



CIRCULAR / NOTIFICATIONS

The 2nd. September 2011

S.O. 245, dated 6th. September, 2011—In exercise of the powers conferred by Section 18 of the Bihar Tax on Professions, Trades, Callings and Employments Act, 2011 (Bihar Act, 10,2011) the Governor of Bihar is pleased to make the following Rules.

1. Short title, extent and commencement. — (1) These Rules may be called the Bihar Professional Tax Rules, 2011.

(2) It shall extend to the whole state of Bihar.

(3) These rules will come into force at once.

2. Definitions. — (1) In these rules, unless anything is repugnant in the subject or context—

(a) “Act” means the Bihar Tax on Professions, Trades, Callings and Employments Act, 2011; (Bihar Act 10, 2011)

(b) “Central Government” means a Ministry or department of the Central Government;

(c) “Circle” means a unit of Commercial Taxes administration as specified in the Government notification issued in this behalf from time to time, within the local limits of which an assessee or an employer is situated;

(d) “Circle Incharge” means the Deputy Commissioner of Commercial Taxes or the Assistant Commissioner of the Commercial Taxes or the Commercial Taxes Officer, Incharge of the Circle or the officer specially empowered by the Commissioner in this behalf;

(e) “Commissioner” means the Commissioner of Commercial Taxes appointed under Section 10 of the Bihar Value Added Tax Act, 2005 and includes an Additional Commissioner of Commercial Taxes appointed under Section 10 of the Bihar Value Added Tax Act, 2005;

(f) “Deputy Commissioner, Commercial Taxes” means a Deputy Commissioner of Commercial Taxes appointed under section 10 of the Bihar Value Added Tax Act, 2005;

(g) “Joint Commissioner, Commercial Taxes” means a Joint Commissioner of Commercial Taxes appointed under section 10 of the Bihar Value Added Tax Act, 2005;

(h) “Ward” means an administrative unit as specified in the order issued by the Commissioner in this behalf from time to time within the area of a circle;

(i) “Form” means a Form prescribed under these rules;

(j) “Government Treasury” means, in relation to an assessee or an employer, the treasury or sub-treasury, as the case may be, of the district or subdivision in which such assessee or employer resides;

(k) “Section” means a section of the Act;

(l) “State Government” means the Government of Bihar;

(m) “Sub-section” means any sub-section of a section of the Act;

(n) “Tax” means the tax payable under the Act.

(2) All other words, terms or expressions not defined herein shall have the same meaning as is assigned to them in the Act.

3. Registration. — (1) Every employer required to be registered by section 5 shall apply, in Form PT-I, for registration under the Act to the Incharge of the Circle within whose jurisdiction the

office of the employer is situated. Such application shall be submitted within seven days of the employer being required to be registered and shall be submitted at the counter of the circle or shall be filed in electronic manner on the official Web-site of the Commercial Taxes Department and the said application shall be processed in the manner hereinafter specified:

Provided that such an application for registration by an employer who has employed persons before the coming into force of these Rules shall be made within a period of thirty days of the coming into force of these Rules.

(2)(a) In case where an application under Sub-rule (1) has been filed in electronic manner, the Incharge of the concerned Circle, after verifying that all the columns of the application have been properly filled in, shall, within fifteen days of the filing of the application, grant a Certificate of Registration in form PT-II.

(b) The certificate specified in clause (a) shall bear the registration number allotted to the employer by the authority specified in Sub-rule (1) and the said registration number shall be the "Tax Deduction and Collection Account Number," allotted to the employer under the Income Tax Act, 1961, prefixed by the digits "10":

Provided that in case an employer has not been allotted a Tax Deduction and Collection Account Number under the Income Tax Act, 1961, the registration number shall be the Permanent Account Number, allotted to such employer under the Income Tax Act, 1961, prefixed by the digits "10".

(c) The Certificate of Registration shall be sent to the applicant—

(i) on his e-mail account, if he has furnished such e-mail identity; or

(ii) By registered post, on the address furnished by him in his application.

Explanation. — For the purposes of this sub-rule, the expression "employer" shall mean the Company, firm, society, association of persons, undivided hindu family, body corporate, Board, Authority, Undertaking or Corporation, as the case may be, which has employed persons liable to pay tax under the Act.

(3)(a) In case where an application under Sub-rule (1) has not been filed in electronic manner, such application shall be submitted at the counter of the concerned circle. The Incharge of the counter, after ascertaining that all the columns of the application have been properly filled in and signed, shall—

(i) grant the person a receipt in lieu thereof, and

(ii) enter the same in register PT-III maintained in the computer.

(b) Thereupon the Incharge of the concerned Circle shall, within fifteen days of the filing of the application, grant a Certificate of Registration in form PT-II.

(c) The certificate referred to in clause (a) shall bear the registration number allotted to the employer by the authority specified in Sub-rule (1) and the said registration number shall be the Tax Deduction and Collection Account Number, allotted to the employer under the Income Tax Act, 1961, prefixed by the digits "10":

Provided that in case an employer has not been allotted a Tax Deduction and Collection Account Number under the Income Tax Act, 1961, the registration number shall be the Permanent Account Number, allotted to such employer under the Income Tax Act, 1961, prefixed by the digits "10".

(d) The Certificate of Registration shall be sent to the applicant—

(i) on his e-mail account, if he has furnished such e-mail identity; or

(ii) by registered post, on the address furnished by him in his application.

