How to deal shell companies

Why in news?

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Recently union government has initiated action against more than two lakh shell companies as part of Operation Clean Money.

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What is operation clean money?

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- Operation Clean Money was initiated by Income Tax Department (ITD).
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- Initial phase of the operation involved-verification of large cash deposits made after demonetization.
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- Second phase of the operation involves is identification of high risk persons for detailed investigations by the ITD.
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What are shell companies?

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- Shell companies are typically corporate entities which do not have any active business operations or significant assets in their possession.
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- The government views them with suspicion as some of them could be used for money laundering, tax evasion and other illegal activities.
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- Some laws helpin curbing illegal activities to target shell companies are
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1. Benami Transaction (Prohibition) Amendment Act 2016

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2. The Prevention of Money Laundering Act 2002
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3. The Companies Act, 2013.
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How can name of these companies be removed?

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- Companies can be removed from the rolls of the Ministry of Corporate Affairs by two means either by strike off by Registrar of Companies (RoC) or by voluntary strike off.
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- The strike off happens in case of companies which have failed to commence business within a year of incorporation.
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- Voluntary closure can be done with the approval of the board and shareholders and the firm should have nil liabilities.
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What is the difference between dormant and shell companies?

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- A dormant company gets its title in three ways
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1. If it has chosen to get a ‘dormant’ status from the RoC by way of an application.
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2. If it is in compliance of the requirements of Section 455 of companies act 2013.
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3. In case a company has not filed financial statements or annual returns for two financial years consecutively, the RoC shall issue notice and include it in the register of ‘dormant’ companies.
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- But a shell company is one which is typically suspected of illegal activities.
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What actions can be taken against shell companies?

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- The RoC issues a show-cause notice to such companies and their directors seeking their response within 30 days.
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- If the response is not satisfactory, the company’s name would be removed from the register.
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- Then companies have to make an application before the National Company Law Tribunal for restoration which the NCLT will decide on a case-to-case basis.
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Source: The Hindu

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