

COMMITTEE
ON
GOVERNMENT ASSURANCES
(2009-2010)
(FIFTEENTH LOK SABHA)
EIGHTH REPORT

PENDING ASSURANCES PERTAINING TO
MINISTRY OF FINANCE
(DEPARTMENT OF REVENUE)

Presented to Lok Sabha on 27 August, 2010



LOK SABHA SECRETARIAT
NEW DELHI

August 25, 2010/Bhadrapada 3, 1932 (Saka)

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COMPOSITION OF THE COMMITTEE ON GOVERNMENT ASSURANCES*

(2009 - 2010)

Shrimati Maneka Gandhi

- Chairperson

MEMBERS

2. Shri Anandrao Adsul
3. Shri Avtar Singh Bhadana
4. Shri Dara Singh Chauhan
5. Dr. Kakoli Ghosh Dastidar
6. Shri Mohan Jena
7. Shri Raghuvir Singh Meena
8. Shri Bishnu Pada Ray
9. Shri K.J.S.P. Reddy
10. Shri M. Raja Mohan Reddy
11. Rajkumari Ratna Singh
12. Shri Takam Sanjoy
13. Dr. M. Thambidurai
14. Shri Manohar Tirkey
15. Shri Hukumdeo Narayan Yadav

SECRETARIAT

1. Shri P. Sreedharan - Joint Secretary
2. Shri R.S. Kambo - Director
3. Shri D.S. Malha - Additional Director
4. Smt. Veena Kumari - Deputy Secretary

* The Committee was constituted on 23 September, 2009 *vide* Para No. 580 of Lok Sabha Bulletin Part-II dated 23 September, 2009.

INTRODUCTION

I, the Chairperson of the Committee on Government Assurances, having been authorized by the Committee to submit the Report on their behalf, present this Eighth Report of the Committee on Government Assurances.

2. The Committee (2009-2010) at their sitting held on 11 June, 2010 took oral evidence of the representatives of the Ministry of Finance (Department of Revenue).

3. At their sitting held on 25 August, 2010 the Committee (2009-2010) considered and adopted their Eighth Report.

4. The Minutes of the aforesaid sittings of the Committee form part of this report.

NEW DELHI;

MANEKA GANDHI

CHAIRPERSON

COMMITTEE ON GOVERNMENT ASSURANCES

August 25, 2010

Bhadrapada 3, 1932 (Saka)

REPORT

I. Introductory

The Committee on Government Assurances scrutinize the assurances, promises, undertakings etc. given by the Ministers from time to time on the floor of the House and report the extent to which such assurances, promises, undertakings etc. have been implemented. Once an assurance has been given on the floor of the House, the same is required to be implemented within three months. The Ministries/Departments of the Government of India are required to seek extension, if they are unable to fulfil the assurance within that time. Where a Ministry are unable to implement an assurance, they are required to request the Committee to drop the same. The Committee agree to drop if they are satisfied that the grounds adduced are justifiable. The Committee also examine whether the implementation of assurances has taken place within the minimum time necessary for the purpose and also the extent to which the same have been implemented.

2. The Committee on Government Assurances (2009-10) were constituted on 23 September, 2009. At the time of constitution of the Committee, 1654 assurances were pending relating to various Ministries of Government of India. The break-up of those assurances were as follows :-

LOK SABHA	No. of assurances outstanding
Eighth Lok Sabha (15.01.1985 to 13.10.1989)	4

LOK SABHA	No. of assurances outstanding
Ninth Lok Sabha (18.12.1989 to 12.03.1991)	1
Tenth Lok Sabha (09.07.1991 to 12.03.1996)	21
Eleven Lok Sabha (22.05.1996 to 02.12.1997)	14
Twelfth Lok Sabha (23.03.1998 to 22.04.1999)	16
Thirteenth Lok Sabha (20.10.1999 to 05.02.2004)	158
Fourteenth Lok Sabha (02.06.2004 to 26.02.2009)	1440
TOTAL	1654

3. The number of pending assurances, Ministry/Department-wise, since Eight to Fourteenth 14th Lok Sabha is given at Appendix-I.

4. The Committee immediately after its constitution, reviewed the 1654 pending assurances and decided to call the representatives of the various Ministries/Departments of the Government of India for oral evidence with a view to looking into the reasons for the pendency, the operation of the prescribed system in the Ministries/Departments in this regard and to ensure implementation of the assurances which had been outstanding over a period of time.

5. In pursuance of the decision referred to above, the Committee examined the 17 pending assurances pertaining to the Ministry of Finance (Department of Revenue). The Committee also reviewed the adequacy of implementation of those out of the 17 assurances on which implementation reports were laid during 15th Lok Sabha. The 17 assurances which were pending implementation till the constitution of the 15th Lok Sabha were as follows :-

Sl. No.	SQ/USQ No. Dated	Subject
1.	USQ No. 1000 08.03.1996	Benami Transactions
2.	USQ No. 773 26.02.1999	Benami Transactions (Prohibition Act)
3.	USQ No. 3292 08.03.1999	Suggestions From C.V.C. to Fight Corruption

Sl. No.	SQ/USQ No. Dated	Subject
4.	USQ No. 3093 07.12.2001	Benami Transactions
5.	USQ No. 2163 14.03.2008	Benami Transactions (Prohibition Act)
6.	USQ No. 1502 02.12.2005	Migration to EET System
7.	SQ No. 507 19.05.2006	Adoption of EET Formula
8.	USQ No. 3563 27.04.2007	Brining of various Schemes under EET
9.	USQ No. 728 28.07.2006	Misuse of PAN Cards
10.	SQ No. 185 24.08.2007	Biometric PAN Cards
11.	USQ No. 3576* 15.12.2006	World Bank Study on Taxes
12.	USQ No. 857* 17.08.2007	Amendments to Income Tax Act
13.	USQ No. 84*	New IT Law

* Implementation Reports laid on the Table of the House on 12.03.2010/28.04.2010.

Sl. No.	SQ/USQ No. Dated	Subject
	17.10.2008	
14.	USQ No. 2350* 14.03.2008	Review of IT Law
15.	USQ No. 650* 25.02.2009	Cess on Royalties on Tobacco Companies
16.	USQ No. 7173* 13.05.2005	Cases against Customs & Excise Officers
17.	USQ No. 787** 25.02.2009	FEMA by RIL

6. The above mentioned Questions and the answers given thereto wherein the assurances were pending implementation are shown as Appendix II.

7. The Ministry of Parliamentary Affairs, which act as the interface between the various Ministries/Departments of the Government of India and Parliament, have issued comprehensive instructions which *inter-alia* include review of assurances at different levels in the hierarchy periodically. A copy of the instructions is given at Appendix III.

** Request made by the Ministry for dropping the assurance not agreed to.

8. During oral evidence, the Committee enquired whether the Ministry of Finance (Department of Revenue) were following the instructions contained in the Manual of Parliamentary Procedure in the Government of India, regarding implementation of pending assurances. Replying in affirmative, the Secretary of Finance (Department of Revenue) stated as follows :-

"To the best of my ability."

9. When asked about the system for review/monitoring of the pending assurances in order to avoid the delay in implementation, the representative of the Ministry stated as follows :-

"The last three review meetings were held in April, 2009, September, 2009 and March, 2010."

10. On being asked whether the Ministry apprise the Minister of the progress made in the implementation of assurances, the representative of the Ministry stated as follows :-

".....we do submit the files to the Hon'ble Minister and take his permission before writing to the Committee for extension of time."

11. In paragraph 14 of their Fifth Report (15th Lok Sabha), the Committee had observed/recommended as follows :-

"The Committee note that the Ministry of Parliamentary Affairs, which act as the interface between the Government and the Parliament, have issued detailed guidelines to process the assurances and review them periodically at different levels in the hierarchy. A duty has been cast upon the Ministry/Department concerned to apprise senior offices and the Minister concerned of the progress made in the implementation of the assurances, drawing their special attention to the causes of delay. Unfortunately, the Committee's examination has revealed that, generally, Ministries/Departments concerned, seldom review the

given assurances as stipulated in the guidelines with the result that the assurances went on piling up year after year. The Committee desire that the Ministry of Parliamentary Affairs should impress upon various Ministries/Departments to scrupulously follow their instructions/guidelines. The Committee desire that the Ministries/Departments concerned, should review their systems and ensure that the assurances are fulfilled within the prescribed time limit and that the instructions issued in this behalf are carefully complied with by all concerned."

