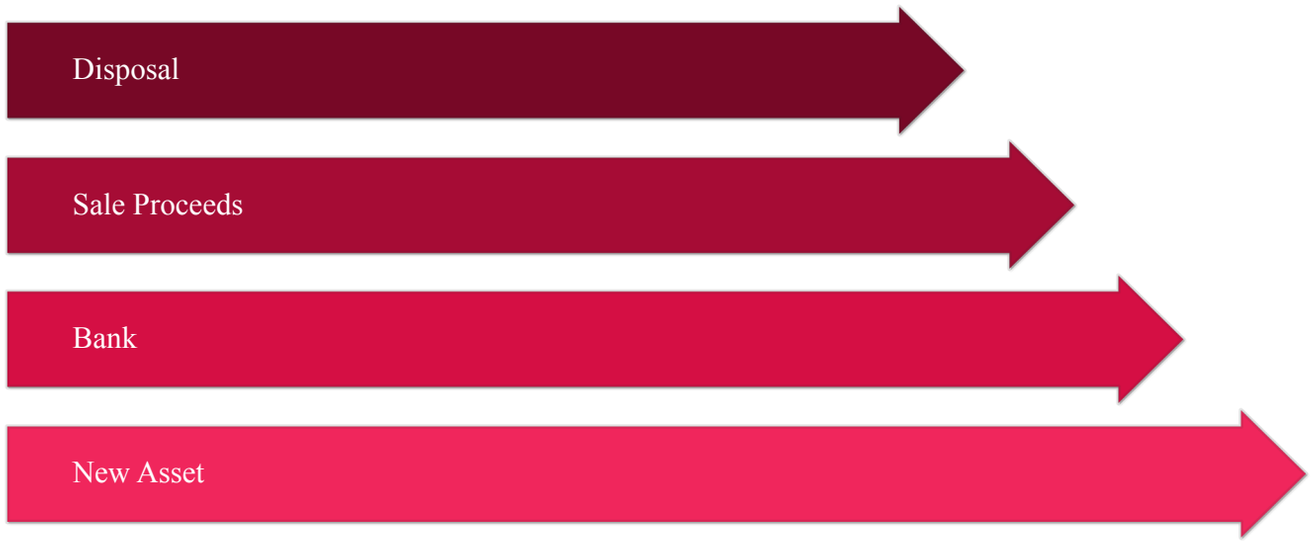
Selling or Gifting Before 31 March 2026 Does Not Erase the Asset

Examples

- Property sold in 2024
- Startup shares gifted to daughter
- Family transfer at inadequate consideration

Historic cost / consideration / transfer-date value may still matter under prescribed rules.

Follow the Consideration



⚠ A disposal is a tracing event — not necessarily the end of the FAST-DS analysis. Gift/inheritance issues may result in litigation.

Listed Foreign Shares: Do Not Use the Broker's Closing Value Blindly

Prescribed Approach

Higher of: Acquisition cost **OR** Prescribed quoted-market price methodology

Test for

- Established securities market
- 31 March 2026 trading / nearest preceding day
- Stock splits, mergers, spin-offs, ADR conversions
- Corporate actions
- Currency conversion



The broker's year-end FMV is evidence — not necessarily the statutory answer.

Unquoted Equity and ESOPs: Cost Can Be as Important as Valuation

Unquoted Equity

Formula valuation requires: foreign financials, underlying asset values, liabilities, capital structure.

Indexed cost relevant where prescribed valuation not carried out.

Employee Shares — Collect

- Grant → Vesting → Exercise/Allotment
- Payroll | Perquisite FMV | Form 16
- ITR | Broker statement

Where ESOP perquisite was already taxed in India, section 49(2AA) provides an important reference for tax cost — and supports Category 2B classification.

Unvested Options Are Not the Same Thing as Shares

Facts

- Options unvested at 31 March 2026
- No shares allotted
- Forfeitable | Non-transferable | No market

Before Valuing, Ask

Is there presently an asset?