Explanation.— For the purposes of this sub-rule, the expression “employer” shall mean the Company, firm, society, association of persons, undivided hindu family, body corporate, Board, Authority, Undertaking or Corporation, as the case may be, which has employed persons liable to pay tax under the Act.

(4) In case the person responsible for paying any salary or wages to an assessee under the Act is resident outside the State of Bihar, the application under sub-rule (1) shall be signed by the person in charge of the management in the State of Bihar.

4. Enrolment. — (1) Every assessee to whom the second proviso to Section 5 and to whom sub-section (2) of section 6 apply, shall apply, in Form PT-IA, for enrolment under the Act to the Incharge of the Circle within whose jurisdiction the assessee resides. Such application shall be submitted within seven days of the assessee being liable to pay tax under the Act and shall be submitted at the counter of the circle or shall be filed in electronic manner on the official Web-site of the Commercial Taxes Department and the said application shall be processed in the manner hereinafter specified:

Provided that such an application for enrolment by an assessee engaged in any profession, trade, calling or employment before the coming into force of these Rules shall be made within a period of thirty days of the coming into force of these Rules.

(2) The Certificate of Enrolment shall be in form PT-IIA.

(3) The provisions of sub-rule (2) and (3) of rule 3 shall apply mutatis mutandis to an application for enrolment made under sub-rule (1).

5. Deduction of tax from salary or wages. — (1) Every employer shall deduct the tax payable by every employee from the salary or wages payable to such employee in respect of the month of September of every year.

(2) The tax deducted under sub-rule (1) shall be deposited by the employer referred to in sub-rule (1) into Government Treasury in the manner prescribed in rule 7 on or before the fifteenth day of November immediately following the month in which it has been deducted.

(3) Every employer referred to in sub-rule (1) shall furnish to the prescribed authority a statement in form PT-IV, containing details of the tax deducted by him in respect of a year, on or before the end of the month of November of every year.

(4)(a) Notwithstanding anything contained in sub-rule (1) or sub-rule (2) or sub-rule (3), in case an assessee —

(i) becomes liable to pay tax under the Act after the salary or wages for the month of September has been paid to him; or

(ii) becomes liable to pay a higher amount by way of tax after the salary or wages for the month of September has been paid to him, the employer referred to in sub-rule (1) shall deduct such tax, or the higher amount of tax, as the case may be, shall be deducted by the said employer from the salary or wages payable to the assessee in respect of the month of February following the said month of September.

(5) The amount of tax deducted under sub-rule (4) shall be deposited by the employer referred to in sub-rule (1) into Government Treasury in the manner prescribed in rule 7 on or before the fifteenth day of April following the month in which it has been deducted.

(6) Every employer depositing tax under sub-rule (5) shall furnish to the prescribed authority a statement in form PT-V, containing details of the tax deducted by him in terms of sub-rule (4), on or before the end of the month of May of every year.

(7) Every employer deducting tax under sub-rule (1) or sub-rule (4) shall issue to the employee from whose salary or wages the tax has been deducted, a certificate in form PT-VI.

(8) The statements referred to in sub-rule (3) or sub-rule (6) shall be filed and be disposed of in such manner as the Commissioner may, by notification, specify.

(9)(a) Every person to whom the provisions of the second proviso to Section 5 apply shall furnish to his employer a certificate in Form PT-VII before any salary or wages is paid to him by such employer.

(b) In the event of failure to furnish the certificate specified in clause (a), the employer shall deduct the tax payable from the salary or wages payable to the employee.

6. Returns. — (1) Every employer registered under the Act shall furnish to the prescribed authority an annual return in form PT-VIII containing details of the tax deducted by him in respect of the year, on or before the end of the month of November of every year.

(2) Every person enrolled under the Act shall furnish to the prescribed authority an annual return in form PT-IX on or before the end of the month of November of every year.

(3) The returns referred to in sub-rule (1) or sub-rule (2) shall be filed and be disposed of in such manner as the Commissioner may, by notification, specify.

7. Payments. — (1) Every person required to pay any tax or interest or penalty under the Act shall pay the amount of tax or interest or penalty into Government Treasury, or any Bank authorized by the Commissioner in this behalf, by Challan in Form PT-X.

(2) Notwithstanding anything contained in Sub-rule (1), the Commissioner may, by notification, require any person or class or description of persons to pay the amount of tax, interest or penalty in electronic manner through the official website of the Commercial Taxes Department.

8. Hearing. — (1) The authority referred to in rule 9 shall, in the matter of a proceeding under sub-section (3) of Section 7, serve or cause to be served upon the person proceeded against a notice which shall contain a gist of accusations, a date of hearing which shall in no case be less than seven days nor more than thirty days from the date of issue of notice, and the date of hearing.

(2) On the date fixed for hearing, the person proceeded against shall be allowed to rebut the accusations on him, or, to reply to the ground or grounds on which the proceeding has been initiated, as the case maybe; but shall not ordinarily be allowed an adjournment. If an adjournment becomes necessary, the authority specified in rule 9 shall record reasons therefor.

(3) After hearing, the authority referred to in sub-rule (1) shall record an order containing precisely and clearly the gist of accusations, or, the ground or grounds on which the proceeding has been initiated, as the case may be, manner in which the person proceeded against was made aware of that, the reply, if any, furnished, and the decision thereon.

(4) A true copy of the order passed under sub-rule (3) shall be made over to the person proceeded against.

