

**THIRTY - SEVENTH REPORT
COMMITTEE ON PETITIONS
(SIXTEENTH LOK SABHA)**

MINISTRY OF FINANCE

(Presented to Lok Sabha on 26.7.2017)



**LOK SABHA SECRETARIAT
NEW DELHI**

June, 2017/Ashadha, 1939 (Saka)

CPB. NO. 1 Vol. .XXXVII....

Price: Rs.....

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Published under Rule 382 of the Rules of Procedure and Conduct of Business in Lok Sabha (Sixteenth Edition) and printed by the Manager, Government of India Press, Minto Road, New Delhi - 110002

CONTENTS

	PAGES
COMPOSITION OF THE COMMITTEE ON PETITIONS:	(iii)
INTRODUCTION.....	(v)

REPORT

<p>Action Taken by the Government on the recommendations of the Committee on Petitions made in their Fifteenth Report (16th Lok Sabha) on the representation of Shri Manish Jain regarding mandatory quoting of Permanent Account Number (PAN) for transactions made for purchase of bullion or jewellery.</p>	01
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ANNEXURE

<p>Minutes of the 36th sitting of the Committee held on 30.6.2017</p>	16
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**COMPOSITION OF THE COMMITTEE ON PETITIONS
(2016-2017)**

Shri Bhagat Singh Koshyari -*Chairperson*

MEMBERS

2. Shri Suresh C. Angadi
3. Shri Om Birla
4. Shri Jitendra Chaudhury
5. Shri Ram Tahal Choudhary
6. Shri Chandra Prakash Joshi
7. Dr. K. Gopal
8. Shri Kodikunnil Suresh
9. Shri Chhedi Paswan
10. Shri Kamlesh Paswan
11. Shri Arjun Charan Sethi
12. Shri Dinesh Trivedi
13. Shri Rajan Vichare
14. Shri Dharmendra Yadav
15. Vacant

SECRETARIAT

- | | | |
|----------------------------|---|---------------------|
| 1. Shri Shiv Kumar | - | Joint Secretary |
| 2. Shri Raju Srivastava | - | Additional Director |
| 3. Shri Anand Kumar Hansda | - | Executive Assistant |

THIRTY - SEVENTH REPORT OF THE COMMITTEE ON PETITIONS**(SIXTEENTH LOK SABHA)****INTRODUCTION**

I, the Chairperson, Committee on Petitions, having been authorised by the Committee to present the Report on their behalf, present this Thirty Seventh Action Taken Report (Sixteenth Lok Sabha) of the Committee to the House on the Action Taken by the Government on the recommendations of the Committee on Petitions made in their Fifteenth Report (16th Lok Sabha) on the representation of Shri Manish Jain regarding mandatory quoting of Permanent Account Number (PAN) for transactions made for purchase of bullion or jewellery.

2. The Committee considered and adopted the draft Thirty Seventh Action Taken Report at their sitting held on 30 June, 2017.

3. The observations/recommendations of the Committee on the above matters have been included in the Report.

NEW DELHI;

30 June, 2017

9 Ashadha, 1939 (Saka)

BHAGAT SINGH KOSHYARI
Chairperson,
Committee on Petitions

REPORT

ACTION TAKEN BY THE GOVERNMENT ON THE RECOMMENDATIONS MADE BY THE COMMITTEE ON PETITIONS (SIXTEENTH LOK SABHA) IN THEIR FIFTEENTH REPORT ON THE REPRESENTATION OF SHRI MANISH JAIN REGARDING MANDATORY QUOTING OF PERMANENT ACCOUNT NUMBER (PAN) FOR TRANSACTIONS MADE FOR PURCHASE OF BULLION OR JEWELLERY.

The Committee on Petitions (Sixteenth Lok Sabha) presented their Fifteenth Report to Lok Sabha on 10 August, 2016 on the Representation received from Shri Manish Jain regarding mandatory quoting of Permanent Account Number (PAN) for transactions made for purchase of bullion or jewellery.

2. The Committee had made certain observations/recommendations in the matter and the Ministry of Finance (Department of Revenue) were asked to implement the recommendations and furnish their action taken notes thereon for consideration of the Committee.

3. Action Taken Notes have since been received from the Ministry of Finance (Department of Revenue) in respect of all the recommendations contained in the Report. The recommendations made by the Committee and the replies furnished thereto by the Ministry of Finance (Department of Revenue) are detailed in the succeeding paragraphs.

