

**GOVERNMENT OF INDIA
MINISTRY OF COMMUNICATIONS
DEPARTMENT OF TELECOMMUNICATIONS**

**LOK SABHA
UNSTARRED QUESTION NO.3473
TO BE ANSWERED ON 7TH DECEMBER, 2016**

SPECTRUM ENTRY FEE

3473. SHRI PRABHAKAR REDDY KOTHA:

Will the Minister of COMMUNICATIONS be pleased to state:

- (a) whether the telecom industry has been demanding for waiver of service tax on upfront payment of spectrum entry fees;
- (b) if so, the details thereof; and
- (c) the action taken by the Government thereon?

ANSWER

**THE MINISTER OF STATE (IC) OF THE MINISTRY OF COMMUNICATIONS &
MINISTER OF STATE IN THE MINISTRY OF RAILWAYS
(SHRI MANOJ SINHA)**

- (a) Yes
- (b) Demand submitted by Telecom Industry

A letter was issued on 10.03.2016 by Rajan S. Mathews, Director General RSM/COAI/2016/044 to Chairman Telecom Commission on the issue stating following points:-

- The imposition of Service Tax on spectrum shall result in the significant increase in cost of telephone services which is an essential service to the common man and these proposals will adversely impact the Digital Initiative as well as the financial inclusion plan of the Government, since Telecom Service is the backbone of these initiatives.
- It could reduce the willingness of potential bidders to buy the spectrum.
- Assignment of spectrum is a sovereign function which the Government's is statutorily bound to perform. Treating such function as service on par with regular business transactions leads to taxation of sovereign function.
- Any new levy should be imposed only prospectively, is an accepted principle.
- Deferred payment option is just a financing arrangement between operator and DoT. Tax, if applicable, should not apply on deferred payments made for past assignments, since it is a mere financing option.

Contd...2/-

- Any move to impose service tax on past spectrum will be a case of retrospective taxation.
- Such a move will create uncertainty and clarification should be issued that tax should not apply on assignments prior to Finance Bill 2016-17.
- Clarity required whether recurring license fee and user charges could be constituted as service.
- Proposal relating to deferral of input credit, over the period of time for which rights are assigned, effectively results in credit denial.
- Proposal credit deferment is unfair, unprecedented and punitive.
- Linking credit on natural resources over the period of benefit results into disparity between present position and proposed method.
- Credit deferral on Spectrum results in credit denial. This will lead to huge piling up of input credits for Telecom Operators and would lead to effective denial of credits.

(c) **Action taken by Govt.:** (i) Service tax will be applicable, on auctions post 01.04.2016.

(ii) The CENVAT credit of the service tax whether paid upfront or in installment paid in a year may be allowed to be taken evenly over a period of three years.