9. Prescribed authority for the purposes of certain Sections of the Act. — The Circle Incharge shall be the Prescribed authority for the purposes of Section 6 and the Deputy Commissioner, the Assistant Commissioner and the Commercial Taxes Officer shall be the Prescribed authority for the purposes of Sections 7, 8, 9 and 14 of the Act.

10. Application of certain provisions of the Bihar Value Added Tax Rules, 2005.— The relevant provisions of the Bihar Value Added Tax Rules, 2005 shall, mutatis mutandis, apply in respect of all such procedural and other matters incidental to carrying out the purposes of the Act for which no provision or insufficient provision has been made in these rules.

11. Punishment for violation of rules. — Any person who violates any provision of these rules shall be punishable with a penalty not exceeding five hundred rupees and where the violation is continuing, with a penalty not exceeding rupees ten for every day of such violation:

Provided that the prescribed authority imposing such penalty shall allow the person violating the rules, or any provision thereof, an opportunity of being heard.

FORM PT-I

Application for registration under Section 5 of the Bihar Tax on Professions, Trades,
Callings and Employments Act, 2011

(See Rule 3)

Office of the of Commercial Taxes Circle.

To,

The

..... Circle.

I (full Name), son of (full name) hereby apply for the grant of a registration certificate under Section 5 of the Bihar Tax on Professions, Trades, Callings and Employments Act, 2011 and furnish following particular for that purpose—

(1) Full Name—

(2) Address (Give details of house number/Shop number/Locality/Post Office/Police Station/ Block/District etc.)—

(3) PAN—

(4) Telephone Number—

(5) Fax number—

(6) E-mail—

(7) Date of Tax liability—

(8) Bank details (Name of Bank, Branch Name, Account Number)—

I do hereby declare that the particular furnished in this application are correct and complete to the best of my knowledge and belief.

Place.....

Signature

of

Applicant.....

Date

Designation

The application shall be signed by the proprietor of the business if an individual, by the karta, if an undivided Hindu family; by an authorized partner in the case of a firm; by the Managing Director, Principal Executive Officer or the authorized representative in the case of a company or corporation, by the Principal Executive Officer-in-charge of in the case of a society, club, association, department of Government or local authority.

FORM PT- IA

Application for enrollment under second proviso to Section 5 and Section 6(2) of the
Bihar Tax on Professions, Trades, Callings and Employments Act, 2011

(See Rule 4)

Office of the of Commercial Taxes Circle.

To,

The

..... Circle.

I (full Name), son of (full name) hereby apply for the grant of a registration certificate under Section 5 of the Bihar Tax on Professions, Trades, Callings and Employments Act, 2011 and furnish following particular for that purpose—

(1) Full Name—

(2) Address (Give details of house number/Shop number/Locality/Post Office/Police Station/ Block/District etc.)—

(3) PAN—

(4) Telephone Number—

(5) Fax number—

(6) E-mail—

(7) Date of Tax liability—

(8) Bank details (Name of Bank, Branch Name, Account Number)—

(9) Nature of Profession, Trade, Calling or Employment—

I do hereby declare that the particulars furnished in this application are correct and complete to the best of my knowledge and belief.

Place.....
Applicant.....

Signature

of

Date

Designation

.....

FORM PT- II

Certificate of registration under Section 5 of the Bihar Tax on Professions, Trades, Callings and Employments Act, 2011

(See Rule 4)

Office of the of Commercial Taxes Circle.

Certified that Sri/Smt. is registered under the Bihar Tax on Professions, Trades, Callings and Employments Act, 2011 and has been allotted Registration Number.....

2. He is liable to pay tax under the Bihar Tax on Professions, Trades, Callings and Employments Act, 2011 with effect from

Date.....

Place

Signature of the issuing authority

Designation

Seal of the office

FORM PT- IIA

Certificate of enrollment under the second proviso to Section 5 and Section 6(2) of the Bihar Tax on Professions, Trades, Callings and Employments Act, 2011

(See Rule 4)

Office of the of Commercial Taxes Circle.

Certified that Sri/Smt. is enrolled under the Bihar Tax on Professions, Trades, Callings and Employments Act, 2011 and has been allotted Enrollment Number.....

2. He is liable to pay tax under the Bihar Tax on Professions, Trades, Callings and Employments Act, 2011 with effect from

Date.....

Place authority

Signature of the issuing

Designation

Seal of the office

FORM PT-III

Professional tax register under the Bihar Tax on Professions, Trades, Callings and Employments Act, 2011

(See Rules 3 and 4)

Office of the of Commercial Taxes Circle.

To,

The

..... Circle.

I (full Name), son of (full name) hereby apply for the grant of a registration certificate under Section 5 of the Bihar Tax on Professions, Trades, Callings and Employments Act, 2011 and furnish following particulars for that purpose—

Full Name

Address (House number/Shop number/Locality/Post Office/Police Station/Block/District etc.)

PAN

1

2

3

Telephone Number

Fax number

E-mail

Date of liability

Bank details (Name of Bank, Branch

Name,
Account Number)

4

5

6

7

8

FORM PT-IV

Statement of deduction under the Bihar Professional Tax Rules, 2011

(See Rule 5)

- (1) Government: Central/State
 (2) Department/Ministry:
 (3) Name of employer furnishing statement:
 (4) Designation:
 (5) Year:
 (6) Number of persons to whom salary or wages paid during the year:

Sl. No.	Name of assessee	Designation	PAN	Income for the year	Tax payable	Tax deducted
1	2	3	4	5	6	7
Total						

I declare that the particulars furnished in this Statement are correct and complete to the best of my knowledge and belief, and that I am competent to sign and submit this statement.

