

**GOVERNMENT OF INDIA  
FINANCE  
LOK SABHA**

UNSTARRED QUESTION NO:4645  
ANSWERED ON:23.12.2005  
LACUNAE IN IT ACT  
Adsul Shri Anandrao Vithoba

**Will the Minister of FINANCE be pleased to state:**

(a) whether the Government has received any representations from the Handloom Export Promotion Council regarding hardships experienced by small exporters and traders consequent to the new Rule to Section 40

(a)(ia) of the Income Tax Act;

(b) if so, whether the Government is aware of the fact that Small Exporters and Traders especially Textile Exporters are affected and facing possible closure due to implementation of new rule and this will lead to unemployment of lakhs of workers; and

(c) if so, the measures taken or proposed to be taken by the Government to dispel the hardships to the Small Traders and Exporters?

**Answer**

MINISTER OF STATE IN THE MINISTRY OF FINANCE (SHRI S.S. PALANIMANICKAM)

(a) Yes, Sir.

(b) Under the provisions of section 40(a)(ia) of the Income-tax Act, 1961, disallowance is attracted only when there is failure on the part of the payer to comply with the provisions of deduction of tax at source. By the introduction of the provisions of section 40(a)(ia), no additional burden has been cast on the payer of specified incomes, namely; interest, commission or brokerage, etc. as the payer of such specified incomes is already required to deduct tax at source at the specified percentages under various TDS provisions. Section 40(a)(ia) is merely an enforcement provision introduced through the Finance (No.2) Act, 2004 to augment the compliance of TDS provisions. Therefore, if tax has been deducted at source on any specified payment and paid to the account of Central Government, no disallowance under section 40(a)(ia) is attracted. Further, the liberal aspect inbuilt in the provisions of section 40(a)(ia) is that the amount disallowed in the year of non-deduction and non-payment to the Government account gets allowed in any year in which the tax is deducted and paid to the account of the Central Government.

(c) In view of (b) above, this does not arise.