Analyse: enforceability, vesting condition, forfeiture, transferability, existing proprietary right.

⚠ **Do not:** Options × underlying share price = automatic FAST-DS value

Possible to contend: unvested options are personal assets and cannot have FMV since they are not transferable.

INTERPRETIVE ISSUE

A ₹5 Lakh Bank Balance Can Hide Crores of FAST-DS Value

FAST-DS Bank Value Is NOT

- Closing balance
- Average balance
- Peak balance
- Net wealth

Broadly

Cumulative deposits from account opening to valuation date — subject to prescribed exclusions

Illustration

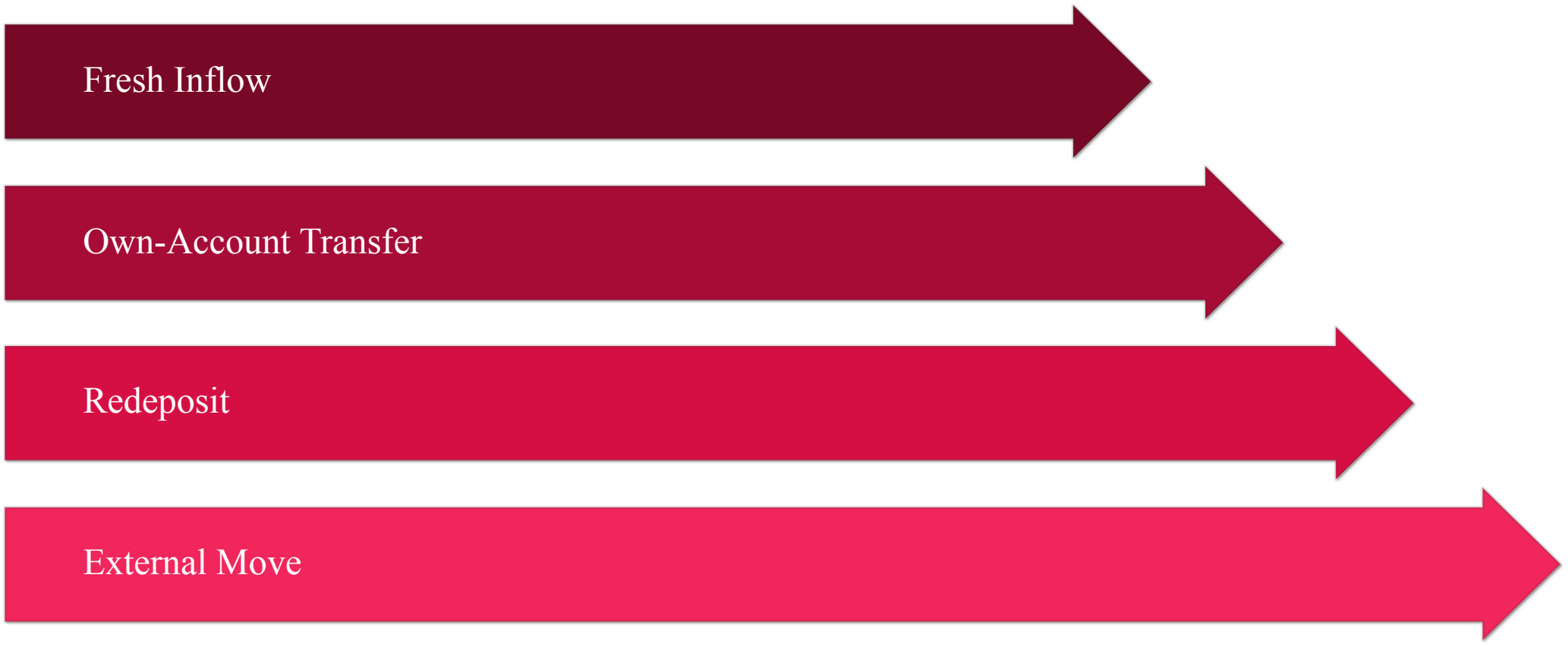
Historic deposits: **₹3.8 crore**

31 March 2026 balance: ₹8 lakh

FAST-DS value can still be driven by **historic deposit activity.**

⚠ Never begin bank analysis with the closing balance.

