

GOVERNMENT OF INDIA
MINISTRY OF FINANCE
DEPARTMENT OF ECONOMIC AFFAIRS
RAJYA SABHA UNSTARRED QUESTION NO. 2133
TO BE ANSWERED ON 08.08.2023

Cryptocurrency issued by private agencies

2133 Shri Iranna Kadadi:

Will the Minister of FINANCE be pleased to state:

- (a) whether Government could provide details of the present status of regulation of cryptocurrencies issued by private agencies in the country;
- (b) whether Government has formulated a comprehensive taxation regime for transfer of Virtual Digital Assets (VDAs), if so, the details thereof;
- (c) whether Government has planned any international collaboration on evaluation of the risks and benefits and evolution of common taxonomy and standards for cryptocurrency; and
- (d) whether Government plans to collaborate with the State Governments including the State of Karnataka to launch a policy on the management of cryptocurrency in the States?

ANSWER

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

- (a): While the Government does not consider crypto-assets legal tender or coin, there is currently no specific legislation for crypto assets in India. However, Government vide notification dated 7th March, 2023 has brought Virtual Digital Assets (VDAs) under the purview of the Prevention and Money-laundering Act, 2002 (PMLA) to bring the transactions involving VDAs within the ambit of PMLA.
- (b): In the Finance Act 2022, taxation of virtual digital assets (VDA) was specifically introduced under section 115BBH of the Income tax Act, 1961 (the Act) under which the transfer of VDA is taxed at the rate of 30% with no deduction in respect of expenditure

(other than cost of acquisition) to be allowed. Moreover, loss from transfer of virtual digital asset cannot be set off from any other income and cannot be carried forward to subsequent years. Earlier such transfers were taxable under general provisions of the Act.

To define VDA, new clause (47A) was inserted in section 2 of the Act. A virtual digital asset means any information or code or number or token (not being Indian currency or any foreign currency), generated through cryptographic means or otherwise, by whatever name called, providing a digital representation of value which is exchanged with or without consideration, with the promise or representation of having inherent value, or functions as a store of value or a unit of account and includes its use in any financial transaction or investment, but not limited to investment scheme and can be transferred, stored or traded electronically. Non fungible token and; any other token of similar nature are included in the definition.

Further, the Central Government was delegated the power to notify any other virtual digital asset as virtual digital asset and such assets which shall not be considered as virtual digital assets. In accordance with the above, the Central Government has made the following notifications - Notification No. 74/2022 dated 30th June 2022 and Notification No.75/2022 dated 30th June 2022. Vide Notification No. 74/2022 dated 30th June 2022, gift card, vouchers, mileage points, reward points, loyalty points and subscription to websites or platforms or application have been excluded from the definition of Virtual Digital Asset. Notification No. 75/2022 dated 30th June 2022 specified that a non-fungible token is a token which qualifies to be a virtual digital asset within the meaning of sub-clause (a) of clause (47A) of section 2 of the Act but does not include a non-fungible token whose transfer results in transfer of ownership of underlying tangible asset and the transfer of ownership of such underlying tangible asset is legally enforceable.

Section 56 of the Act was also amended to cover the scenario where VDA is gifted to provide for taxation in the hands of the recipient.

In order to provide for withholding mechanism from the transactions in VDAs, section 194S of the Act provides for deduction of tax on transfer of virtual digital asset to a resident at 1%. Further, no tax is to be deducted in case the payer is the specified person and the value or the aggregate of such value of consideration to a resident is less than Rs. 50,000 during the financial year. In any other case, the said limit is Rs. 10,000 during the financial year. Specified person is defined as individual / HUF having business turnover of less than one crore rupees or professional turnover of less than fifty lakh rupees.

Moreover, under sub-section (6) of section 194S of the Act, the Central Board of Direct Taxes has been empowered to issue guidelines, with the prior approval of the Central Government, to remove any difficulty arising in giving effect to the provisions of TDS section relating to VDA. CBDT has issued guidelines for removal of difficulties under sub-section (6) of section 194S of the Act in Circular No. 13 of 2022 dated 22nd June, 2022. Through Circular No. 14 of 2022 dated 28th June 2022, order u/s 119 of the Act in relation to TDS under section 194S of the Act for transactions other than those taking place on or through an exchange has been issued.

(c) & (d): The Indian G20 Presidency provides an opportunity to place different priorities, including priority on crypto assets, on the agenda for international collaboration. As crypto assets are by definition borderless, any legislation or policy on crypto assets, including policies in collaboration with state governments, can be effective only with significant international collaboration in place.