4. In para(s) 20, 21, 22 and 23 of the Report, the Committee had observed/recommended as follows:-

"The Committee note that the provision for mandatory quoting of Permanent Account Number (PAN) was governed by Section 139-A(5)(c) of the Income Tax Act, 1961. The Section ibid laid down that every person shall quote PAN in all documents pertaining to such transactions as entered into by him/her. The Committee also note that the Central Board of Direct Taxes (CBDT) vide Notification dated 26.5.2011, had amended Rule 114-B of the Income Tax Rules, 1962 to include Clause (r) - making quoting of PAN mandatory on payment to a dealer and also against a bill for an amount of Rs.5 lakh or more, for the purchase of bullion or jewellery. The Rule came into effect from 1.7.2011. The Rule had been amended by the CBDT Notification

dated 30.12.2015 and as per the amended Rule 114-B, every person shall quote his/her PAN, in all documents, pertaining to the sale and purchase of goods or services of any nature where the amount of transaction exceeds Rs.2 lakh, per transaction. The Rule ibid had come into force with effect from 1.1.2016."

"The Ministry of Finance (Department of Revenue) have further stated that as per the amended Rule 114-B, the requirement of mandatory quoting of PAN on sale or purchase of goods and services applies to all kinds of trade and not specific or restricted to sale or purchase of bullion or jewellery. As a matter of fact, mandatory quoting of PAN for purchase of bullion or jewellery for an amount of Rs.5 lakh had been in existence since the year 2011."

"The Committee have also been informed that the amended Rule 114-B had been brought, inter alia, taking into consideration the recommendations of the Special Investigation Team (SIT) on Black Money. One of the recommendations of the SIT was that quoting of PAN should be made mandatory for all sales and purchases of goods and services where the payment exceeds Rs. 1 lakh. However, considering the concerns raised in representations received from various quarters, the Government had decided to make quoting of PAN mandatory for transactions exceeding Rs.2 lakh per transaction."

"The Committee take note of the initiatives taken by the Government to curb the menace of Black Money and also to expand the tax base and enhance the Tax-Gross Domestic Product (GDP)ratio. The Committee would like to point out that mandatory quoting of PAN while entering into sale and purchase of goods or services, including bullion and/or jewellery, has a cap of Rs.2 lakh, that too for each transaction. That being so, the Committee feel that any person may enter into multiple transactions, intermittently, for purchase of bullion and/or jewellery where the amount of each transaction does not exceed Rs. 2 lakh. In that eventuality, the provisions of Rule 114-B of the Income Tax Rules, 1962, inter alia, regarding mandatory quoting of PAN would not be attracted and the objective of curbing Black Money from the economy would not yield the desired results. The Committee, therefore, call upon the Ministry of Finance (Department of Revenue) to work out a two-pronged strategy, i.e., on the one hand, to empower the Tax Authorities to keep a tab on transactions made, in cash, for sale or purchase of bullion and/or jewellery, where the value of each transaction is below Rs. 2 lakh, and on the other, undertake a study to find out the impact of excluding the requirement of mandatory quoting of PAN for the sale or purchase of bullion or jewellery - where the payment is made through Cheque, Credit/Debit Card, Draft/ Banker's cheque or through online transfer. The Committee would like to be apprised of the action taken by the Ministry in this regard."

5. In their action taken reply, the Ministry of Finance (Department of Revenue) have stated as follows:-

“With regard to the first suggestion of the committee to keep a tab on transactions in cash of an amount less than Rs.2 lakh, it is stated that the decision to place a cap of Rs. 2 lakh on each transaction of sale and purchase of goods and services, including bullion and/or jewellery was a conscious call after taking into consideration various aspects like recommendation of SIT on Black Money, prevailing economic situation and suggestions received from various stakeholders. It is further mentioned that considering the volume of transactions which would require to be monitored, the suggestions made by the committee may not be administratively feasible. In view of above, it is mentioned that we may continue with present position and once the system stabilizes the decision may be reviewed. Moreover, it may be noted that as per the existing income-tax law there exist various disincentives in respect of cash transactions. These include disallowance of business expenditure incurred in cash exceeding Rs,20,000 under section 40A(3) of the Act, except in specified circumstances; levy of penalty under section 271D and 271E of the Act, in case any loan or deposit or any specified sum in relation to transfer of an immovable property is received or repaid in a mode otherwise than by an account payee cheque or account payee bank draft or use of electronic clearing system through a bank accounts as specified under section 269SS and 269T of the Act, respectively.

