

GOVERNMENT OF INDIA
MINISTRY OF FINANCE
DEPARTMENT OF ECONOMIC AFFAIRS
RAJYA SABHA UNSTARRED QUESTION NO. 376
TO BE ANSWERED ON 06.02.2024

Financial regulation of cryptocurrency

376 Prof. Manoj Kumar Jha:

Will the Minister of FINANCE be pleased to state:

- (a) whether Government is aware about the emerging cryptocurrency industry in the country;
- (b) if so, the details of the measures taken by Government to regulate the cryptocurrency transactions made throughout the country and to keep a tab on profits made through trading of crypto assets;
- (c) the details of tax provisions on crypto profits; and
- (d) whether Government is aware that these assets are at times used for trading of illegal commodities in the black market online, if so, the details of the provisions in place to penalise such practices?

ANSWER

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

(a) to (b): Government is aware that crypto asset transactions are taking place in the country. Accordingly, these transactions have been brought into a comprehensive taxation regime through the Finance Act 2022. Companies with exposure to crypto assets are required to disclose their holding of crypto assets in their financial statements as per the amendment brought in Schedule III to the Companies Act 2013, vide notification dated 24th March 2021 effective from 1st April 2021.

(c): Section 115BBH, incorporated in the Finance Act, mandates a 30% tax rate on the transfer of Virtual Digital Assets (VDAs) with no deduction in respect of expenditure (other than cost of acquisition) permitted under the section. Moreover, loss from the transfer of VDAs 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.

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.

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.

(d): Trading of illegal commodities using any kind of assets, including crypto assets, is a crime and is dealt with as per existing penal provisions. The Anti-Money Laundering (AML)/ Counter Financing of Terrorism (CFT) provisions under the PMLA further penalise money laundering, including through crypto assets. Accordingly, the government vide notification dated 7th March 2023 explicitly brought the VDAs under the purview of the Prevention and Money-laundering Act, 2002 (PMLA). Directorate of Enforcement handles cases related to suspicious VDA transactions under the provisions of the PMLA, Foreign Exchange Management Act, 1999 (FEMA), and Fugitive Economic Offenders Act, 2018 (FEOA).