Date

Signature

Place

Designation

FORM PT-V

Statement of deduction under the Bihar Professional Tax Rules, 2011

(See Rule 5)

- (1) Government: Central/State.
 (2) Department/Ministry:
 (3) Name of employer furnishing statement:
 (4) Designation:

(5) Year:

(6) Number of persons to whom salary or wages paid during the year:

Sl. No.	Name of assessee	Designation	PAN	Income for the year	Tax payable	Tax already deducted	Tax deducted now
1	2	3	4	5	6	7	8
Total							

I declare that the particulars furnished in this Statement are correct and complete to the best of my knowledge and belief, and that I am competent to sign and submit this statement.

Date Signature

Place Designation

FORM PT-VI

Certificate of tax deducted under the Bihar Tax on Professions, Trades, Callings and Employments Act, 2011

[(See Rule 5(7))]

It is hereby certified that I (Name) Son of (Name) have deducted a sum of (Rs. in words) from salary/wages payable to in respect of (month and year).

Further certified that the total salary/wages payable to the above name employee for the year is Rs.....

Further certified that the said sum deducted by way of tax has been deposited by me through Challan No. dated

*Certified that I am registered under the Bihar Tax on Professions, Trades, Callings and Employments Act, 2011 bearing registration number

I declare that the particulars furnished in this certificate are correct and complete to the best of my knowledge and belief.

Date Signature

Place

*strike out if not applicable.

FORM PT-VII

Certificate under second proviso to Section 5 of the Bihar Tax on Professions, Trades,

Callings and Employments Act, 2011

(See Rule 5)

To,

The

..... Circle.

It is hereby certified that I (Name) Son of (Name) am enrolled under the Bihar Tax on Professions, Trades, Callings and Employments Act, 2011 bearing enrollment Number Further I am employed with M/S (Name of firm) as (designation) and M/S (Name of firm) as (designation).

This is to further certified that I will myself pay the professional tax payable by me/have already paid the professional tax payable by me and, accordingly, professional tax need not be deducted from the salary/wages payable to me.

I declare that the particulars furnished in this certificate are correct and complete to the best of my knowledge and belief.

Date

Signature

Place

Enrollment Number.....

FORM PT-VIII

Return under Section 7 of the Bihar Tax on Professions, Trades, Callings and Employments Act, 2011

(To be furnished by a person making deduction from salary/wages payable to employees)

[See Rule 6 (1)]

Government: Central/State.

Department/Ministry:

Name of employer furnishing statement:

Registration Number:

Designation:

Year:

(1) Total number of assesses/employees to whom salary/wages paid:

(2) Details of deduction:

Income Range	Number of assesses	Total salary/wages paid	Total tax deducted
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(a) Less than Rs. 3
lacs

(b) More than Rs. 3
lacs but less than Rs.
5
lacs

(c) More than Rs. 5
lacs but less than Rs.
10 lacs

(d) More than Rs. 10
lacs

Total

(3) Total amount paid by way of tax:

Amount (Rs.)

Challan No./Cheque/DD No. and Date

(4) Statement in Form PT-IV & PT-V, if any, enclosed.

I declare that the particulars furnished in this Return are correct and complete to the best of my knowledge and belief, and that I am competent to sign and submit this Return.

Date

Signature

Place

Designation

FORM PT-IX

Return under Section 7 of the Bihar Tax on Professions, Trades, Callings and
Employments Act, 2011

(To be furnished by a person enrolled under the Act)

[See Rule 6 (2)]

Name:

Enrollment Number:

Name of employer/employers, if any:

Year:

(1) Total income during the year:

(2) Tax payable:

(3) Total amount paid by way of tax:

Amount (Rs.)

Challan No./Cheque/DD No. and Date

I declare that the particulars furnished in this Return are correct and complete to the best of my knowledge and belief.

Date

Signature

Place

Designation

ORIGINAL

DUPLICATE

To be sent by the Treasury to the
concerned Circle

To be retained in the concerned Treasury

Form PT-X

Form PT-X

Challan under the Bihar Tax on
Professions, Trades, Callings and
Employments Act, 2011

Challan under the Bihar Tax on Professions,
Trades, Callings and Employments Act, 2011

[See Rule 7]

[See Rule 7]

Serial Number.....

Serial Number.....

Treasury.....

Treasury.....

Name of the Bank.....

Name of the Bank.....

Branch Code.....

Branch Code.....

Major Head-

Major Head-

Minor Head-

Minor Head-

Receipts under the Bihar Tax on Professions,
Trades, Callings and Employments Act, 2011

Receipts under the Bihar Tax on Professions,
Trades, Callings and Employments Act, 2011

Miscellaneous Receipts under the:

Miscellaneous Receipts under the:

Bihar Tax on Professions, Trades, Callings and
Employments Act, 2011

Bihar Tax on Professions, Trades, Callings and
Employments Act, 2011

Challan of amount paid to the Bank

Challan of amount paid to the Bank

For the year ending.....

For the year ending.....

Name of the Circle to which the payment
relates

Name of the Circle to which the payment
relates

By whom Tendered:

Payment on account of: Amount

Admitted Tax

Interest

Penalty

Fees

Appeal Fee

Miscellaneous

Total

Rupees (in words).....