Observations/Recommendations of the Committee

12. The Committee note that 17 assurances pertaining to the Ministry of Finance (Department of Revenue) were pending implementation at the beginning of the 15th Lok Sabha. It is a matter of deep concern to the Committee that the oldest assurance pending implementation was given as many as 14 years ago. In all, six assurances were pending for more than five years. This clearly shows that the mechanism which the Ministry of Finance (Department of Revenue) have claimed to be in existence at present has not been adequate in facilitating timely implementation of the assurances. The Committee, therefore, recommend that appropriate steps be taken to strengthen the mechanism in the Ministry of Finance (Department of Revenue) with a view to ensuring implementation of assurances in time. The recommendations of the Committee made in paragraph 14 of their Fifth Report (15th Lok Sabha) in this regard should be implemented by all concerned in letter and spirit.

II. Scrutiny of Pending Assurances pertaining to Ministry of Finance (Department of REvnue)

13. During oral evidence, the Committee examined all the 17 assurances. Some of these assurances have been dealt with in the succeeding paragraphs.

These issues as follows :-

A. Benami Transactions (Prohibition) Act, 1988

- (i) USQ No. 1000 dated 8 March, 1996 regarding Benami Transactions.
- (ii) USQ No. 773 dated 26 February, 1999 regarding Benami Transactions (Prohibition) Act.
- (iii) USQ No. 3292 dated 17 March, 1999 regarding suggestions from C.V.C to fight corruption.
- (iv) USQ No. 3093 dated 7 December, 2001 regarding Benami Transactions.
- (v) USQ NO. 2163 dated 14 March, 2008 regarding Benami Transactions (Prohibition) Act.

B. Migration to EET System

- (i) USQ No. 1000 dated 8 March, 1996 regarding Benami Transactions.
- (ii) SQ No. 507 dated 19 May, 2006 regarding Adoption of EET Formula.
- (iii) USQ No. 3563 dated 27 April, 2007 regarding bringing of various schemes under EET.

C. Misuse of PAN cards and Biometric PAN cards

- (i) USQ No. 728 dated 28 July, 2006 regarding misuse of PAN Cards.
- (ii) SQ No. 185 dated 24 August, 2007 regarding Biometric PAN Cards.

D. Cases against Customs and Central Excise Officers

- (i) USQ No. 7173 dated 13 May, 2005 regarding cases against Custom & Excise Officers.

A. Benami Transactions (Prohibition) Act, 1988

- (i) USQ No. 1000 dated 8 March, 1996 regarding Benami Transactions.
- (ii) USQ No. 773 dated 26 February, 1999 regarding Benami Transactions (Prohibition) Act.
- (iii) USQ No. 3292 dated 17 March, 1999 regarding suggestions from C.V.C to fight corruption.
- (iv) USQ No. 3093 dated 7 December, 2001 regarding Benami Transactions.
- (v) USQ NO. 2163 dated 14 March, 2008 regarding Benami Transactions (Prohibition) Act.

14. The above mentioned questions and the replies given thereto are reproduced in Appendix II.

15. The first assurance on the issue given in the year 1996, i.e. about fourteen years back, was "the issue of effective implementation of the Act is under the active consideration of the Government. Though a specific time-frame cannot be stated, the details are being worked out."

16. In reply to the second assurance, i.e. USQ No. 773 dated 26 February, 1999 it was *inter-alia* stated that 'the Rules for implementing the Act could not be framed in view of the difficulties expressed by the Ministry of Law & Justice... .. The matter regardingimplementing the Act in its current form is under consideration of the Government."

17. In reply to the third assurance, i.e. USQ No. 3292 dated 17 March, 1999, it was *inter-alia* stated that the suggestion from the Central Vigilance Commission (C.V.C.) for framing rules and procedures under Benami Transactions (Prohibition) Act, 1988 is under consideration of the Ministry of Finance.

18. In reply to the fourth assurance, i.e. USQ 3093 dated 7 December, 2001 it was stated that "the matter of implementation of the Benami Transactions (Prohibition) Act, 1988 is under active consideration of the Government."

19. In reply to the fifth assurance, i.e. USQ No. 2163 dated 14 March, 2008, it was specifically stated that "the areas of grave infirmities have been discussed with the Ministry of Law and Justice and have been sorted out in consultation with them. A draft of the Bill and a draft Cabinet note for amending the Benami Transaction (Prohibition) Act, 1988 is under preparation."

20. As per the information submitted by the Ministry of Finance (Department of Revenue) to the Committee, the President promulgated the Benami Transactions (Prohibition of Right to Recover Property) Ordinance 1988 in May, 1988. The Benami Transactions (Prohibition) Bill, 1988 seeking to replace the Ordinance was passed by Rajya Sabha on 1 September, 1988 and Lok Sabha on 2 September, 1988. The Bill was assented to by the President on 5 September, 1988. The Act sought to prohibit benami transactions and the right to recover property held benami and for matters connected therewith or incidental thereto. In the context of the pending assurances, the Committee desired to know the status of implementation of the assurances. In a note furnished to the Committee, the Ministry of Finance (Department of Revenue) stated as follows :

"The Benami Transactions (Prohibition) Act, 1988 though passed in 1988 by the Parliament, could not be implemented as it contained grave infirmities. The Rules for implementation the Act can be framed only after amending certain provisions of the Act.

The areas of grave infirmities have been discussed with the Ministry of Law and have been sorted out in consultation with them. A draft of the Bill and Draft Cabinet Note have been prepared for amending the Act. The Act can be implemented only after the proposed amendments are passed by Parliament and the Rules framed. Thus, the assurance can be fulfilled only after the implementation of the Act."

21. At the instance of the Committee, the Ministry of Finance (Department of Revenue) submitted a note indicating the action taken by them on the Act which is shown as Appendix-IV. The Ministry also furnished a note indicating the chronological order of activities since the passage of the Act.

22. The Committee desired to know the specific provision of law under which the Executive can withhold implementation of a law passed by Parliament. The Secretary, Ministry of Finance (Department of Revenue) stated in evidence as follows :

"Madam, as I have said that there is no provision in the Rules or in the laws and that I am unaware of that gives the Executive this authority.

23. In a note submitted subsequent to the evidence, the Ministry further stated as follows :-

"The Benami Transactions (Prohibition) Act, 1988 was enacted in 1988 and prohibits benami transactions. Since then, entering into any benami transaction leads to the following consequences :

- (i) A person claiming to be the real owner of a property is barred from enforcing any right against the 'benamidar' as well as from taking*

any defence against the 'benamidar' in any suit claim or action in respect of such property. Entering into a benami transaction is punishable with imprisonment which may extend to three years or with fine or both.

(ii) Benami properties are subject to acquisition by the prescribed authority.

The law in respect of (i) is in force. It is with respect to (ii) that the procedure for acquisition of benami properties is to be prescribed through rules. However, serious infirmities in the legislation were noticed while attempting to formulate the rules. This required revisiting basic principles of the Act and consequently consolidation and redrafting of the Act.

24. Clarifying the position further, the Ministry in another note stated as follows :-

"The Executive has fully intended to implement the legislation. However, as has been pointed out during the oral evidence, certain basic amendments were required in the provisions of the Act before rules under the Act could be framed. The required amendments could not be finalized due to diverse opinions, impact of enactment of certain other legislations such as Prevention of Money Laundering Act in the interim and consequent re-thinking about necessity or otherwise of this Law, recommendation of the Law Commission, etc. In fact, it was one of the statutes recommended for abrogation to the Law Commission in 1998.

25. The Ministry of Finance (Department of Revenue) recounted some of the issues because of which difficulties were stated to have been faced in the implementation of the law as under :-

"(i) No provision in the original Act relating to its administration, namely, notice of hearing to the parties concerned, service of notice and orders, furnishing of information, powers of the competent authority relating to taking evidence, powers to prohibit a person from disposing of the property before its acquisition etc.