Redeposits and Inter-Account Transfers Need a Transaction Graph



For every material transaction capture: date, amount, currency, source, destination, fresh external inflow?, own-account transfer?, redeposit?, principal or income?, successor asset?

⚠ Open issue: Gifts from relatives / loans from friends repaid — should these be treated as deposits for Category 1? Ideally not income — but requires analysis.

Complex Assets: Legal Classification Before Valuation

Foreign Partnership / LLP

Net assets, capital allocation, dissolution/profit rights

Foreign Trust

Trustee? Settlor? Vested beneficiary? Discretionary beneficiary? What is fair value for a discretionary beneficiary?

Pension / 401(k) / Insurance

Asset reporting and income timing are separate; section 89A may separately matter

Crypto / Digital Asset

Where is the asset situated? Who owns it? Does custodian location determine situs?

The harder question is often "what is the right?" before "what is the value?"

Currency Conversion and the 20% Rule: Two Frequent Valuation Traps

Panel A — Currency

FAST-DS has its own prescribed foreign-currency conversion methodology.

Do not simply copy the INR number from an old Schedule FA.

Store: Foreign currency amount | Date | Rate source | INR conversion

Panel B — 20% Valuation Protection

For assets **other than bank accounts**, a variance ≤ 20% does not by itself make the declaration invalid.

It is **NOT:**

- A 20% discount
- An invitation to understate FMV
- Protection for wrong ownership or source
- A threshold-planning cushion

⚠ A tolerance for genuine valuation differences is not a planning safe harbour.

Form 1 Is a Mini Due-Diligence Report

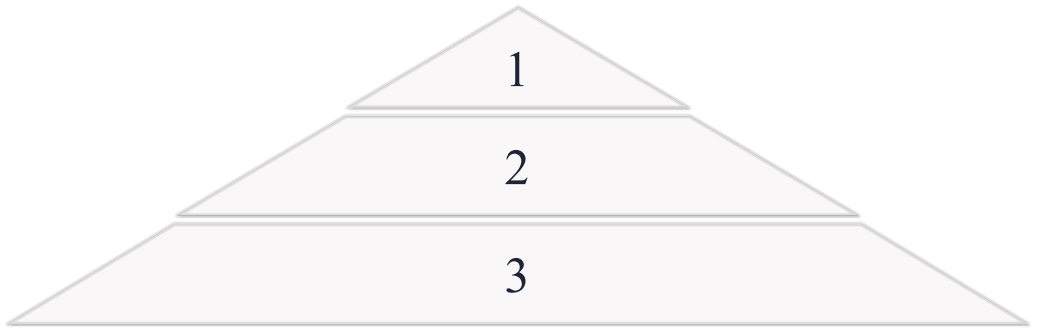
Form 1 Requires

- PAN / taxpayer | Residential status | Previous year
- Category | Country | Asset
- Acquisition/opening date | Cost | FMV
- Holder details | Supporting evidence
- Consolidated computation



Build the working papers in the **same architecture as Form 1** from Day One.

Evidence Quality Determines Declaration Quality



1 Level 3 — Reconstruction

Affidavit | Taxpayer spreadsheet | Indirect evidence

2 Level 2 — Corroborative

Audited financials | Remittance docs | Cap table | Probate

3 Level 1 — Primary

Bank statements | Broker records | Deeds | Payroll | ITRs | Valuation report

Evidence Gap Register

Missing Item	Impact
Why unavailable	Classification impact
Alternative evidence	Valuation impact

What If the Declaration Turns Invalid? The Failed-Filing Risk

FAST-DS 2026 — Section 134(3)

Declaration deemed invalid where:

- A material particular is found false
- A Scheme condition is violated

Rule 5(2): Valuation difference ≤ 20% (non-bank assets) does not by itself invalidate.