Signature of

For use in the Treasury

I Received payment of
Rs.....

(Rupees.....)

2. Date of entry

Cheque No.

Treasury Accountant

Treasury Officer

Agent/Manager
of Bank

By whom Tendered:

Payment on account of: Amount

Admitted Tax

Interest

Penalty

Fees

Appeal Fee

Miscellaneous

Total

Rupees (in words).....

Signature of

For use in the Treasury

I Received payment of
Rs.....

(Rupees.....)

2. Date of entry

Cheque No.

Treasury Accountant

Treasury Officer

Agent/Manager
of Bank

TRIPLICATE

QUADRIPLICATE

To be returned to the dealer/depositor for his
own useTo be returned to the dealer/depositor for
being forwarded to the appropriate
Commercial Taxes authority**Form PT-X**Challan under the Bihar Tax on
Professions, Trades, Callings and**Form PT-X**Challan under the Bihar Tax on Professions,
Trades, Callings and Employments Act, 2011

Employments Act, 2011

[See Rule 7]

Serial Number.....

Treasury.....

Name of the Bank.....

Branch Code.....

Major Head-

Minor Head-

Receipts under the Bihar Tax on Professions,
Trades, Callings and Employments Act, 2011

Miscellaneous Receipts under the:

Bihar Tax on Professions, Trades, Callings and
Employments Act, 2011

Challan of amount paid to the Bank

For the year ending.....

Name of the Circle to which the payment
relates

By whom Tendered:

Payment on account of: Amount

Admitted Tax

Interest

Penalty

Fees

Appeal Fee

Miscellaneous

Total

Rupees (in words).....

Signature of

For use in the Treasury

[See Rule 7]

Serial Number.....

Treasury.....

Name of the Bank.....

Branch Code.....

Major Head-

Minor Head-

Receipts under the Bihar Tax on Professions,
Trades, Callings and Employments Act, 2011

Miscellaneous Receipts under the:

Bihar Tax on Professions, Trades, Callings and
Employments Act, 2011

Challan of amount paid to the Bank

For the year ending.....

Name of the Circle to which the payment
relates

By whom Tendered:

Payment on account of: Amount

Admitted Tax

Interest

Penalty

Fees

Appeal Fee

Miscellaneous

Total

Rupees (in words).....

Signature of

For use in the Treasury

I Received payment of	I Received payment of
Rs.....	Rs.....
(Rupees.....)	(Rupees.....)
2. Date of entry	2. Date of entry
Cheque No.	Cheque No.
Treasury Accountant	Treasury Accountant
Treasury Officer	Treasury Officer
Agent/Manager	Agent/Manager
of Bank	of Bank

FOR CIRCLE

To be sent by the Bank to the concerned circle

Form PT-X

Challan under the Bihar Tax on Professions,
Trades, Callings and Employments Act, 2011

[See Rule 7]

Serial Number.....

Treasury.....

Name of the Bank.....

Branch Code.....

Major Head-

Minor Head-

Receipts under the Bihar Tax on Professions,
Trades, Callings and Employments Act, 2011

Miscellaneous Receipts under the:

Bihar Tax on Professions, Trades, Callings and
Employments Act, 2011

Challan of amount paid to the Bank

LANDMARK JUDGMENTS**2010 - 75701 - SUPREME COURT**

Other Citation: [2010] 322 ITR 158 (SC)

COMMISSIONER OF INCOME-TAX versus RELIANCE PETROPRODUCTS PVT. LTD.**No.** - 2463 of 2010**Dated** - 17 March 2010

*Penalty under section 271(1)(c)- Concealment of Income -In this case Supreme Court held that Tribunal, as well as, the Commissioner of Income-tax (Appeals) and the High Court have correctly reached this conclusion as where there is no finding that any details supplied by the assessee in its return are found to be incorrect or erroneous or false there is no question of inviting the penalty under section 271(1)(c). A mere making of a claim, which is not sustainable in law, by itself, will not amount to furnishing inaccurate particulars regarding the income of the assessee. Such a claim made in the return cannot amount to furnishing inaccurate particulars. The appeal is dismissed. - Decision in favor of assessee - **against the revenue***

V. S. SIRPURKAR and DR. MUKUNDAKAM SHARMA JJ.

B. Bhattacharya, Additional Solicitor-General of India (Arijit Prasad, Varun Sarin and B. V. Balaram Das, Advocates, with him) for the appellant.

Santosh Agarwal, R. Chandrachud and K. B. Sasiprabhu, Advocates, for the respondent.

JUDGMENT

The judgment of the court was delivered by

1. V. S. SIRPURKAR J. — Leave granted.

2. The only question in this appeal which has been filed by the Commissioner of Income-tax-III is as to whether the respondent-assessee is liable to pay the penalty amounting to Rs.11,37,949 under section 271(1)(c) of the Income-tax Act, 1961 (hereinafter referred to as "the Act") ordered by the assessing authority. The Commissioner of Income-tax (Appeals), however, deleted the said penalty. The order of the Commissioner (Appeals) was appealed against before the Income-tax Appellate Tribunal (herein after referred to "the Tribunal") which confirmed the order of the Commissioner (Appeals) and dismissed the appeal filed by the Revenue. However, the Revenue challenged the said order

before the High Court which confirmed the orders passed by the Commissioner (Appeals) and the Tribunal while dismissing the tax appeal filed by the Revenue.

