

**GOVERNMENT OF INDIA
FINANCE
LOK SABHA**

STARRED QUESTION NO:326
ANSWERED ON:27.04.2012
OFFSHORE MERGERS AND ACQUISITION DEALS
Kumar Shri Vishwa Mohan;Lingam Shri P.

Will the Minister of FINANCE be pleased to state:

- (a) whether the Government has taken note of the dismissal of the \$ 2.2 billion tax demand review petition with regard to British Mobile Phone Company's acquisition of Indian mobile assets, in the Supreme Court, recently;
- (b) if so, the details thereof;
- (c) the reaction of the Government thereto;
- (d) whether the Government proposes to amend the Income Tax Act retrospectively so as to enable the tax authorities to scrutinise offshore mergers and acquisition deals; and
- (e) if so, the details thereof alongwith the likely impact on foreign investment flow in the country as a result thereof?

Answer

FINANCE MINISTER (SHRI PRANAB MUKHERJEE)

(a) to (e): A statement is laid on the Table of the House.

Statement referred to in reply to parts (a) to (e) of the Lok Sabha Starred Question No. 326 regarding 'Offshore Mergers and Acquisition Deals', raised by Shri Vishwa Mohan Kumar and Shri P. Lingam, for answer on 27th April, 2012.

(a) and (b): The review petition filed on 17th February, 2012, by the Union of India against the decision of the Hon`ble Supreme Court in the case of Vodafone International Holdings BV vs. Union of India and Anr. was dismissed on 20th March, 2012.

(c): Rs. 2,500 crore deposited by Vodafone International Holdings BV in pursuance of the directions of Hon`ble Supreme Court dated 15th November, 2010, was returned on 20th March, 2012.

(d) and (e): Clarificatory amendments have been proposed in the Finance Bill, 2012. to state the legislative intent of certain provisions of the Income-tax Act, 1961, relating to offshore mergers and acquisitions. Since the proposed amendments just clarify what is already there in law to remove ambiguity and provide certainty, it will not have any impact on foreign investment flow in the country. This is more so because these clarifications under the income-tax Act, 1961, will not override the provisions of Double Taxation Avoidance Agreements with 82 countries, which are relevant for taxation of non-residents in the case of offshore mergers and acquisitions.