BMA 2015 — Parallel

Section 68: Declaration by misrepresentation = void and deemed never made.

Section 67: Declaration not admissible in evidence against declarant for specified proceedings.

The Critical Difference

No broad equivalent of BMA section 67 evidentiary shield is apparent in FAST-DS sections 130–144.

⚠ **Invalidity does not merely mean "the discount is lost."** It can mean the statutory immunity never matures after highly sensitive facts have already been disclosed. Potential evidentiary consequences require case-specific legal analysis.

FAST-DS Has Several One-Way Doors: Resolve Before Paying

No Revision

No obvious dedicated statutory Form 1 revision mechanism should be assumed

No Refund

Scheme payments are expressly non-refundable

No Automatic FTC

Do not assume foreign tax paid automatically reduces the prescribed FAST-DS amount

Section 137 restricts using the declaration/payment to reopen completed assessments or obtain specified set-off/relief.

⚠ The expensive professional mistake is not an arithmetic error. It is choosing the **wrong classification before an irreversible payment.**

Forms 1 to 4: Think of FAST-DS as a Closing Process

1

Form 1

Declaration

2

Form 2

Authority communicates amount

3

Payment

Initial period + limited interest-bearing extension

4

Form 3

Payment intimation

5

Form 4

Certification / Statutory closure

31 December 2026 is the Form 1 deadline — not necessarily the final payment date.

Payment Is Part of the Technical Strategy

On Receipt of Form 2 — Immediately Reconcile

- Asset/income | Category | FMV | Amount payable

Payment Mechanics

- Initial period: 2 months from end of month of Form 2 receipt
- Further period: up to 2 months
- Simple interest: 1% per month on delayed amount
- Form 3 must complete intimation | Form 4 = final certificate



⚠ If funds are offshore: consider banking/FEMA execution time. A valid declaration without capacity to complete payment is not a successful declaration.

Form 4 Is the Document the Taxpayer Is Ultimately Buying

Permanently Retain

- Forms 1, 2, 3, 4 | All attachments | Challans
- Valuation reports | Source memo | Ownership memo
- Classification memo | Bank reconstruction
- Transaction graph | Correspondence

Why?

The asset may appear in Schedule FA for years after the historical omission has been regularised.

Form 4 should become part of the taxpayer's **permanent tax title-document set.**

PART V — CASE STUDIES

Same Apartment. Same Value. Three Completely Different Outcomes.

Dubai Apartment | Cost: ₹65 lakh | FMV: ₹82 lakh | Schedule FA omitted

Scenario A

Funded from Indian income already offered to tax

→ **Potential Category 2B**

Scenario B

Funded from foreign income taxable in India but never offered

→ **Category 1 issue**

Scenario C

Acquired while NR from foreign salary

→ **Potential Category 2A**

If post-ROR rental income was omitted: property classification and rental-income classification must be **separately analysed.**

Same property + same FMV + different source = different legal answer.

Nominee, Joint Holder, Trustee, Signatory or Director: Value the Right, Not the Label

Nominee

Did the nominee economically acquire anything?

Joint Holder

Who actually funded the asset and owns the proceeds?

Bank Signatory

Did the employee acquire the company's bank balance?

Trustee

Is the corpus personally owned or held in fiduciary office?

Director

Directorship is a role; shareholding is an asset.

⚠ Do not create a ₹5 crore FAST-DS problem merely because a name appears in a reporting field. First determine the taxpayer's legal/economic relationship.

Returning NRI: One Portfolio Can Contain Five Different Tax Problems

Portfolio

- US bank | Brokerage | Rental property
- 401(k) | Life insurance | Mortgage

Analyse in Layers



01

Residence

NR → RNOR → ROR

02

Historic Assets

Potential Category 2A where statutory conditions fit

03

Post-Return Income

Interest/dividend/rent → Category 1 analysis

04

Retirement Account

Section 89A timing separately

05

FEMA

Retention legality separately

£700 closing balance does not tell you cumulative FAST-DS bank value. Analyse asset-by-asset, year-by-year.