3. A few facts would be relevant.

4. The assessee is a company and the relevant assessment year is 2001-02. The return was filed on January 31, 2001, declaring loss of Rs.26,54,554. This assessment was finalized under section 143(3) of the Act on November 25, 2003, whereby the total income was determined at Rs.2,22,688. In this assessment the addition in respect of interest expenditure was made. Simultaneously penalty proceedings under section 271(1)(c) of the Act were also initiated on account of concealment of income/furnishing of inaccurate particulars of income. The said expenditure was claimed by the assessee on the basis of expenditure made for paying the interest on the loans incurred by it by which amount the assessee purchased some IPL shares by way of its business policies. However, admittedly, the assessee did not earn any income by way of dividend from those shares. The company in its return claimed disallowance of the amount of expenditure for Rs.28,77,242 under section 14A of the Act.

5. Byway of response to the show-cause notice regarding the penalty in its reply dated March 22, 2006, the assessee claimed that all the details given in the return were correct, there was no concealment of income, nor were any inaccurate particulars of such income furnished. It was pointed out that the disallowance made by the assessing authority in the assessment order under section 143(3) of the Act was solely on account of different views taken on the same set of facts and, therefore, they could, at the most, be termed as difference of opinion but nothing to do with the concealment of income or furnishing of inaccurate particulars of such income. It was claimed that mere disallowance of the claim in the assessment proceedings could not be the sole basis for levying penalty under section 271(1)(c) of the Act. It was submitted specifically that it was an investment company and in its own case for the assessment year 2000-01 the Commissioner (Appeals) had deleted the disallowance of interest made by the Assessing Officer and the Tribunal has also confirmed the stand of the Commissioner (Appeals) for that year and, therefore, it was on the basis of this that the expenditure was claimed. It was further submitted that making a claim which is rejected would not make the assessee-company liable under section 271(1)(c) of the Act. It was again reiterated that there was absolutely no concealment, nor were any inaccurate particulars ever submitted by the assessee-company.

6. Shri Bhattacharya, learned Additional Solicitor-General submits that the Commissioner (Appeals), the Tribunal as well as the High Court have ignored the positive language of section 271(1)(c) of the Act. He pointed out that the claim of the interest expenditure was totally without legal basis and was made with the mala fide intentions. It was further pointed out that the claim made for the interest expenditure was not accepted by the assessing authority nor by the Commissioner (Appeals) and, therefore, it was obvious that the claim for the interest expenditure did not have any basis. He further pointed out that the contention about the earlier claims being finalized was also not coned as the appeal was pending before the High Court against the order of the Tribunal for the year 2000-01. According to the learned Additional Solicitor-General, even otherwise, the expenditure on interest could not have been claimed in law, as under section 36(1)(iii), only the amount of interest paid in respect of capital borrowed for the purposes of the business or profession could have been claimed and it was clear that the interest in the present case was not in respect of the capital borrowed. Our attention was also invited to section 14A of the Act, which provides that no deduction could be allowed in respect of the expenditure incurred by the assessee in relation to income which does not form part of the total income under this

Act. The learned Additional Solicitor-General also invited our attention to the provision of section 10(33) to show that the income arising from the transfer of a capital asset could not be reckoned as an income which can form part of the total income. In short, the contention was that the assessee in this case had made a claim which was totally unacceptable in law and thereby had invited the provisions of section 271(1)(c) of the Act and had, therefore, exposed itself to the penalty under that provision.

7. As against this, learned counsel appearing on behalf of the respondent pointed out that the language of section 271(1)(c) had to be strictly construed, this being a taxing statute and more particularly the one providing for penalty. It was pointed out that unless the wording directly covered the assessee and the fact situation herein, there could not be any penalty under the Act. It was pointed out that there was no concealment or any inaccurate particulars regarding the income were submitted in the return. Section 271(1) (c) is as under:

"271.(1) If the Assessing Officer or the Commissioner (Appeals) or the Commissioner in the course of any proceedings under this Act, is satisfied that any person—

(c) has concealed the particulars of his income or furnished inaccurate particulars of such income."

8. A glance at this provision would suggest that in order to be covered, there has to be concealment of the particulars of the income of the assessee. Secondly, the assessee must have furnished inaccurate particulars of his income. The present is not a case of concealment of the income. That is not the case of the Revenue either. However, the learned counsel for Revenue suggested that by making incorrect claim for the expenditure on interest, the assessee has furnished inaccurate particulars of the income. As per Law Lexicon, the meaning of the word "particular" is a detail or details (in plural sense); the details of a claim, or the separate items of an account. Therefore, the word "particulars" used in the section 271(1)(c) would embrace the meaning of the details of the claim made. It is an admitted position in the present case that no information given in the return was found to be incorrect or inaccurate. It is not as if any statement made or any detail supplied was found to be factually incorrect. Hence, at least, prima facie, the assessee cannot be held guilty of furnishing inaccurate particulars. The learned counsel argued that "submitting an incorrect claim in law for the expenditure on interest would amount to giving inaccurate particulars of such income". We do not think that such can be the interpretation of the concerned words. The words are plain and simple. In order to expose the assessee to the penalty unless the case is strictly covered by the provision, the penalty provision cannot be invoked. By any stretch of imagination, making an incorrect claim in law cannot tantamount to furnishing inaccurate particulars. In *CIT v. Atul Mohan Bindal* [2009] 9 SCC 539 [2009] 317 ITR 1 (SC), where this court was considering the same provision, the court observed that the Assessing Officer has to be satisfied that a person has concealed the particulars of his income or furnished inaccurate particulars of such income. This court referred to another decision of this court in *Union of India v. Dharamendra Textile Processors* [2008] 13 SCC 369 [2008] 306 ITR (SC) as also, the decision in *Union of India v. Rajasthan Spg. & Wvg. Mills* [2009] 13 SCC 448 [2010] 1 GSTR 66 (SC) and reiterated in paragraph 13 that (page 13 of 317 ITR):

"13. It goes without saying that for applicability of section 271 (1)(c), conditions stated therein must exist."

