

**GOVERNMENT OF INDIA
MINISTRY OF FINANCE
DEPARTMENT OF REVENUE
LOK SABHA
UNSTARRED QUESTION No. 2116
TO BE ANSWERED ON FRIDAY, THE 29th JULY, 2016
7, SRAVANA, 1938 (SAKA)**

IMPLEMENTATION OF GAAR

2116. SHRI JAYADEV GALLA:

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

- (a) the time when the General Anti-Avoidance Rule (GAAR) was notified along with key features of the same;
- (b) whether the Government sought views from the stakeholders on GAAR, if so, the details thereof and the action taken thereon;
- (c) the reasons for deferring implementation of GAAR; and
- (d) the steps taken or proposed to be taken to implement the GAAR effectively?

ANSWER

**MINISTER OF STATE IN THE MINISTRY OF FINANCE
(SHRI SANTOSH KUMAR GANGWAR)**

(a) The General Anti Avoidance Rule (GAAR) provisions as currently contained under Chapter X-A of the Income-tax Act, 1961 (the Act) was introduced by Finance Act, 2013 and was initially to be applicable from 01.04.2016. However, the Finance Act, 2015 had deferred its applicability by two years. Accordingly, GAAR would apply from 01.04.2018, i.e.; to income of financial year 2017-18 onwards.

Madam Speaker, the key features of GAAR are as under:

- (i) Under GAAR, an arrangement, the main purpose of which is to obtain tax benefit and which satisfies one of the four objective tests, would be considered an impermissible avoidance arrangement. The objective tests include misuse or abuse of provisions of the Act, lack of commercial substance, transactions being undertaken under non-arm's length conditions and involves non-bonafide purposes.
- (ii) Once the arrangement is declared to be impermissible avoidance arrangement, the tax benefit arising from it shall be denied.
- (iii) The GAAR provisions contain adequate safeguards by way of mandatory approval by an independent Approving Panel headed by a High Court Judge before arrangement being declared impermissible.

(b) Due to concerns raised by various stakeholders in respect of the GAAR when it was introduced through the Finance Act, 2012 for the first time, an Expert Committee was constituted to undertake stakeholders' consultations and finalise the GAAR guidelines. The report of the Committee was considered by the Government and its major recommendations were accepted with some modifications. Consequently, necessary amendments were made by the Finance Act, 2013 and modified Chapter X-A was introduced.

(c) GAAR provisions, originally introduced through Finance Act, 2012, was deferred by the Finance Act, 2013 to be effective from 01.04.2016 and thereafter by the Finance Act, 2015 to be effective from 01.04.2018. The deferral was made primarily as several stakeholders had expressed concern and raised certain contentious issues seeking clarity and also time for adapting to new tax environment under GAAR regime.

(d) The Government has called for and received several suggestions from stakeholders and general public for issuance of guidelines for implementation of GAAR.
