

Government of India
Ministry of Finance
Department of Revenue

LOK SABHA
STARRED QUESTION NO. *452
TO BE ANSWERED ON MONDAY, APRIL 3, 2023,
CHAITRA 13, 1945 (SAKA)

RETROSPECTIVE TAXATION

*452. SHRI THIRUMAAVALAVAN THOL:

Will the Minister of Finance be pleased to state:

- (a) whether the Government is empowered now for implementing retrospective taxation;
- (b) if so, the details thereof;
- (c) whether the Government has any reason for repealing the retrospective taxation through 2021 Amendment Act; and
- (d) if so, the details thereof and the purpose of such repeal?

ANSWER
MINISTER OF FINANCE
(SMT. NIRMALA SITHARAMAN)

- (a) to (d): A statement is placed on the Table of the House.

Statement referred to in reply to LOK SABHA Starred Question No. *452 for answer on 3rd April, 2023 raised by Shri Thirumaavalavan Thol regarding “Retrospective Taxation”.

(a) & (b): Yes, it is the sovereign right of the Government to undertake retrospective legislation, if required, including legislation in respect of taxation. However, it has been stated policy of the Government to provide a stable and predictable taxation regime that is investor friendly and spurs growth. Further, it has been the intention of the Government to not ordinarily bring out about any change in tax laws retrospectively which creates a new liability.

(c) &(d): In order to reduce litigation, attract investment and bringing certainty in tax policy, the Taxation Laws (Amendment) Act, 2021, *inter-alia*, amended the Income-tax Act to provide that no tax demand shall be raised in future on the basis of the amendment to section 9 of the Act made vide Finance Act, 2012 for any offshore indirect transfer of Indian assets if the transaction was undertaken before 28th May, 2012 (i.e., the date on which the Finance Bill, 2012 received the assent of the President). The amendment carried out in 2021 also provides that the demand raised for offshore indirect transfer of Indian assets made before 28th May, 2012 (including the validation of demand provided under Section 119 of the Finance Act 2012) shall be nullified on fulfilment of specified conditions such as withdrawal or furnishing of undertaking for withdrawal of pending litigation and furnishing of an undertaking to the effect that no claim for cost, damages, interest, etc. shall be filed and such other conditions are fulfilled as may be prescribed. The amount paid/collected in these cases is refundable, without any interest, on fulfilment of the said conditions.