Bank → Property → Bank → Shares: Never Count the Same ₹35 Lakh Four Times

Initial Deposit

2017 ₹35L in foreign bank

Apartment Sale

2023 sold for ₹50L (₹30L recycled)



Property Purchase

2018 ₹30L buys apartment

Shares & Value

2024 ₹45L buys shares → 2026 ₹70L value

Wrong

Bank + property + redeposit + shares = duplicated capital

Correct

Trace predecessor and successor values. Identify recycled principal, new income, appreciation, residual balance, final asset FMV.

PART VI — EXECUTION & PROFESSIONAL CONTROL

Build the FAST-DS Data Room Before You Build the Declaration

Organise: Country → Asset → Year

Tax

ITRs, Form 16, residence evidence, foreign returns, Form 67/10EE

Banks

Statements from opening, including closed accounts and FDs

Investments

Broker records, contract notes, cap tables, ESOP records

Property

Title, purchase/sale agreement, mortgage, rent, valuation

Trust / Entity

Trust deed, partnership agreement, financials, distributions

Proceedings

Notices, replies, orders, AEOI communication, 2015 BMA disclosure docs

⚠ The practical deadline for document collection is **much earlier than 31 December.**

The Pre-Filing Control Room: Matrix, Red Flags and Four Sign-Offs

A. Source-to-Asset Matrix

For each asset: acquisition date | residence | cost | source | taxability | Schedule FA year | income | disposal | successor | FMV | category | evidence | proceedings

B. Red Flags — Stop / Escalate

- Mixed source | Mortgage/loan issue
- Missing acquisition source | Nominee dispute
- Gift/inheritance gap | RNOR issue
- Missing bank history | PMLA/BMA proceeding
- Marginal threshold | Unsupported valuation
- Insufficient payment liquidity

C. Four Sign-Offs

1. Tax
2. Valuation
3. Legal / Proceedings
4. Evidence

⚠ A filing team must never convert an unresolved legal issue into a data-entry answer.

Where Can Disputes Arise? Eight Litigation Zones

1. Valuation Method

Recognised valuer? Methodology? Date? Comparables?

2. Indexed Cost vs Market

Which prescribed methodology applies?

3. Unquoted Shares

Balance-sheet figures, asset adjustments, excluded liabilities

4. Bank Reconstruction

Fresh deposit vs redeposit vs own-account transfer? 20% protection does not apply to banks.

5. Anti-Double-Counting

Has taxpayer proved same capital merely changed form?

6. Category 1 vs 2

NR source? Tax-paid source? Gift/loan/mixed funds? May change result from ₹1 lakh to 60%.