- (ii) *Absence of provision regarding vesting of acquired benami property with the Central Government.*
- (iii) *Doubts regarding whether 'agricultural land', being an item of the State List in the Seventh Schedule to the Constitution, could be a subject matter of the Act.*
- (iv) *Whether 'transferor' or any other person should also be proceeded against in a benami transaction.*
- (v) *Exclusion of only 'wife' (not spouse) and unmarried daughter from the scope benami transaction."*

26. The Committee wanted to know the reasons for not addressing the stated infirmities before bringing forward the legislative proposal. In reply, the Ministry of Finance, Department of Revenue in a note stated as under :-

"The Benami Transactions (Prohibition) Act, 1988 was passed in 1988, repealing the Benami Transactions (Prohibition of the Right to Recover Property) Ordinance, 1988. Subsequent to its passage, the responsibility of implementing the Act was assigned to the Ministry of Finance in 1989.

It was during the process of formulating the rules under the Act that consultation with the Law Ministry threw up grave infirmities in the Act.

Ministry of Finance was not involved in the passing of the ordinance and passage of the Act in 1988 and hence could not have addressed them before bringing forward a legislative proposal."

27. The Committee pointed out whether it would not be correct to conclude that as the prime authority for checking generation and proliferation of black money in the country, the Ministry of Finance had failed in the implementation of an enabling law duly passed by Parliament and thereby defeated the legislative intent. The Secretary, Department of Revenue, replied as follows :-

"Madam, I would like to submit to you that there is no criminal intent or no vested interest on the part of the Department."

28. In a further note submitted to the Committee, the Ministry of Finance, Department of Revenue, stated as under :-

"It was pointed out by the Law Commission in its 57th Report on Benami Transactions (para 6.20) that the objective of checking evasion of taxes has been substantially achieved by amendments to the Income Tax Act, 1961. These, inter-alia, provide that where the real owner of the property is the husband or father and the benamidar is his wife or minor child (other than a married daughter), the general provision that the income from assets transferred directly or indirectly without adequate consideration by the husband or father would be included in their income (S. 64 of the Income Tax Act).

It was also pointed out by the Law Commission (para 6.19) that one of the important causes which accounted for the origin of benami transactions has now ceased to exist as the importance of the joint hindu family has been reduced after the enactment of the Hindu Succession Act.

The Commission concluded that the main reason why legal recognition should not be given to benami transactions was its use for defrauding creditors as the true owner may be guided by the consideration that if the property can be saved from the clutches of the creditor, that by itself would be a gain, even if the benamidar may ultimately succeed in effectively keeping the property as his own property. This leads to bitter legislation and acrimony among the parties concerned when a controversy arises. Hence, the

prohibition against benami transactions was required to reduce wasteful litigation.

The Act is in force and it is in relation to formulation of rules for acquisition of benami property that basic infirmities in the original Act have come up and are to be addressed.

A number of legislations such as Prevention of Money Laundering Act, 2002 and subsequently 2005, and Prevention of Corruption Act, 1988 have been put in place after the enactment of the Benami Transactions (Prohibition) Act, 1988 to specifically address issues regarding generation of funds through illegal activities."

29. On being enquired about the present status of the proposed Bill and its introduction likely to be made in the Parliament, the Ministry of Finance, Department of Revenue, in a note, furnished after evidence, stated as under :-

"A draft for consolidation and amendment of the Benami Transactions (Prohibition) Act, 1988 has been sent to the Law Ministry for vetting. The Ministry is making its best efforts to introduce it in the winter session of Parliament."

Observations/Recommendations of the Committee

30. The Committee note that the President had promulgated the Benami Transactions (Prohibition of right to Recover Property) Ordinance in May, 1988. The Benami Transactions (Prohibition) Bill, 1988 seeking to replace the Ordinance was passed by Rajya Sabha on 1 September, 1988 and Lok Sabha on 2 September, 1988. The Bill was assented to by the President on 5 September, 1988.

31. The Committee further note that a Question was asked in Lok Sabha on 8 march, 1996 as to whether the Benami Transactions (Prohibition) Act, 1988 was not being enforced in spite of its constitutional validity. The then Minister of State in the Ministry of Finance had assured the House that the issue of effective implementation of the Act was under the active consideration of the Government. Similar assurances were made in the House in reply to the Questions asked in the House in February, 1999, March, 1999, December 2001 and March 2008. Thus, a law duly enacted by Parliament way back in 1988 is yet to be implemented even after a period of about 22 years.

32. The Ministry of Finance (Department of Revenue) submitted before the Committee that the Benami Transactions (Prohibition) Act, 1988 though passed in 1988 by Parliament, could not be implemented as it contained grave infirmities. According to the Ministry, the Rules for implementation of the Act can be framed only after amending certain provisions of the Act. Adducing the reasons for non-implementation of the Act, the Ministry further stated that the required amendments could not be finalized due to diverse opinions, impact of enactment of certain other legislations such as the Prevention of Money Laundering Act, recommendation made to the Law Commission for abrogation of the Act etc.

33. The Committee are deeply concerned over the non-implementation of a law enacted by Parliament over a period of 22 years. They have carefully gone into the so called "infirmities" and the other reasons cited by the Ministry of Finance for non-implementation of the Act. The Committee cannot accept the difficulties stated by the Ministry as insurmountable and warranting a period of about 22 years for their eluded solutions. The Committee also reject the pleas of the Ministry of Finance that they were not involved in issuing the Ordinance and passage of the Act in 1988 and, therefore, could not

have addressed them before bringing forward the legislative proposal. The Committee regret to conclude that as the prime authority for checking generation and proliferation of blackmoney in the country, the Ministry of Finance have grossly failed in the implementation of an enabling law duly passed by parliament under the Constitution and thereby got the legislative intent defeated. The Committee deplore the failure of the Ministry of Finance in this case, resulting in non-implementation of the assurances and recommend that the matter should be thoroughly inquired into and responsibility fixed for the lapses. The Committee would like to be informed of the conclusive action taken in the matter.

34. The Committee have been informed that a draft for consolidation and amendment of the Benami Transactions (Prohibition) Act, 1988 has now been sent to the Ministry of Law for vetting. The Ministry of Finance have assured the Committee that they are making their best efforts to introduce the Bill in the winter session of Parliament. The Committee recommend that the Ministry should take expeditious action in the matter and ensure that all the pending assurances on the subject are fulfilled without any further delay.

B. Migration to EET System

- (i) USQ No. 1000 dated 8 March, 1996 regarding Benami Transactions.
- (ii) SQ No. 507 dated 19 May, 2006 regarding Adoption of EET Formula.
- (iii) USQ No. 3563 dated 27 April, 2007 regarding bringing of various schemes under EET.

35. The above mentioned questions and the replies given thereto are reproduced in Appendix II.

36. The first assurance on the issue was given in the year 2005 that Committee of Experts set up to work out the road map for moving towards the EET method had submitted its report on 28 November, 2005 and the same was under consideration of the Government. Similar assurances were given in replies to the other two questions. The Committee, therefore, desired to know the action taken by the Ministry to implement the assurances. In a note submitted to the Committee, the Ministry of Finance (Department of Revenue) stated as under :-

"A Committee of Experts was set up to work out the feasibility of moving towards EET method of taxing saving instruments. The committee deliberated on a variety of issues relating to insurance, Government savings, pensions, taxation and about laws etc., so as to ensure uniformity in tax treatment of saving scheme which will in turn protect the interest of small savers. The Committee submitted its report to the Government in November, 2005 and it is being examined by the Government. No decisions have been taken so far."

37. During evidence, the representative of the Ministry stated as follows :-

"There are three assurances on Unstarred Question over the period 2005 to 2007. They relate to working out a road map for moving towards a EET regime which is an Exempt, Exempt Taxation Regime..... A Committee of Expert was constituted to work out the feasibility of EET regime, deliberated on a variety of issues and submitted its report..... We have a commitment for the Direct Tax Code to come into effect from 1st April, 2011 and for the introduction of the appropriate legislation in the Monsoon Session of Parliament..... along with the Direct Tax Code and its provisions, the EET will also get resolved."