9. Therefore, it is obvious that it must be shown that the conditions under section 271(1)(c) must exist before the penalty is imposed. There can be no dispute that everything would

depend upon the return filed because that is the only document, where the assessee can furnish the particulars of his income. When such particulars are found to be inaccurate, the liability would arise. In *Dilip N. Shroff v. Joint CIT* [2007] 6 SCC 329 [2007] 291 ITR 519 (SC) this court explained the terms "concealment of income" and "furnishing inaccurate particulars". The court went on to hold therein that in order to attract the penalty under section 271(1)(c), mens rea was necessary, as according to the court, the word "inaccurate" signified a deliberate act or omission on behalf of the assessee. It went on to hold that clause (iii) of section 271 (1)(c) provided for a discretionary jurisdiction upon the assessing authority, inasmuch as the amount of penalty could not be less than the amount of tax sought to be evaded by reason of such concealment of particulars of income, but it may not exceed three times thereof. It was pointed out that the term "inaccurate particulars" was not defined any where in the Act and, therefore, it was held that furnishing of an assessment of the value of the property may not by itself be furnishing inaccurate particulars. It was further held that the Assessing Officer must be found to have failed to prove that his explanation is not only not bona fide but all the facts relating to the same and material to the computation of his income were not disclosed by him. It was then held that the explanation must be preceded by a finding as to how and in what manner, the assessee had furnished the particulars of his income. The court ultimately went on to hold that the element of mens rea was essential. It was only on the point of mens rea that the judgment in *Dilip N. Shroff v. Joint CIT* [2007] 291 ITR 519 (SC) was upset. In *Union of India v. Dharamendra Textile Processors* [2008] 306 ITR 277 (SC), after quoting from section 271 extensively and also considering section 271(1)(c), the court came to the conclusion that since section 271(1)(c) indicated the element of strict liability on the assessee for the concealment or for giving inaccurate particulars while filing return, there was no necessity of mens rea. The court went on to hold that the objective behind the enactment of section 271(1)(c) read with Explanations indicated with the said section was for providing remedy for loss of revenue and such a penalty was a civil liability and, therefore, wilful concealment is not an essential ingredient for attracting civil liability as was the case in the matter of prosecution under section 276C of the Act. The basic reason why decision in *Dilip N. Shroff v. Joint CIT* was overruled by this court in *Union of India v. Dharamendra Textile Processors* [2008] 306 ITR 277(SC), was that according to this court the effect and difference between section 271(1)(c) and section 276C of the Act was lost sight of in the case of *Dilip N. Shroff v. Joint CIT* [2007] 291 ITR 519 (SC). However, it must be pointed out that in *Union of India v. Dharamendra Textile Processors* [2008] 306 ITR (SC), no fault was found with the reasoning in the decision in *Dilip N. Shroff v. Joint CIT* [2007] 291 ITR 519 (SC) where the court explained the meaning of the terms "conceal" and "inaccurate", it was only the ultimate inference in *Dilip N. Shroff v. Joint CIT* [2007] 291 ITR 519 (SC) to the effect that mens rea was an essential ingredient for the penalty under section 271(1)(c) that the decision in *Dilip N. Shroff v. Joint CIT* [2007] 291 ITR 519 (SC) was overruled.

10. We are not concerned in the present case with the mens rea. However, we have to only see as to whether in this case, as a matter of fact, the assessee has given inaccurate particulars. In Webster's Dictionary, the word "inaccurate" has been defined as:

"not accurate, not exact or correct not according to truth erroneous; as an inaccurate statement, copy or transcript."

11. We have already seen the meaning of the word "particulars" in the earlier part of this judgment. Reading the words in conjunction, they must mean the details supplied in the return, which are not accurate, not exact or correct, not according to truth or erroneous. We must hasten to add here that in this case, there is no finding that any details supplied by the assessee in its return were found to be incorrect or erroneous or false. Such not being the

case, there would be no question of inviting the penalty under section 271(1)(c) of the Act. A mere making of the claim, which is not sustainable in law, by itself, will not amount to furnishing inaccurate particulars regarding the income of the assessee. Such claim made in the return cannot amount to the inaccurate particulars.