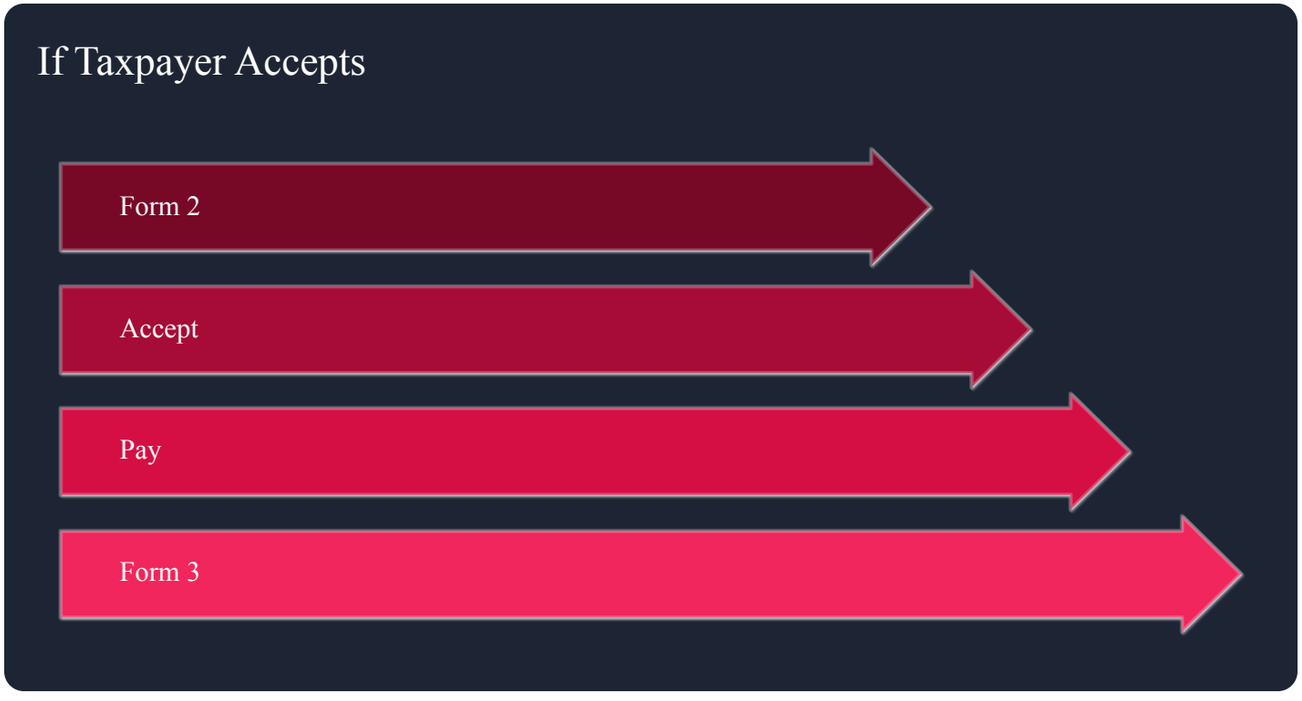
7. Threshold Dispute

Authority determines higher value crossing ₹1 cr / ₹5 cr. Does 20% protection preserve threshold eligibility?

8. Ownership / Beneficial Interest

Joint asset, trust corpus, corporate bank balance, nominee attribution

Agreeing vs Disagreeing With Form 2



If Taxpayer Disagrees

No expressly prescribed CIT(A) → ITAT → High Court route for a FAST-DS Form 2 dispute.

1

Immediate Representation

Preserve objection + documentary evidence

2

If Unresolved

Constitutional remedy — Article 226, Jurisdictional High Court

⚠ The Scheme's payment clock continues regardless. An adverse Form 2 cannot be allowed to remain unattended. A remedy available after the payment window closes may be commercially meaningless.

FAST-DS Has a 20% Valuation Safeguard — But No 20% Litigation Safeguard

Professional Response to Adverse Form 2

01

Day 1

Reconcile Form 2

02

Immediately

Identify legal vs computational disagreement

03

Promptly

File detailed representation with evidence

04

If Material Issue Persists

Obtain writ advice immediately

05

Where Necessary

Move High Court early — consider interim protection



With no statutory appeal, **speed of challenge can become as important as strength of challenge.**

Ten Rules: FAST-DS Is a Disclosure Architecture, Not Merely a Tax Rate

1. Source comes before valuation
2. Reporting obligation ≠ ownership
3. Category 2 is narrower than "bona fide omission"
4. Asset and subsequent income may fall into different categories
5. Property FMV is not automatically reduced by mortgage debt
1. Bank value is not closing balance
2. Follow the money — avoid counting the same capital repeatedly
3. Do not assume mixed-source apportionment without statutory support
4. FAST-DS immunity is powerful but not universal across other laws
5. If the declaration cannot survive documentary scrutiny, do not file merely because the deadline is approaching

Identify → Explain → Classify → Value → Disclose → Pay → Close

> "Correction begins with acknowledgement — but statutory closure begins with getting the facts right."

स्वीकार before क्षमा.

BGSS & Associates | 22 August 2026