Observations/Recommendations of the Committee

38. The Committee note that an expert committee was set up to work out the feasibility of moving towards Exempt Exempt Tax (EET) method of taxing saving instruments. The Expert Committee after deliberating on issues relating to insurance, Government savings, pensions, taxation etc. submitted its report to the Government in November, 2005. The representatives of the Ministry during the course of oral evidence have apprised the Committee that with the coming into effect of Direct Taxes Code and its provisions, the EET will also get resolved and that the Ministry are committed for Direct Taxes Code to come into effect from 1 April, 2011 and also for the introduction of the appropriate legislation in the Monsoon Session of Parliament. The Committee hope that these measures would ensure uniformity in tax treatment of saving schemes and will, in turn, protect the interests of small savers. The Committee, therefore, desire that necessary steps should be taken expeditiously and the pending assurances be implemented at the earliest.

C. Misuse of PAN Cards and Biometric PAN Cards

39. The Committee noted that the following assurances regarding Misuse of PAN Cards were pending:-

- (i) USQ No. 728 dated 28 July, 2006 regarding Misuse of PAN Cards.
- (ii) SQ No. 185 dated 24 August, 2007 regarding Biometric PAN Cards.

40. The above mentioned questions and the replies given thereto are reproduced in Appendix-II.

41. In reply to the first question it was *inter-alia* assured that the Income Tax Department was examining the possibility of using biometric features in the Permanent Account Number (PAN) system to ensure security of PAN cards and its uniqueness in relation to a person. In reply to the second question it was *inter-alia* stated that a Joint Working Group (JWG) submitted its report which was under consideration. The Committee desired to know the status of implementation of the pending assurances. In a note submitted to the Committee, the Ministry of Finance (Department of Revenue) stated as follows :-

"The Government of India has recently set up the Authority to issue the Unique Identification Number to persons residing in India based on their biometric features. The Authority will allot UID Numbers which is expected to ensure that each individual resident of the country has a unique number. Since the biometric solution of UIDAI is expected to cover all residents, including the PAN Card holders, it is expected that this exercise will help in cleaning up the PAN database by linking the UID number PAN. It has, therefore, been decided to presently keep the Biometric Project on hold to avoid duplication of process."

42. On being asked about the delay in the implementation of the assurances, the representative of the Ministry stated during evidence as follows:-

"SQ & USQ of July, 2006 and August, 2007, relate to PAN cards, their misuse and the suggestion for linking these with biometric data. We did begin examining the feasibility of using biometric features in PAN system..... there is an authority for Unique Identity established..... we propose that instead of duplicating this whole exercise we could simply link the PAN database to the Unique Identity database and that would serve the purpose. This project has, therefore, been put on hold..... the UID database is being developed."

43. The Committee desired to know the date by which the UID Cards will be rolled out. In reply, the representative of the Ministry stated as follows:-

"We will certainly obtain the date from the Planning Commission and the Authority and we will convey that to you."

Observations/Recommendations of the Committee

44. The Committee note that the assurances on introduction of biometric Permanent Account Number (PAN) Cards are pending implementation as the Government were proposing to link it with the proposed Unique Identification Number System. The Committee desire that decision on the same should be taken expeditiously so that the pending assurances are fulfilled.

D. Cases against Custom & Central Excise Officers

45. An assurance given in reply to Unstarred Question No. 7173 dated 13 May, 2005 regarding cases against Custom & Central Excise Officers was pending.

46. The above mentioned question and reply thereto is reproduced in Appendix-II. The assurance on the issue was given in the year 2005 i.e. about five years back that the information was being collected and would be laid on the Table of the House. The assurance was partly implemented in the year 2005. The Committee, therefore, desired to know the action been taken by the Ministry to fully implement the assurance. In reply the representative of the Ministry stated as follows:-

"We reported in August, 2005 that there were 209 cases registered in CBI against customs and excise officers. We were at that point of time able to submit details as sought for 117 cases; 92 cases were under investigation. We were not able to give details. We have not reported full details in respect of 90 further cases. We have also submitted an implementation report. Perhaps the same have been received only today because in two residual cases, these will continue under investigation for some more time because these have necessitated letters rogatory to issue. This will take time to get implemented. Since the assurance would have been fulfilled in more than major part, we would request you to accept the implementation report."

47. The Ministry through a written note also furnished a second Implementation Report of the assurance in which the Ministry stated as follows:-

"Implementation Report was laid on the Table of the House on 21 December, 2005 which was treated as Part fulfillment of the assurance as 92 cases were under investigation with the CBI. Out of these 92 cases investigation has been completed in 90 cases (prosecution launched in 62 cases, 20 cases recommended for RDA & 8 cases ended in closure) and two cases are under investigation due to pending execution of letters Rogatory."

Observations/Recommendations of the Committee

48. The Committee are not satisfied with the status of cases against officers of Customs and Central Excise as indicated by the Ministry in the their latest Report. The Committee desire that all the cases should be taken to their logical conclusions and the pending assurances should be implemented without any further delay.

NEW DELHI;

MANEKA GANDHI

CHAIRPERSON

COMMITTEE ON GOVERNMENT ASSURANCES

August 25, 2010

Bhadrapada 3, 1932 (Saka)

Appendix-I
(vide para 3)

Statement of pending assurances from 8th to 14th Lok Sabha

S.No.	<u>Name of Ministry</u>	No. of Pending Assurances
1.	Agriculture	42
2.	Atomic Energy	7
3.	Chemicals and Fertilizers	63
4.	Civil Aviation	106
5.	Coal	40
6.	Commerce and Industry	44
7.	Communications and Information Technology	38
8.	Consumer Affairs, Food and Public Distribution	15
9.	Corporate Affairs	4
10.	Culture	29
11.	Defence	38
12.	Development of North Eastern Region	2
13.	Earth Science	5
14.	Environment and Forests	47
15.	External Affairs	21
16.	Finance	57
17.	Health and Family Welfare	123
18.	Heavy Industries and Public Enterprises	8
19.	Home Affairs	115

20.	Housing & Urban Poverty Alleviation	4
21.	Human Resource Development	106
22.	Information and Broadcasting	39
23.	Labour	36
24.	Law and Justice	75
25.	Micro, Small & Medium Enterprises	12
26.	Mines	14
27.	Minority Affairs	8
28.	New Renewable Energy Sources	7
29.	Overseas Indian Affairs	16
30.	Parliamentary Affairs	1
31.	Panchayati Raj	10
32.	Personnel, Public Grievances and Pensions	19
33.	Petroleum and Natural Gas	57
34.	Planning	19
35.	Power	20
36.	Railways	67
37.	Rural Development	30
38.	Science and Technology	9
39.	Shipping, Road Transport and Highways	55
40.	Social Justice and Empowerment	39
41.	Space	4
42.	Statistics and Programme Implementation	4

43.	Steel	6
44.	Textiles	19
45.	Tourism	1
46.	Tribal Affairs	25
47.	Urban Development and Poverty Alleviation	94
48.	Water Resources	5
49.	Women and Child Development	45
50.	Youth Affairs and Sports	4
	TOTAL	1654

GOVERNMENT OF INDIA

MINISTRY OF FINANCE

LOK SABHA UNSTARRED QUESTION NO. 1000

ANSWERED ON 08.03.1996

BENAMI TRANSACTIONS

1000. SHRI

Will the Minister of Finance be pleased to state:-

- (a) whether the Benami Transactions (Prohibitions) Act, 1988 is not being enforced in spite of its constitutional validity;
- (b) whether the Government have by now decided to implement the Act;
- (c) if so, the details thereof; and
- (d) the steps taken by the Government to make the law operational and time by which it is likely to be implemented?

ANSWER

MINISTER OF STATE IN THE MINISTRY OF FINANCE
(SHRI M.V. CHANDRASHEKARA MURTHY)

- (a) Yes, Sir. The Benami Transactions (Prohibitions) Act, 1988, could not be brought under operation in view of certain problems envisaged in implementing the Act.
- (b), (c) & (d) The issue of effective implementation of the Act is under the active consideration of the Government. Though a specific time-frame cannot be stated, the details are being worked out.

