

**GOVERNMENT OF INDIA
FINANCE
LOK SABHA**

STARRED QUESTION NO:435

ANSWERED ON:31.03.2017

Tax Evasion

Mondal Shri Sunil Kumar;Rao Shri Rayapati Sambasiva

Will the Minister of FINANCE be pleased to state:

- (a) Whether his Ministry has taken any serious measures to address the issues of tax evaders;
- (b) If so, the details thereof along with the measures taken by the Government in this regard; and
- (c) if not, the reason therefor?

Answer

ANSWER
MINISTER OF FINANCE
(SHRI ARUN JAITLEY)

(a) to (c): A Statement is laid on the table of the House.

Statement as referred to in reply to Starred Question No. *435 to be answered on 31st March, 2017 in Lok Sabha on the subject of Tax Evasion.

Reply to part (a) to (c) of the subject Parliamentary Question is as under:

(a) Yes, Madam.

(b) The Government has taken various measures, both by way of policy initiatives as well as through more effective enforcement actions on the ground to check tax evasion. These include putting in place robust legislative and administrative frameworks, systems and processes with due focus on capacity building intelligence gathering, profiling studies etc which is followed up by investigation and integration of information and its mining through increasing use of information technology. The details of some of these measures are at Annexure.

(c) Does not arise in view of the reply to point (a) and (b) above.

ANNEXURE

Annexure as referred to in reply to part (b) of Starred Question No. *435 to be answered on 31st March, 2017 in Lok Sabha on the subject of Tax Evasion.

Some of the measures taken by the Government to address the issue of Tax Evasion

Direct Tax

- (i) Constitution of the Special Investigation Team (SIT) on Black Money under Chairmanship and Vice-Chairmanship of two former Judges of Hon'ble Supreme Court.
- (ii) Enactment of a comprehensive law – 'The Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015' to specifically deal with black money stashed away abroad.
- (iii) Constitution of Multi-Agency Group (MAG) consisting of officers of Central Board of Direct Taxes (CBDT), Reserve Bank of India (RBI), Enforcement Directorate (ED) and Financial Intelligence Unit (FIU) for investigation of recent revelations in Panama paper leaks.
- (iv) Proactively engaging with foreign governments with a view to facilitate and enhance the exchange of information under Double Taxation Avoidance Agreements (DTAAs)/Tax Information Exchange Agreements (TIEAs)/Multilateral Conventions.
- (v) Proactively furthering global efforts to combat tax evasion/black money, inter alia, by joining the Multilateral Competent Authority Agreement in respect of Automatic Exchange of Information (AEOI) and having information sharing arrangement with USA under its Foreign Account Tax Compliance Act (FATCA).
- (vi) Renegotiation of DTAAs with other countries to bring the Article on Exchange of Information to International Standards and expanding India's treaty network by signing new DTAAs and TIEAs with many jurisdictions to facilitate the exchange of information and to bring transparency.
- (vii) Enabling attachment and confiscation of property equivalent in value held within the country where the property/proceeds of crime is taken or held outside the country by amending the Prevention of Money-laundering Act, 2002 through the Finance Act, 2015.
- (viii) Enactment of the Benami Transactions (Prohibition) Amendment Act, 2016 to amend the Benami Transactions (Prohibition) Act, 1988 with a view to, inter alia, enable confiscation of Benami property and prosecution of benamidar and the beneficial owner.
- (ix) Initiation of the information technology based 'Project Insight' for strengthening the non-intrusive, information driven approach for improving tax compliance.
- (x) Launching of 'Operation Clean Money' on 31st January 2017 for collection, collation and analysis of information on cash transactions during demonetisation period, extensive use of information technology and data analytics tools for identification of high risk cases, expeditious e-verification of suspect cases and enforcement actions in appropriate cases which include searches, surveys, enquiries, assessment of income, levy of taxes, penalties, etc. and filing of prosecution complaints in criminal courts, wherever applicable.

Indirect Tax

In order to deal with indirect taxes evasion (central excise, service tax and customs), the Government has taken several legal, procedural changes, as also increased use of information technology. Intelligence gathering is a primary source for detection of tax evasion through non-intrusive methods, such as, independent market inquiries, profiling, studies etc which is followed up by investigations. The details of these measures are indicated below.

1.1 Legal measures

1.1.1 Prosecution and Arrest provisions exist in the Finance Act, 1994, Central Excise Act, 1944 and the Customs Act, 1962. 4446 arrests have been made by the Customs Commissionerates / Directorate General of Revenue Intelligence and 116 arrests have been made by DGCEI / Central Excise and Service Tax Commissionerates during the last three years (2014-15, 2015-16 and 2016-17 (upto December, 2016)).