As regards excluding the requirement of mandatory quoting of PAN for the sale or purchase of bullion or jewellery, where the payment is made through cheque, Credit/Debit card, Draft/Banker’s Cheque or through online transfer, it may be mentioned that the purpose of said provision is to track the transaction in a non-intrusive manner so as to match the paying capacity and income profile of an individual. This is necessary as bank accounts are not linked to PAN in all the cases and therefore linking of such transactions is a challenge. The suggestion regarding undertaking a study to find out impact of excluding the requirement of mandatory quoting of PAN for the sale or purchase of bullion or jewellery-where the payment is made through Cheque, Credit/Debit Card, Draft/ Banker's cheque or through online transfer has been noted down for further examination.”

6. In para 24 of the Report, the Committee had observed/recommended as follows:-

“The Committee note that prior to 1.3.2016, since there was no excise duty on articles of precious metals including gold jewellery, reliable data in respect of jewellery manufacturers and sale or purchase of bullion and jewellery in the country were not maintained by the Income Tax Department. The Committee also note that Central Excise Duty at the rate of 1% (without input tax credit)and 12.5% (with input tax credit)on all articles of jewellery (except for silver jewellery, other than those

studded with diamond, ruby, emerald or sapphire) had been levied in the Budget of 2016-17. This levy is effective from 1.3.2016. The Committee have also been given to understand that after imposition of Excise Duty in the Budget of 2016-17, 25 manufacturers had taken registration, so far. The Committee are not fully satisfied with the progress made by the Tax Authorities on the aspect of registration of jewellery manufacturers, dealers or shopkeepers, thereby hampering the development and maintenance of reliable database as an overall non-intrusive mechanism to curb tax evasion. In this connection, the Committee strongly feel that since out of the 25 crore Pan Card holders in the country, only a meager 6 crore people (24%) are paying income tax, the Ministry of Finance (Department of Revenue) should resort to innovative methods to ensure the formulation of a reliable database in respect of jewellery manufacturers and dealers/shopkeepers dealing in sale or purchase of bullion and jewellery in the country. The Committee would like to be apprised of the measures taken by the Ministry in this regard."

7. In their action taken reply, the Ministry of Finance (Department of Revenue) have stated as follows:-

"Central Government had constituted a Sub-Committee of the High Level Committee to interact with jewellery trade on issues relating to compliance procedures regarding the levy of central excise duty on articles of jewellery in the Union Budget 2016-17. This Sub-Committee was constituted on 21st March, 2016 and consequent to the same, the due date for jewellery establishments to take central excise registration was extended by 60 days initially and thereafter upto 31st July, 2016. Thus, registrations prior to 31.07.2016 were voluntary in nature as the due date was deferred by the Government. However, since (from 1.03.2016 to 17.08.2016) total of 1475 registrations have been granted by the Central Excise authorities to the jewellery manufactures. It is worthwhile to mention that in recent past CBDT has entered into a MOU with CBEC for exchange of information and analysis. This shall enable sharing of database between the two Boards."

8. In para 25 of the Report, the Committee had observed/recommended as follows:-

"The Committee note that as per the amended Rule 114-B of the Income Tax Rules, 1962, quoting of PAN is mandatory for sale or purchase of goods or services of any nature, if the value of transaction exceeds Rs.2 lakh. The Committee also note that when a person is not required to file return of income on account of exempt income such as agricultural income and does not possess PAN, he/she is not prohibited from making transaction for sale or purchase of bullion, gems and jewellery. Such person is required to give a declaration in Form 60 (with proof of identity and address) to the dealer where quoting of PAN is mandatory for transactions entered

