

**GOVERNMENT OF INDIA
MINISTRY OF FINANCE
DEPARTMENT OF REVENUE**

LOK SABHA

UNSTARRED QUESTION NO. 2090

**TO BE ANSWERED ON FRIDAY THE 11th DECEMBER, 2015
20AGRAHAYANA, 1937(SAKA)**

'Tax Exemption by Pharmaceutical Company'

2090: SHRI A.T. NANA PATIL:

Will the Minister of FINANCE be pleased to state:

- a) whether certain cases of pharmaceutical companies claiming tax exemption for giving illegal freebies and gifts to doctors have been noticed;
- b) if so, the details thereof and the number of such cases noticed during the last three years;
- c) the total loss of tax to exchequer on this account for the said period; and
- d) the corrective steps taken by the Government to check further loss along with the action taken against the erring assessment officers?

ANSWER

**MINISTER OF STATE IN THE MINISTRY OF FINANCE
(SHRI ARUN JAITLEY)**

(a) & (b): The practice of giving freebies and gifts prevalent in pharmaceutical companies has been subject matter of examination in Central Board of Direct Taxes (CBDT). Vide Circular No.5/2012 dated 01.08.2012, CBDT has clarified that in view of the provisions of sub-section (1) of section 37 of the Income Tax Act, 1961 ('Act') read with its Explanation, any expenditure incurred by a taxpayer which is not in accordance with the guidelines contained in Indian Medical Council (Professional Conduct, Etiquette and Ethics) Regulation, 2002 (as amended on 10th December, 2009), shall be an inadmissible expenditure under the Act. Thus, any claim of expenditure made by the pharmaceutical company on giving freebies & gifts to doctors is not an allowable expenditure. Information about number of such cases where expenses on freebies and gifts were being claimed as business expenditure is not centrally maintained.

(c): After the issue of aforesaid circular, the claim of expenditure incurred on distribution of freebies & gifts to doctors is not admissible and any likely loss of revenue on this count has been plugged.

(d): After the issue of aforesaid circular, the possibility of granting any illegal claim of such expenditure no longer exists. However, if any specific aberration comes to the notice, necessary remedial measures are taken as per the provisions of the Act and in suitable cases, action against the Assessing Officer may be taken as per the administrative mechanism.