Central Excise Act, 1944: A person can be arrested in the following cases (a) clandestine removal of manufactured goods; (b) removal of goods without declaring the correct assessable value and receiving a portion of sale price in cash which is in excess of invoice

price and not accounted for in the books of account;(c) taking Cenvat Credit without the receiving the goods specified in the invoice;(d) taking Cenvat Credit on fake invoices;(e) issuing Cenvatable invoices without delivering the goods specified in the said invoice.(f) wrong availment of refund claim, provided that the amount of duty sought to be evaded is more than Two Crore rupees. The time period permissible in law for issuance of show cause notice on tax evasion has been increased from 1 year to 2years for a normal circumstance by amending section 11A of Central Excise Act, 1944 vide Finance Act, 2016.

Customs Act, 1962: Any person guilty of serious offence under Customs Act, 1962 which is punishable under Sections 132, 133, 135, 135A or 136 of the said Act, can be arrested by a Customs officer authorized in this behalf, as provided under Section 104(1) of the said Act. Further, in the Finance Bill, 2017, the provision to incorporate the concept of beneficial owner in the Customs Act has been introduced to target unscrupulous elements using fake/front Import Export Code. In order to ensure that arrests and prosecutions are not set aside on legal or technical grounds, detailed guidelines relating to arrest and prosecution have been issued. Keeping in view the changes in law, the guidelines for prosecution were issued vide Circular No. 27/2015-Customs dated 23.10.2015.

Finance Act, 1994: In view of detection of several cases of Service tax evasion, changes were made to its legal provisions. Any person who collects any amount as service tax but fails to pay the amount so collected to the credit of the Central Government beyond a period of six months from the date on which such payment becomes due and the amount exceeds two hundred lakh rupees is liable for arrest and such an offence is treated as a cognizable offence. It is punishable with imprisonment for a term which may extend to seven years. Further, any taxable person who commits offences like knowingly evading the payment of service tax, or availing or utilizing credit of taxes or duty without actual receipt of taxable service or excisable goods either fully or partially in violation of the rules or maintaining false books of accounts or failing to supply any information required to be supplied or supplies false information, and the amount exceeds two hundred lakh rupees, is punishable with imprisonment for a term which may extend to three years. If any person is convicted of such an offence, then for the second and for every subsequent offence, he shall be punished with imprisonment for a term which may extend to seven years.

1.1.2 Third Party Information: Provisions have been made in the Central Excise Act 1944, which are also applicable to Service Tax, whereby specified authorities who are responsible for maintaining record of registration or statement of accounts or any periodic return or document containing details of payment of tax and other details or transaction of goods or services or transactions related to a bank account or consumption of electricity or transaction of purchase, sale or exchange of goods or property or right or interest in a property, under any law for the time being in force, shall furnish an annual information return of the same as prescribed. Under this provision the Annual Information Return Rules 2016, have been prescribed. Initially this return has been prescribed for RBI to give details of foreign remittances for receipt of specified services, for such entities whose value of remittances exceeds rupees ten lakh in a financial year , as well as State Electricity Boards or an electricity distribution or transmission licensee under the Electricity Act 2003, or any other entity entrusted with such functions by the Central Government or State Government, to give details of electricity consumed by such manufacturers using an induction furnace or rolling mill to manufacture goods falling under Section XV of the First Schedule to the Central Excise Tariff Act, 1985 (5 of 1986), whose aggregate value of clearance exceeds rupees one hundred and fifty lakhs in the financial year to which the return pertains .

1.2. Procedural measures: In tune with the changing scenario and suggestions from various Customs field offices, the Central Board of Excise and Customs vide Circular No. 20/2015 dated 31.7.2015 (amended by Circular No. 29/2016 dated 23.6.2016) issuing fresh reward guidelines for government servants and informers so as to get information about tax evasion.

1.3. Increased use of information technology: Through a formal process of sharing of information with other statutory authorities like the Income Tax department, VAT authorities, the department has access to data which is followed up in order to detect cases of tax evasion. The processes of selection of returns for detailed manual scrutiny as well as selection of assesseees for audit have been made wholly risk based from 2015. This will ensure that returns as well as assesseees with a higher risk score are targeted for detailed manual scrutiny or audit, as the case may be. Return Scrutiny analysis is carried out by utilising the data retrieved from Enterprise Data Warehouse of the Department.