GOVERNMENT OF INDIA

MINISTRY OF FINANCE

LOK SABHA UNSTARRED QUESTION NO. 773

ANSWERED ON 26.02.1999

BENAMI TRANSACTIONS (PROHIBITION) ACT

773. SHRI VITHAL TUPE
SHRI D.S. AHIRE
DR. ULHAS VASUDEO PATIL
SHRI R.S. GAVAI

Will the Minister of Finance be pleased to state:-

- (a) whether Benami Transaction (Prohibition) Act was promulgated about 10 years ago;
- (b) if so, whether Government have not given powers to any authority to implement it;
- (c) if so, the reasons therefor;
- (d) the details of the cases registered and persons prosecuted under the said Act during the last ten years; and
- (e) the action proposed to be taken by the Government to unearth the Benami transaction in the country?

ANSWER

MINISTER OF STATE IN THE MINISTRY OF FINANCE
(SHRI M.V. CHANDRASHEKARA MURTHY)

- (a) Yes, Sir. The Benami Transaction (Prohibition) Act, was passed in September, 1988.
- (b) & (c): The Rules for implementing the Act could not be framed in view of the difficulties expressed by the Ministry of Law, relating to complexities in the law, which make it unworkable in its present form particularly having regard to agricultural properties which constitute the State subject.
- (d) In view of the above, does not arise.
- (e) The matter regarding the issues arising due to difficulties in implementing the Act in its current form is under consideration of the Government.

GOVERNMENT OF INDIA

MINISTRY OF FINANCE

LOK SABHA UNSTARRED QUESTION NO. 3292

ANSWERED ON 17.03.1999

SUGGESTIONS FROM C.V.C. TO FIGHT CORRUPTION

3292. SHRI ANNASAHEB M.K. PATIL

Will the Minister of Finance be pleased to state:-

- (a) whether the Government have received some suggestions from Central Vigilance Commission for changes in the existing laws to fight corruption;
- (b) if so, the details thereof; and
- (c) the action proposed to be taken by the Government in this regard?

ANSWER

MINISTER OF STATE IN THE MINISTRY OF FINANCE
(SHRI KADAMBUR M.R. JANARTHANAN)

(a), (b) & (c) : Yes, Sir. The Central Vigilance Commission (CVC) has supported enactment of an appropriate Act, to forfeit the properties of the corrupt public servants which is at present being considered by the Law Commission. Suggestion from the CVC for framing rules and procedures under Benami Transaction (Prohibition) Act, 1988 is under consideration of the Ministry of Finance.

GOVERNMENT OF INDIA

MINISTRY OF FINANCE

LOK SABHA UNSTARRED QUESTION NO. 3093

ANSWERED ON 07.12.2001

BENAMI TRANSACTIONS

3093. SHRI V. VETRISELVAN

Will the Minister of Finance be pleased to state:-

- (a) whether the Government have constituted a committee to identify the persons who are involved in benami transactions;
- (b) if so, the details thereof; and
- (c) the measures taken by the Government to curb benami transactions in the country?

ANSWER

MINISTER OF STATE IN THE MINISTRY OF FINANCE (BALASAHEB VIKHE PATIL)

- (a) No, Sir.
- (b) Does not arise.
- (c) The matter of implementation of the Benami Transaction (Prohibition) Act, 1988 is under active consideration of the Government.

GOVERNMENT OF INDIA

MINISTRY OF FINANCE

LOK SABHA UNSTARRED QUESTION NO. 2163

ANSWERED ON 14.03.2008

BENAMI TRANSACTIONS (PROHIBITION) ACT

2163. SHRI PRABODH PANDA

Will the Minister of Finance be pleased to state:-

- (a) whether the Benami Transactions & Prohibitions Act and rules and regulations framed thereunder have come into force;
- (b) whether any insufficiency has been reported/come to the notice of the Government; and
- (c) if so, the details thereof and the action being taken by the Government thereon?

ANSWER

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

(a)&(b) The Benami Transactions (Prohibition) Act, 1988 could not be implemented as it contained grave infirmities. The Rules for implementing the Act can be framed only after amending certain provisions of the Act.

(c) The areas of grave infirmities have been discussed with the Ministry of Law and have been sorted out in consultation with them. A draft of the Bill and a draft Cabinet Note for amending the Benami Transactions (Prohibition) Act, 1988, is under preparation.

GOVERNMENT OF INDIA

MINISTRY OF FINANCE

LOK SABHA UNSTARRED QUESTION NO. 1502

ANSWERED ON 02.12.2005

MIGRATION TO EET SYSTEM

1502. SHRI SWADESH CHAKRABORTTY

Will the Minister of Finance be pleased to state:-

(a) whether an expert committee on proposed migration to the Exempt Exempt Tax system has submitted its report;

(b) if so, the details of the recommendations made by the Committee;

(c) the likely impact of the EET system on the saving instruments and the contributors in Provident Fund, small savings and insurance policies; and

(d) the steps taken/proposed to be taken by the Union Government to ensure that the EET system does not cause hardship to the public with small savings including the senior citizens?

ANSWER

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

(a) to (d): The Finance Minister in his Budget Speech, 2005-06 had announced the decision of the Government to adopt an Exempt Exempt Tax (EET) method of taxation of savings in accordance with the best international practice. In order to resolve a number of administrative issues, a Committee of Experts was set up to work out the roadmap for moving towards an EET method of taxation of saving instruments. The Committee has submitted its report on 28.11.2005 and the same is under consideration of the Government.

GOVERNMENT OF INDIA

MINISTRY OF FINANCE

LOK SABHA STARRED QUESTION NO. 507

ANSWERED ON 19.05.2006

ADOPTION OF EET FORMULA

*507. SHRI HEMLAL MURMU

Will the Minister of Finance be pleased to state:-

- (a) whether Exempt Exempt Exempt (EEE) formula is followed in India in contrast to the Exempt Exempt Tax (EET) formula for taxation of saving followed in many countries the world over;
- (b) if so, the details thereof and complete details of EET and EEE formula;
- (c) whether the Government has recently constituted a committee to examine the adoption of EET formula in India; and
- (d) if so, the details thereof?

ANSWER

MINISTER OF FINANCE:(SHRI P. CHIDAMBARAM)

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

Statement referred to in reply to the Lok Sabha Starred Question No. 507 raised by Shri Hemlal Murmu, Member of Parliament, for 19.5.2006 regarding "Adoption of EET Formula".

(a) Yes Sir.

(b) The existing method of taxing financial savings in India is generally in conformity with the Exempt-Exempt-Exempt (EEE) method. The international practice relating to taxation of financial savings is, normally, the Exempt-Exempt-Tax (EET) method.

In the EEE method, savings enjoy exemption from tax at all the three stages of contribution, accumulation and withdrawal. On the other hand, in the EET method, the contribution and accumulation are exempt from tax but the withdrawals/benefits are subject to tax.

(c) Yes Sir.

(d) The Committee has submitted its report on 28th November, 2005 and the report is under the consideration of the Government.

GOVERNMENT OF INDIA

MINISTRY OF FINANCE

LOK SABHA UNSTARRED QUESTION NO. 3563

ANSWERED ON 27.04.2007

BRINGING OF VARIOUS SCHEMES UNDER EET

3563. SHRI KAILASH MEGHWAL

Will the Minister of Finance be pleased to state:-

(a) whether the Government proposes to bring instruments like Provident Fund (PF), Equity Linked Savings Scheme (ELSS) and Pension Schemes under Exempt Exempt Tax (EET);

(b) if so, the details thereof; and

(c) the likely benefits to the Government and an individual for such shift from Exempt Exempt Exempt (EEE) to EET regime?

ANSWER

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

(a)&(b) The Finance Minister, in his Budget Speech of 2005-06, had announced the decision of the Government to adopt an Exempt Exempt Tax (EET) method of taxation of savings in accordance with the best international practice. He had also stated that before migrating to the EET system for all kinds of savings, it would be necessary to resolve a number of administrative issues and proposed the setting up of a Committee of Experts to work out the roadmap for moving towards an EET system.

Accordingly, a Committee of Experts was set up to work out the roadmap for moving towards EET method of taxing saving instruments. The Committee deliberated on a variety of issues and submitted its report to the Government in November, 2005. The report is being examined by the Government.

