

GOVERNMENT OF INDIA
MINISTRY OF FINANCE
DEPARTMENT OF REVENUE

LOK SABHA
UNSTARRED QUESTION NO. 3236

TO BE ANSWERED ON FRIDAY, THE 18TH DECEMBER, 2015
27 AGRAHAYANA, 1937 (SAKA)

e-Commerce Revenue

3236 : SHRI MAJ. GEN. B.C. KHANDURI AVSM (RETD.)
: SHRI HUKUM SINGH

Will the Minister of **FINANCE** be pleased to state:

- (a) whether e-commerce business has been growing in the country at a very fast pace and if so, the details thereof;
- (b) whether the Government has been earning any revenue through e-commerce;
- (c) if so, the details thereof during the last three years and the current year; and
- (d) whether the proposed GST regime offers hope to address e-commerce concerns of consuming States by bringing both goods and services under the same tax rates if so, the details thereof and if not, the reasons therefor?

ANSWER

MINISTER OF STATE IN THE MINISTRY OF FINANCE

(SHRI JAYANT SINHA)

(a) to (c): e-commerce business like any economic activity is governed by the existing laws/regulations governing economic activity. So far as collection of taxes are concerned, the following is the legal position:

- (i) Goods procured online for import into India attract Customs duty at the stage of their importation.
- (ii) Goods procured online, if manufactured, are cleared from factory on payment of applicable Central Excise duty.
- (iii) As regards good sold online in the case of domestic trade, the following is applicable:

(a) If the e-tailing company sell goods on its own account, such sale is liable to VAT, which is a State subject. Trading of goods online does not attract levy of Service Tax, as they are included under 'negative list' of services under Section 66D of the Finance Act, 1994.

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(b) If the e-tailing company provides support to the retailer by way of business support, such as, affiliation, storage, delivery, technical support, etc. and goods are sold by the retailer, the fee collected by the e-tailing company attracts service tax. Besides, any service by way of online advertisement also attracts service tax. The retailer is, in any case, liable to pay VAT, which is a State subject.

Further, e-Commerce web-sites dealing with services are mostly intermediaries or aggregators. Under Rule 2(aa) of the Service Tax Rules, 1994, 'aggregator' means a person, who owns and manages a web based software application, and by means of the application and a communication device, enables a potential customer to connect with persons providing service of a particular kind under the brand name or trade name of the aggregator. However, aggregators may provide services on their own account also. In that case, the services provided are liable to service tax as per the provisions of the Finance Act, 1994. In Union Budget 2015, with effect from 01.03.2015, the aggregator has been made liable to pay Service Tax on behalf of the service providers if the service is so provided using the brand name of the aggregator in any manner. In so far as the intermediaries are concerned, they are liable to Service Tax for the commission received and the service provider will pay the Service Tax for the services provided. In case of import of service by business entity, the recipients of such service is liable to pay Service Tax.

Since the Excise Duty, Service Tax and VAT/ CST are collected by Central Government (CBEC) and concerned State Governments, no data of revenue earning through e-commerce is maintained centrally.

(d) Yes, as per the Constitution (122nd Amendment), Bill 2014 which has been passed by the Lok Sabha in April and is pending consideration in Rajya Sabha, both goods and services have been proposed to be brought under the Goods and Service Tax in GST regime. However the rate of GST would be recommended by the GST council as per provisions of the clause 12(4)(e) of the Constitution (122nd Amendment), Bill 2014 .