into by him. The Committee are dismayed to find that though Form 60 is a type of declaration to be filled in by an individual who does not have a permanent account number, the same consists of 24 different parameters, which not only includes general information like Name, Date of Birth, Father's Name, etc., but also some intricate information like filling up of estimated total income [Agricultural income/ Other than Agricultural income] (including income of spouse, minor child, etc., as per Section 64 of the Income Tax Act, 1961), details of documents being produced in support of identity and address, and also an express warning to the user of Form 60 that any person making a false statement shall be liable to be prosecuted under Section 277 of the Income Tax Act, 1961 and on conviction, be punishable with rigorous imprisonment which shall not be less than six months but which may extend to seven years with fine. Considering the fact that Form 60, in its present format, appears regressive rather than progressive and the comprehensibility of various parameters contained in the Form seen from the point of view of an average Educated person also appears doubtful, the Committee urge the Ministry of Finance (Department of Revenue) to re-visit the various parameters contained in Form 60 and devise a user-friendly Declaration Form so that the public at large, especially the people from rural areas, do not feel apprehensive, if not afraid while filling up the Form for purchasing bullion or jewellery. The Committee would like to be informed of the concrete action taken in the matter.”

9. In their action taken reply, the Ministry of Finance (Department of Revenue) have stated as follows:-

"In this regard, it is submitted that very basis of introducing PAN was to digitise the information relating to all the taxpayers and the objective of capturing specified information in Form-60 was to capture such details which would help in broadening the tax base by identifying new tax payers. One of the objectives of Form-60 is to match the paying capacity of the purchaser to his income profile. The capturing of information regarding agricultural income was earlier done through a separate Form No. 61. In the amended rules, for easing the compliance burden erstwhile Form No.61 has been merged in Form No.60. It is specifically mentioned at serial number 22 of Form-60 that only in cases where PAN has not been applied the applicant has to fill details specified at said serial number. The requirement of other parameters as pointed out by the committee is of vital significance, as this helps in verifying the authenticity of information furnished by the applicant. Further, it is reiterated that the department is consciously moving towards a technology driven, non-intrusive tax regime which would minimize interface between the tax-payer and the Department.”

Observations/Recommendations

Mandatory quoting of Permanent Account Number (PAN)

10. The Committee had made recommendations with regard initiatives taken by the Government to curb the menace of black money vis-a-vis mandatory quoting of Permanent Account Number on two points. One, to empower the Tax Authorities to keep a tab on transactions made, in case, for sale or purchase of bullion and/or jewellery, where the value of each transaction is below Rs. 2 lakh. Two, to undertake a study to find out the impact of excluding the requirement of mandatory quoting of PAN for the sale or purchase of bullion or jewellery where the payment is made through Cheque, Credit/Debit Card, Draft/Banker's Cheque or through online transfer.

11. The Ministry of Finance (Department of Revenue) have informed that the decision to place a cap of Rs. 2 lakh on each transaction of sale and purchase of goods and services, including bullion and/or jewellery was a conscious call after taking into consideration various aspects like recommendation of the SIT on Black Money, prevailing economic situation and suggestions received from various stakeholders. For keeping a tab on transactions made, in cash where the value of each transaction is below Rs. 2 lakh, the Ministry of Finance (Department of Revenue) has informed that since it would not be administratively feasible, the present position may continue and once the system stabilises, the decision would be reviewed. About excluding the requirement of mandatory quoting of PAN for the sale or purchase of bullion or jewellery, the Ministry of Finance (Department of Revenue) have informed that the purpose of said provision is to track the transaction in a non-intrusive manner so as to match the paying capacity and income profile of an individual. This is necessary as bank accounts are not linked to PAN in all the cases and, therefore, linking of such transactions is a challenge. Similarly, on the issue of undertaking a study to find out the impact of excluding the requirement of mandatory quoting of

PAN for sale or purchase of bullion or jewellery where the payment is made through Cheque, Credit/Debit Card, etc., the Ministry of Finance (Department of Revenue) have informed that this has been noted down for further examination.

12. The Committee are astonished to find that the relevant recommendations of the Committee, which were primarily aimed at curbing the black money from the economy, have not been taken by the Ministry of Finance (Department of Revenue) in the right perspective. As a matter of fact, the recommendations of the Committee to keep a tab on transactions made, in cash, for sale or purchase of bullion and/or jewellery, where the value of each transaction is below Rs. 2 lakh was based on the premise that Tax Authorities have already introduced technology in place of manual verification of various tax evasion-related transactions and a reasonable number of bank accounts have already been linked to PAN. Now that the Ministry have vouched for reviewing the existing mechanism once the system stabilises, the Committee hope that the implementation of these recommendations by the Government would be helpful in curbing the black money from the economy. The Committee would like to be apprised of the position as obtaining in this regard.