(c) Since withdrawals under an EET system are liable to tax, the investor will be encouraged to make long-term savings. This will obviate the need to provide any old age benefit by the Government and enable the Government to reduce its subsidy burden.

GOVERNMENT OF INDIA

MINISTRY OF FINANCE

LOK SABHA UNSTARRED QUESTION NO. 728

ANSWERED ON 28.07.2006

MISUSE OF PAN CARDS

728. SHRI KIRTI VARDHAN SINGH

Will the Minister of Finance be pleased to state:-

(a) whether the Union Government has plans to curb misuse of PAN Cards as repented in the `Times of India` dated July 5, 2006;

(b) if so, the details thereof ;

(c) whether the Government has conducted any survey about the growing number of PAN Card holder;

(d) if so, the details thereof; and

(e) if not, the reasons therefore?

ANSWER

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

(a) & (b): Yes, Sir. The Income To. Department is examining the possibility of using biometric features in the PAN system to ensure security of PAN and its uniqueness in relation to a person.

(c)to(e): The Government has Dot carried out any survey into the growing number of PAN Card holder. The growth in the Number of PAN card holder is due to various reasons, including compulsory quoting of PAN in an statement and returns filed by all income tax return filers, in all challans for payment of direct taxes, in specified high value transactions and its use as a Common Business Number (CBN) by other Government Departments such as Customs and Central Ex- Service Tex, Directorate General of Foreign Trade. Recently, SEBI has also mandated use a PAN for demat accounts.

GOVERNMENT OF INDIA

MINISTRY OF FINANCE

LOK SABHA STARRED QUESTION NO. 185

ANSWERED ON 24.08.2007

BIOMETRIC PAN CARDS

*185. SHRI ADHIR RANJAN CHOWDHURY
SHRI UDAY SINGH

Will the Minister of Finance be pleased to state:-

(a) the details of duplicate Permanent Account Number (PAN) cards cancelled by the Government;

(b) whether the Income-tax Department has examined the option of recording biometric information on the PAN cards to overcome the menace of duplicate PAN cards;

(c) if so, the details thereof; and

(d) the measures taken by the Government in this regard?

ANSWER

MINISTER OF THE STATE IN THE MINISTRY OF FINANCE (SHRI P. CHIDAMBARAM)

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

Statement referred to in reply to the Lok Sabha Starred Question No.185 raised by Shri Ahdir Chowdhury & Shri Uday Singh, Members of Parliament, for answer on 24.8.2007 regarding 'Biometric PAN Cards'

(a) The number of persons suspected to have duplicate PANs are estimated to be 13.10,127, The verification exercise as of 10.8.2007. The verification exercise as of 11,43,919 persons in which 10,18,421 PAN cards have been found to be duplicate.

(b), (c)&(d) : A Joint Working Group (JWG) was set up to obtain technical and commercial proposals from leading biometric solution providers, negotiate techno-commercial terms and conditions and to submit a proposal for consideration of the Government. The JWG has submitted its report, which is presently under consideration.

GOVERNMENT OF INDIA

MINISTRY OF FINANCE

LOK SABHA UNSTARRED QUESTION NO. 3576

ANSWERED ON 15.12.2006

WORLD BANK STUDY ON TAXES

3576. SHRIMATI MANORAMA MADHWARAJ
SHRI SUJAN CHAKRABORTY

Will the Minister of Finance be pleased to state:-

(a) Whether India has 9000 pages of IT laws as reported in the Hindustan Times dated November 14, 2006 ;

(b) If so, the reactions of the Government thereon ;

(c) Whether complicated IT procedure lead to tax evasion; and

(d) If so, the steps taken / proposed to be taken by the Government to simplify the same ?

ANSWER

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

(a) No, Sir.

(b) The Government have issued a denial based upon which Hindustan Times published the following in their edition dated 28-11-2006 in the column 'Letters to Editor' :

"The report India has 9,000 pages of income tax laws (November 14), appears to suggest that India has a complex income tax legislation. The report is based on a Pricewaterhouse Coopers-World Bank Study entitled 'Paying taxes, the global picture'. On page 16 of the study, the number of pages of primary tax legislation in India is shown as 9,000. On page 17, the study states India has the most number of pages of primary federal tax legislation, at 9,000. It clearly refers to all central tax legislations and not just income tax."

The HT report suggests that all the 9,000 pages relate only to income tax law. The report is incorrect and against public interest.

(c)&(d) Yes, complicated income-tax procedures encourages tax evasion and avoidance. Therefore, Government had set-up an expert Group to prepare a draft for new simplified Income-tax Code. The Group has submitted its report on 08-09-2006. The Report is under consideration of the Government.

GOVERNMENT OF INDIA

MINISTRY OF FINANCE

LOK SABHA UNSTARRED QUESTION NO. 857

ANSWERED ON 17.08.2007

AMENDMENTS TO INCOME TAX ACT

857. SHRI KISHANBHAI VESTABHAI PATEL

Will the Minister of Finance be pleased to state:-

- (a) whether the Government proposes to bring in a new Income Tax Act;
- (b) if so, whether the Expert Group constituted to rewrite the Income Tax Law has submitted its report;
- (c) if so, the details thereof; and
- (d) the extent to which the new Income Tax Act will be simpler than the existing one?

ANSWER

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

- (a) : Yes, Sir.
- (b) : Yes, Sir. The Expert Group submitted the Report on the 8th September, 2006.
- (c) & (d): The Expert Group has recommended the rationalization and simplification of the Income-tax Act. It is under examination by the Government. Therefore, it is premature to indicate the extent to which the new Income-tax Act will be simpler.

GOVERNMENT OF INDIA

MINISTRY OF FINANCE

LOK SABHA UNSTARRED QUESTION NO. 84

ANSWERED ON 17.10.2008

NEW IT LAW

84. SHRI ADHIR RANJAN CHOWDHURY

Will the Minister of Finance be pleased to state:-

- (a) whether a simplified Income-Tax Law has been prepared by the Government; and
- (b) if not, the time by which the same will be prepared ?

ANSWER

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

(a) & (b) The new Income –tax Code is in the final stage of its preparation. It is expected to be released to the public shortly.

GOVERNMENT OF INDIA

MINISTRY OF FINANCE

LOK SABHA UNSTARRED QUESTION NO. 2350

ANSWERED ON 14.03.2008

REVIEW OF IT LAW

2350. SHRI K. YERRANNAIDU

Will the Minister of Finance be pleased to state:-

- (a) whether a reviewed and simplified Income Tax Law has been prepared by the Government;
- (b) if so, the details thereof; and
- (c) if not, the reasons for delay?

ANSWER

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

(a) to (c) A reviewed and simplified Income-tax Law is presently under preparation.

GOVERNMENT OF INDIA
MINISTRY OF FINANCE
LOK SABHA UNSTARRED QUESTION NO. 650
ANSWERED ON 25.02.2009
CESS ON ROYALTIES ON TOBACCO COMPANIES

650. SHRI AJAY CHAKRABORTY
SHRI ARVIND KUMAR SHARMA

Will the Minister of Finance be pleased to state:-

- (a) whether the Indian Tobacco companies are repatriating substantial amount of foreign exchange by way of royalty/technical fees to its foreign collaborators;
- (b) if so, the details of repatriation made by each such tobacco company during each of the last three years;
- (c) whether the Union-Government is consulted by the tobacco companies for making such payments;
- (d) if so, the details thereof;
- (e) whether the Government proposes to levy some cess on the royalties or fees that are expatriated to foreign companies by the big tobacco companies to fund the Government programme on tobacco related diseases; and
- (f) if so, the details thereof?

ANSWER

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

(a) to (f): The information is being collected and will be laid on the Table of the House.

GOVERNMENT OF INDIA

MINISTRY OF FINANCE

LOK SABHA UNSTARRED QUESTION NO. 7173

ANSWERED ON 13.05.2005

CASES AGAINST CUSTOM & EXCISE OFFICERS

7173. SHRI MANSUKHBHAI D. VASAVA

Will the Minister of Finance be pleased to state:-

- (a) the number of cases registered by CBI against customs and excise officers during the last three years;
- (b) the status of the inquiry; and
- (c) the action against whom permission to initiate action has not been granted by the Government?

