

GOVERNMENT OF INDIA
MINISTRY OF FINANCE
DEPARTMENT OF REVENUE
RAJYA SABHA
UNSTARRED QUESTION NO -2279
ANSWERED ON – 21/03/2023

OFFSHORE SHELL COMPANIES OWNED BY INDIAN CITIZENS

2279 DR. JOHN BRITTAS:

Will the Minister of Finance be pleased to state:

- (a) the details of offshore shell companies whose Ultimate Beneficial Ownership (UBO) are held by Indian citizens;
- (b) the details of actions so far taken by Government to collect the details of UBO of Indian citizens in offshore companies incorporated in tax haven countries;
- (c) the status of actions taken against those Indian citizens whose names were revealed through Panama Paper, Pandora Paper, Paradise Paper and such other leaks;
- (d) the details of foreign Governments who have offered the Union Government to share the offshore dealings of Indian citizens; and
- (e) the details thereof and the actions taken thereon?

ANSWER

THE MINISTER OF STATE IN THE MINISTRY OF FINANCE
(SHRI PANKAJ CHAUDHARY)

- a) It is submitted that an offshore shell company is not defined in the Acts administered by the Ministry of Finance. Data/details regarding offshore shell companies owned by Indian citizens is not available.
- b) In view of (a) above, specific action does not arise.

However, Government has undertaken the following exchange of information mechanisms for administration of taxation and enforcement laws for various purposes which may include offshore companies:

- (i) India has entered into Double Taxation Avoidance Agreements (DTAA) /Tax Information Exchange Agreements (TIEA) /Multilateral Convention on Mutual Administrative Assistance in Tax Matters (MAAC) /SAARC Limited Multilateral Agreement (“tax treaties”) with foreign jurisdictions which, inter alia, provide for exchange of information that is foreseeably relevant for administration or enforcement of domestic laws concerning taxes.
- (ii) India has implemented Automatic Exchange of Information (AEOI) based on the Common Reporting Standards (CRS) and receives, from 2017 onwards, financial account information of Indian tax residents in other countries with which the AEOI relationship is activated.

India had also entered into a Foreign Accounts Tax Compliance Act (FATCA)-Inter-Governmental Agreement (IGA) with USA in 2015 for sharing of financial account information on automatic basis.

(iii) The Directorate of Enforcement takes necessary action as per the provisions of the relevant Acts whenever:

- (1) There is any contravention under Foreign Exchange Management Act (FEMA), and
- (2) occurrence of scheduled offence disclosing the generation of PoC (Proceeds of Crime) as defined under Section 2(1)(u) of Prevention of Money Laundering Act (PMLA), or
- (3) a warrant of arrest is issued by the Magistrate or Court after taking cognizance of any scheduled offence appended to Fugitive Economic Offenders Act, 2018 (FEOA) and where the amount involved is Rs. 100 crore or above, provided the accused has gone outside India.

c) To tackle the menace of foreign assets and money stashed abroad including the cases of Indian Citizens, following steps has been taken:

(i) The Government has enacted a comprehensive and a stringent law, namely, the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015. It comprehensively deals with all matter connected with black money, being undisclosed foreign income and assets, the timelines, and the procedures for dealing with such income and assets, and to provide for imposition of tax on any undisclosed foreign income and asset held outside India, etc.

(ii) For effective implementation of the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015, and efficient handling of the cases under this Act, 29 Foreign Assets Investigation Units (FAIUs) have been set up under the Directors General of Income Tax (Investigation) all across India.

(iii) Apart from prescribing stringent penal consequences, this law has included the offence of wilful attempt to evade tax, etc. in relation to undisclosed foreign income/assets as a Scheduled Offence under the Prevention of Money Laundering Act, 2002 (PMLA).

(iv) The Government constituted the Special Investigation Team (SIT) on Black Money under Chairmanship and Vice-Chairmanship of two former Judges of Hon'ble Supreme Court in 2014. The meetings of the SIT are held regularly during which SIT is appraised of various actions against black money by various Government Agencies, particularly the cases involving undisclosed foreign assets and income.

(v) Furthermore, the Government has taken necessary measures for expeditious investigation in the cases related to the Panama Paper, Paradise Paper, Pandora Paper and such other Leaks. For the purpose of coordinated and speedy investigation, a Multi Agency Group (MAG) has been constituted under the convenorship of Chairman, CBDT, with Directorate of Enforcement (ED), Reserve Bank of India (RBI), Financial Intelligence Unit India (FIU-IND) and Foreign Tax & Tax Research division of CBDT as its member agencies.

(vi) Various steps taken by the Government as above, have resulted in outcomes, which inter-alia, include the following:

- As on 31.12.2022, in the Panama and Paradise Paper Leaks cases, undisclosed income of more than Rs. 13800 crores have been brought to tax. More than 250 India linked entities have been identified in Pandora Paper Leaks.
- On account of deposits made in unreported foreign bank accounts in HSBC cases, undisclosed income of more than Rs. 8468 crores have been brought to tax and penalty of more than Rs. 1294 crores levied.
- Overall, as on 31.12.2022, assessments under the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015 have been completed in 408 cases, raising tax demand of over Rs. 15664 crores.
- Further, 648 disclosures involving undisclosed foreign assets worth Rs. 4164 crores were made in the one-time three months compliance window, which closed on 30th September 2015, under the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015. The amount collected by way of tax and penalty in such cases was about Rs. 2476 crore.

(d) & (e) The Indian Government has entered into agreements with 169 foreign jurisdictions under DTAA/TIEA/MAAC/SAARC, with 109 foreign jurisdictions under CRS Activated relations and with the USA under FATCA.

Income Tax Department takes appropriate actions in case of persons, who are found to be involved in violation of the provisions of various Acts administered by the Income Tax Department i.e., Income Tax Act, 1961, and Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015. Such actions under direct tax laws include searches & seizure, surveys, enquiries, assessment and reassessment of income, levy of taxes along with interest, levy of penalties, filing of prosecution complaints in criminal courts etc., wherever applicable.

India has been at the forefront in the global crusade against offshore tax evasion. India actively engages with the relevant international bodies working on the implementation of international standards on exchange of information across the world.