Unregistered dealers/shopkeepers dealing in bullion and jewellery

13. While noticing that Central Excise Duty at the rate of 1% (*without tax input credit*) and 12.5% (*with input tax credit*) on all articles of jewellery (*except for silver jewellery, other than those studded with diamond, ruby, emerald or sapphire*) had been levied in the Budget of 2016-17 and after the imposition of Excise Duty, 25 manufacturers had taken registration, so far, the Committee had felt that the progress made by the Tax Authorities on the aspect of registration of jewellery manufacturers, dealers or shopkeepers was not satisfactory. The Committee had, therefore, recommended the Ministry of Finance (Department of Revenue) should resort to innovative methods to ensure the formulation of a reliable database in respect of

jewellery manufacturers and dealers/shopkeepers dealing in sale or purchase of bullion and jewellery in the country.

14. In the action taken reply, the Ministry of Finance (Department of Revenue) have stated that the Central Government had constituted a Sub-Committee of the High Level Committee to interact with jewellery trade on issues relating to compliance procedures regarding the levy of Central Excise Duty on articles of jewellery in the Union Budget 2016-17. This Sub-Committee was constituted on 21 March, 2016 and consequent to the same, the due date for jewellery establishments to take Central Excise registration was extended by 60 days initially and thereafter upto 31 July, 2016. The Ministry of Finance (Department of Revenue) have further stated that registrations prior to 31 July, 2016 were voluntary in nature as the due date was deferred by the Government. Consequent upon this, from 1 March, 2016 to 17 August, 2016, a total of 1475 registrations have been granted by the Central Excise Authorities to the jewellery manufacturers.

15. The Committee appreciate the various steps taken by the Government to regulate the jewellery trade in the country by way of granting registration to the jewellery manufacturers. The Committee also laud the agreement in the form of Memorandum of Understanding entered into by the Central Board of Direct Taxes (CBDT) with the Central Board of Excise and Customs (CBEC) for exchange of information and sharing of database between the two Boards. The Committee, however, feel that the pace of registration of jewellery manufacturers in the country needs acceleration in view of the fact that curbing of black money from the economy has multi-dimensional aspects, wherein, regulation of jewellery trade is utmost importance. The Committee, therefore, reiterate the formulation of reliable database in respect of jewellery manufacturers and dealers/shopkeepers dealing in sale or purchase of bullion and jewellery in the country in the right earnest. The Committee would like to be apprised of the action taken in this regard.

Filling up of Form 60

16. The Committee during examination of the Representation had expressed their concern over the complex nature of Form 60 which is a type of declaration to be filled in by an individual who does not have a Permanent Account Number (PAN). The Committee had, therefore, recommended the Ministry of Finance (Department of Revenue) to re-visit the various parameters contained in Form 60 and devise a user-friendly Declaration Form so that public at large, especially the people from rural areas do not feel apprehensive while filling up the Form for purchasing bullion or jewellery. The Ministry of Finance (Department of Revenue), in their action taken reply, have stated that the very basis of introducing PAN was to digitise the information relating to all the taxpayers and the objective of capturing specified information in Form 60 was to capture such details which would help in broadening the tax base by identifying new tax payers. The Ministry of Finance (Department of Revenue) have further stated that one of the objectives of Form 60 is to match the paying capacity of the purchaser to his income profile. The requirement of various parameters contained in Form 60 is of vital significance as it helps in verifying the authenticity of information furnished by the applicant. While acknowledging the initiatives taken by the Ministry of Finance (Department of Revenue) for consciously moving towards a technology driven, non-intrusive tax regime with the objective of minimizing the interface between the tax-payer and the Department as well as the need for broadening the tax base in the country by identifying new tax payers, the Committee still hold the view that some of the parameters contained in Form 60 could be conveniently rationalized so that the public at large are encouraged to voluntarily formalize their purchase of bullion or jewellery by way of either procuring the PAN Card or filling up of Form 60. The Committee would like to be apprised of the action taken by the Ministry of Finance (Department of Revenue) on this count as well separately.

NEW DELHI;
30 June., 2017
9 Ashadha, 1939 (Saka)

BHAGAT SINGH KOSHYARI
Chairperson,
Committee on Petitions