ANSWER

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

- (a) to (c) The information is being collected and will be laid on the Table of the House.

GOVERNMENT OF INDIA

MINISTRY OF FINANCE

LOK SABHA UNSTARRED QUESTION NO. 787

ANSWERED ON 25.02.2009

FEMA BY RIL

787. DR. RAJESH KUMAR MISHRA
SHRI BASUDEB ACHARIA

Will the Minister of Finance be pleased to state:-

(a) whether the Reserve Bank of India has referred the case relating to violation of provisions of Foreign Exchange Management Act (FEMA), 1999 by Reliance Infrastructure Limited (RIL) in regard to utilization of External Commercial Borrowings proceeds to the Enforcement Directorate(ED); and

(b) If so, the details thereof and action taken by the ED in this regard so far?

ANSWER

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

(a) & (b) : Yes,Sir.The Directorate of Enforcement is conducting investigations which are at nascent stage.

*Extracts from Manual of Practice & Procedure in the
Government of India, Ministry of Parliamentary Affairs, New
Delhi*

Definition	<p>8.1 During the course of reply given to a question or a discussion, if a Minister gives an undertaking which involves further action on the part of the Government in reporting back to the House, it is called an 'assurance'. Standard list of such expressions which normally constitute assurances and as approved by the Committees on Government Assurances of the Lok Sabha and the Rajya Sabha, is given at Annex 3. As assurances are required to be implemented within a specified time limit, care should be taken by all concerned while drafting replies to the questions to restrict the use of these expressions only to those occasions when it is clearly intended to give an assurance in these terms.</p> <p>8.2 When an assurance is given by a Minister or when the Presiding Officer directs the Government to furnish information to the House, it is extracted by the Ministry of Parliamentary Affairs from the relevant proceedings and communicated to the department concerned normally within 10 working days of the date on which it is given.</p>
Deletion from the list of assurances	<p>8.3.1 If the administrative department has any objection to treating such a statement as an assurance or finds that it would not be in the public interest to fulfil it, it may write to the Lok/Rajya Sabha Secretariat direct with a copy to the Ministry of Parliamentary Affairs within a week of the receipt of such communication for getting it deleted from the list of assurances. Such action will require prior approval of the Minister.</p> <p>8.3.2 Departments should make request for dropping of assurances immediately on receipt of statement of assurances from the Ministry of Parliamentary Affairs and only in rare cases where they are fully convinced that the assurances could not be implemented under any circumstances and there is no option left with them but to make a request for dropping. Such requests should have the approval of their Minister and this fact should be indicated in their communication containing the request. If such a request is made towards the end of the stipulated period of three months, then it should invariably be accompanied with a request for extension of time. The department should continue to seek extension of time till a decision of the Committee on Government Assurances is received by them. Copy of the above communications should be simultaneously endorsed to the Ministry of Parliamentary Affairs.</p>
Time limit for fulfilling and assurance	<p>8.4.1 An assurance given in either House is required to be fulfilled within a period of three months from the date of the assurance. This time limit has to be strictly observed.</p>

Extension of time for fulfilling an assurance	<p>8.4.2 If the department finds that it is not possible to fulfil the assurance within the stipulated period of three months or within the period of extension already granted, it may seek further extension of time direct from the respective Committee on Government Assurances under intimation to the Ministry of Parliamentary Affairs as soon as the need for such extension becomes apparent, indicating the reasons for delay and the probable additional time required. Such a communication should be issued with the approval of the Minister.</p>
Registers of assurances	<p>8.5.1 The particulars of every assurance will be entered by the Parliament Unit of the department concerned in a register as at Annex 4 after which the assurance will be passed on to the concerned section.</p> <p>8.5.2 Even ahead of the receipt of communication from the Ministry of Parliamentary Affairs, the section concerned should take prompt action to fulfil such assurances and keep a watch thereon in a register as at Annex 5.</p> <p>8.5.3 The registers referred to in paras 8.5.1 and 8.5.2 will be maintained separately for the Lok Sabha and the Rajya Sabha assurances, entries therein being made session wise.</p>
Role of Section Officer and Branch Officer	<p>8.6.1 The Section Officer incharge of the concerned section will:</p> <ul style="list-style-type: none"> (a) scrutinise the registers once a week; (b) ensure that necessary follow-up action is taken without any delay whatsoever; (c) submit the registers to the branch officer every fortnight if the House concerned is in session and once a month otherwise, drawing his special attention to assurances which are not likely to be implemented within the period of three months; and (d) review of pending assurances should be undertaken periodically at the highest level in order to minimise the delay in implementing the assurances. <p>8.6.2 The branch officer will likewise keep his higher officer and Minister informed of the progress made in the implementation of assurances, drawing their special attention to the causes of delay.</p>
Procedure for fulfilment of an assurance	<p>8.7.1 Every effort should be made to fulfil the assurance within the prescribed period. In case only part of the information is available and collection of the remaining information would involve considerable time, an implementation report containing the available information should be supplied to the Ministry of Parliamentary Affairs in part 59crutinize of the assurance, within the prescribed time limit. However, efforts should continue to be made for expeditious collection of the remaining information for complete implementation of the assurance at the earliest.</p>

8.7.2 Information to be supplied in partial or complete fulfilment of an assurance should be approved by the Minister concerned and 15 copies thereof (bilingual) in the prescribed proforma as at Annex 6, together with its enclosures, along with one copy each in Hindi and English duly authenticated by the officer forwarding the implementation report, should be sent to the Ministry of Parliamentary Affairs. If, however, the information being furnished is in response to an assurance given in reply to a question etc., asked for by more than one member, an additional copy of the completed proforma (both in Hindi and English) should be furnished in respect of each additional member. A copy of this communication should be endorsed to the Parliament Unit for completing column 7 of its register.

8.7.3 The implementation reports should be sent to the Ministry of the Parliamentary Affairs and not to the Lok/Rajya Sabha Secretariat. No advance copies of the implementation reports are to be endorsed to the Lok/Rajya Sabha Secretariat either.

Laying of the implementation report on the Table of the House

8.8 The Ministry of Parliamentary Affairs, after a scrutiny of the implementation report, will arrange to lay it on the Table of the House concerned. A copy of the statement, as laid on the Table, will be forwarded by the Ministry of Parliamentary Affairs to the member as well as the department concerned. The Parliament Unit of the department concerned and the concerned section will, on the basis of this statement, make a suitable entry in their registers.

Obligation to lay a paper on the Table of the House vis-à-vis assurance on the same subject

8.9 Where there is an obligation to lay any paper (rule/order/notification, etc.) on the Table of the House and for which an assurance has also been given, it will be laid on the Table, in the first instance, in fulfilment of the obligation, independent of the assurance given. After this is done, a report in formal implementation of the assurance indicating the date on which the paper was laid on the Table will be sent to the Ministry of Parliamentary Affairs in the prescribed proforma (Annex 6) in the manner already described in para 8.7.2.

Committees on Government Assurances
LSR 323,324
RSR 211-A

8.10 Each House of Parliament has a Committee on Government assurances nominated by the Speaker/Chairman. It scrutinized the implementation reports and the time taken in the scrutinized of Government assurances and focuses attention on the delays and other significant aspects, if any, pertaining to them. Instructions issued by the Ministry of Parliamentary Affairs from time to time are to be followed strictly.

Reports of the Committees on Government Assurances

8.11 The department will, in consultation with the Ministry of Parliamentary Affairs, scrutinize the reports of these two committees for remedial action wherever called for.

Effect on
assurances on
dissolution of
the Lok Sabha

8.12 On dissolution of the Lok Sabha, all assurances, promises or undertakings pending implementation are scrutinized by the new Committee on Government assurances for selection of such of them as are of considerable public importance. The Committee then submits a report to the Lok Sabha with a specific recommendation regarding the assurances to be dropped or retained for implementation by the Government.

**Comments on Implementation of Benami Transactions
(Prohibition) Act, , 1988**

The Benami Transactions (Prohibition) Act, 1988 was passed by the Parliament in September, 1988. The responsibility for administration of the Act was entrusted to the Central Board of Direct Taxes (CBDT) in the Department of Revenue in 1989. The rules relating to the said enactment were required to be framed. However, when the matter relating to formulation of rules was taken up with the Ministry of Law, certain complications arose particularly with regard to transactions relating to agricultural land which fall in the domain of State Governments. The Ministry of Law felt that there were constitutional complications and if this Act was to be implemented, certain basic amendments would be required in the provisions of the Act. Further, since these involved civil consequences, some powers of a civil court were required to be conferred on the prescribed authority and the jurisdiction of the civil courts was also to be barred from Benami Properties. The Act also did not provide for any appellate forum which was to be in place apart from legal apparatus for vesting of forfeited properties in the Government. In view of these complications, the matter was placed before the Committee of Secretaries in 1991. According to the COS, the Act could be implemented with suitable changes in the law.

2. Subsequently, this Act was reviewed along with other existing laws, rules and regulations by an Expert Group constituted in July, 1997. The Group decided that this Act should be deleted from Statute since no notification had been issued so far and in view of the legal complications involved in the implementation.

3. However, in the mean time the Law Commission, in its 159th Report opined that the Act should not be repealed since it served laudable objectives.

4. In the circumstances given above, there were only two alternatives, one, to suitably amend the Act in consultation with the Ministry of Law so as to make it workable or to repeal the Act as opined by the Expert Group.

5. In view of the opinion of the 159th Report of the Expert Group it was decided not to repeal the Benami Transactions (Prohibition) Act, 1988 and to make a detailed proposal for amendments in the Act in consultation with the Ministry of Law and Justice for making the Act workable. In this process a large number of meetings and deliberations were arranged with the Ministry of Law and Justice to remove the complications pointed out by the Ministry of Law.

6. Since the passing of the Benami Transactions (Prohibition) Act, 1988, several attempts were made to finalize the formulation of amendments and Notes for the Cabinet were also prepared. However, owing to the complications involved, the amendments could not be finalized.

7. In May, 2010, a draft Cabinet Note to amend the Act has been prepared and got approved by the Hon'ble Finance Minister. The draft Amendments are now under preparation and will be finalized after consultation with the Ministry of Law and Justice.

MINUTES

EIGHTEENTH SITTING

Minutes of the sitting of the Committee on Government Assurances (2009-2010) held on 11 June, 2010 in Committee Room 'A', Parliament House Annexe, New Delhi.

The Committee sat from 1100 hours to 1230 hours on Friday 11 June, 2010.

PRESENT

CHAIRPERSON

Shrimati Maneka Gandhi

Members

2. Shri Anandrao Adsul
3. Dr. Kakoli Ghosh Dastidar
4. Shri Mohan Jena
5. Shri Raghuvir Singh Meena
6. Shri Bishnu Pada Ray
7. Shri K.J.S.P. Reddy
8. Rajkumari Ratna Singh
9. Dr. M. Thambidurai
10. Shri Manohar Tirkey

Secretariat

1. Shri P. Sreedharan - Joint Secretary
2. Shri R.S. Kambo - Director
3. Shri D.S. Malha - Additional Director
4. Smt. Veena Kumari - Deputy Secretary

Ministry of Finance (Department of Revenue)

1. Shri Sunil Mitra, Secretary (Revenue)
2. Shri V. Sridhar, Chairman, CBEC
3. Shri K. Jose Cyriac, Additional Secretary (Revenue)
4. Shri A.K. Srivastava, Joint Secretary (Revenue)
5. Shri Ashutosh Dikshit, Joint Secretary (TPL), CBDT
6. Shri S.K. Sawhney, Special Director, Enforcement Directorate
7. Shri Labh Singh Chane, Director (Admn/Parl.)
8. Shri Sanjay Kumar, Under Secretary (Parl.)

At the outset, the Chairperson welcomed the Members to the sitting of the Committee. Thereafter, the Committee took the oral evidence of the representatives of Ministry of Finance (Department of Revenue) in connection with the pending assurances. While examining the pending assurances, the Committee were informed that the assurances arising out of the replies given to USQ No. 1000 dated 08.02.1996 and USQ No. 773 dates 26.02.1999, regarding the Benami Transaction (Prohibition) Act, 1988, could not be implemented, as it contained grave infirmities. It was further

informed that the rules for implementation of the Act were to be framed only after amending certain provisions of the Act. Expressing their deep concern over the undue delay of more than 22 years in withholding the implementation of the Act, the Committee desired to be furnished with a detailed note indicating the action taken to implement the Act since its enactment in a chronological order, within a fortnight. The Committee also desired that the urgent steps may be taken to implement the assurances made in this behalf at the earliest.

2. Thereafter Committee sought certain clarifications in connection with other pending assurances which were replied to by the representatives of the Ministry.
3. A verbatim record of the proceedings has been kept.

The Committee then adjourned.

MINUTES

TWENTYFIFTH SITTING

Minutes of the sitting of the Committee on Government Assurances (2009-2010) held on 25 August, 2010 in Committee Room 'B', Parliament House Annexe, New Delhi.

The Committee sat from 1500 hours to 1600 hours on Wednesday 25 August, 2010.

PRESENT

CHAIRPERSON

Shrimati Maneka Gandhi

Members

2. Dr. Kakoli Ghosh Dastidar
3. Shri Bishnu Pada Ray
4. Rajkumari Ratna Singh
5. Shri Hukumdeo Narayan Yadav

Secretariat

1. Shri P. Sreedharan - Joint Secretary
2. Shri R.S. Kambo - Director
3. Shri D.S. Malha - Additional Director
4. Smt. Veena Kumari - Deputy Secretary

Ministry of Civil Aviation

1. Shri M. Madhavan Nambiar, Secretary
2. Shri V.P. Agrawal, Chairman, AAI
3. Shri R.K. Tyagi, CMD, PHHL
4. Shri S. Raheja, Member (P), AAI
5. Shri E.K. Bharat Bhushan, Addl. Secretary & FA
6. Shri Prashant Sukul, Joint Secretary
7. Shri Alok Sinha, Joint Secretary
8. Shri Rohit Nandan, Joint Secretary
9. Shri Prashant Kumar, Chief Commissioner (RS)
10. Shri J.K. Bhoukiyal, ED, AAI
11. Shri Alok Shekhar, Director
12. Shri Syed Nasir Ali, Director
13. Shri L. Raja Sekhar Reddy, Director
14. Smt. Pragya Richa Srivastava, Director
15. Shri M.C. Kishore, ED & Company Secretary, AAI
16. Shri R.P. Sahi, Jt. DGCA
17. Shri Lalit Gupta, Director, DGCA
18. Shri Vijay Pal, ED, NACIL
19. Shri M.L. Sharma, Chief Manager, NACIL

At the outset, the Chairperson welcomed the Members to the sitting of the Committee. Thereafter, the Committee considered the following draft reports:-

- (i) 8th Report regarding review of pending assurances pertaining to Ministry of Finance (Department of Revenue).
- (ii) 9th Report regarding requests for dropping of assurances (acceded to).

- (iii) 10th Report regarding requests for dropping of assurances (not acceded to).
- (iv) 11th Report regarding review of pending assurances pertaining to Ministry of Rural Development (Department of Rural Development).

2. The Committee adopted draft 8th & draft 11th Reports without any changes. While considering the draft 9th report, the Committee observed that they had agreed to drop the assurances arising out of (i) USQ No. 1574 dated 23.8.2007, (ii) SQ No. 260 dated 30.8.2007, (iii) USQ No. 68 dated 15.11.2007 & (iv) USQ No. 854 dated 22.11.2007 as contained in the Memorandum No. 123 based on the request made by the Ministry of Civil Aviation, at their sitting held on 06 August, 2010. Keeping in view the revised position as stated by the Ministry in the status note furnished on the relevant Questions on 21 August, 2010, the Committee decided not to drop the assurances. They decided to modify the draft reports, accordingly, and adopted draft 9th & 10th reports with this change.

3. Thereafter, the Committee resumed the oral evidence of the representatives of Ministry of Civil Aviation in connection with the pending assurances. The Committee sought certain clarifications on pending assurances (Sl. No. 47 to 56) which were replied to by the representatives of the Ministry. The Committee decided to review the remaining pending assurances on a later date.

4. A verbatim record of the proceedings has been kept.

The Committee then adjourned.