12. It was tried to be suggested that section 14A of the Act specifically excluded the deductions in respect of the expenditure incurred by the assessee in relation to income which does not form part of the total income under the Act. It was further pointed out that the dividends from the shares did not form the part of the total income. It was, therefore, reiterated before us that the Assessing Officer had correctly reached the conclusion that since the assessee had claimed excessive deductions knowing that they are incorrect; it amounted to concealment of income. It was tried to be argued that the falsehood in accounts can take either of the two forms; (i) an item of receipt may be suppressed fraudulently; (ii) an item of expenditure may be falsely (or in an exaggerated amount) claimed, and both types attempt to reduce the taxable income and, therefore, both types amount to concealment of particulars of one's income as well as furnishing of inaccurate particulars of income. We do not agree, as the assessee had furnished all the details of its expenditure as well as income in its return, which details, in themselves, were not found to be inaccurate nor could be viewed as the concealment of income on its part. It was up to the authorities to accept its claim in the return or not. Merely because the assessee had claimed the expenditure, which claim was not accepted or was not acceptable to the Revenue, that by itself would not, in our opinion, attract the penalty under section 271(1)(c). If we accept the contention of the Revenue then in case of every return where the claim made is not accepted by the Assessing Officer for any reason, the assessee will invite penalty under section 271(1)(c). That is clearly not the intendment of the Legislature.

13. In this behalf the observations of this court made in *Sree Krishna Electricals v. State of Tamil Nadu* [2009] 23 VST 249 as regards the penalty are apposite. In the aforementioned decision which pertained to the penalty proceedings under the Tamil Nadu General Sales Tax Act, the court had found that the authorities below had found that there were some incorrect statements made in the return. However, the said transactions were reflected in the accounts of the assessee. This court, therefore, observed (page 251):

"So far as the question of penalty is concerned the items which were not included in the turnover were found incorporated in the appellant's account books. Where certain items which are not included in the turnover are disclosed in the dealer's own account books and the assessing authorities includes these items in the dealer's turnover disallowing the exemption, penalty cannot be imposed. The penalty levied stands set aside."

14. The situation in the present case is still better as no fault has been found with the particulars submitted by the assessee in its return.

15. The Tribunal, as well as, the Commissioner of Income-tax (Appeals) and the High Court have correctly reached this conclusion and, therefore, the appeal filed by the Revenue has no merits and is dismissed.

2011 - 204150 - CESTAT, NEW DELHI

Harveen & Co. versus Commissioner of Central Excise, Chandigarh

No. - ST/637 & 652 OF 2007

Order No. - ST/204-205 OF 2011

Dated - 25 May 2011

Demand - transportation charges, pre-dispatch inspection charges, octroi and detention charges - Rule 6(8) of Service Tax Rules, 1994 - This is clearly a case where the Appellant is trying to reduce incidence of service tax by accounting his remuneration as a reimbursable expense - The Appellant could not have provided the service of C&F agents without employing clerks or having a telephone in his office - There is no proof adduced that the appellant had the responsibility to deliver the goods at the door step of the client - The incidence of taxation at the relevant time is fixed taking into account such multi-level incidence. What is not provided by law cannot be extended by judicial interpretation - if the godown is taken on rent by the Appellant for discharging his obligations under the contract, rent for godown will form part of the value even if it is reimbursed separately by the client - Matter remanded to re-examine the facts.

Judgment / Order

MS. ARCHANA WADHWA, MATHEW JOHN, JJ.

A.K. Batra for the Appellant.

K.K. Jaiswal for the Respondent.

ORDER

Mathew John, Technical Member. -

The Appellant in Appeal No. ST-637/2007 was providing clearing and forwarding services to M/s. Whirlpool India Ltd. during the period April 2001 to September, 2005. The Appellant was receiving payment shown as commission/service charges from M/s. Whirlpool India Ltd. Apart from this the appellant was also receiving amounts from M/s. Whirlpool India Ltd. under different heads like service charges for employees, freight for distribution/transportation of goods, loading/unloading of goods, phone expenses, postage and courier, repair and maintenance, printing and stationery, octroi, detention charge, electricity and water, pre-dispatch inspection charges, packing charges, conveyance charges, staff welfare charges, rent and other miscellaneous expenses. They were paying service tax only on accounts shown as commission/service charges received from M/s. Whirlpool India Ltd.

2. The Appellant was responsible for forwarding of goods as per advice from M/s. Whirlpool India. The Appellant was required to arrange transportation of goods. For this purpose, the appellant was paid fixed remuneration. Although as per agreement, this charge was called "freight charges", the same was not on actual basis. Therefore, the Revenue made out a case that remuneration received as freight charges is also remuneration for clearing and forwarding services. Further the revenue was also of the view that various expenses reimbursed by M/s. Whirlpool under various headings like loading and unloading, infrastructure cost, telephone etc. are nothing but consideration for providing C&F services and therefore, such amounts should also be added to the value of commission declared to have been received by the appellants and service tax should have been paid on such gross receipts.

3. A show-cause notice dated 3-7-06 was issued demanding service tax amounting to Rs. 36,97,509 and education cess amounting to Rs. 20,240 payable for the period April, 2001 to September, 2005. Interest as applicable under section 75 of the Finance Act, 1994 was also demanded. Further, there was a proposal for imposing penalty under section 76 and 77 of the Finance Act, 1994. The show-cause notice was adjudicated vide order dated 3-4-2007 which confirmed the tax liabilities demanded under the show-cause notice along with

section 75. Further penalties were imposed under sections 76, 77 and 78 of the Finance Act, 1994.

4. Aggrieved by this order, the appellant filed an appeal before the Commissioner (Appeals). The Commissioner (Appeals) vide his order dated 3-7-2007, set aside the demand of service tax on transportation charges, inward/outward charges, freight charges, godown rental charges and salary for clerks. On other items, the Commissioner (Appeals) confirmed the tax demanded. Further, he held that penalties imposed under sections 76, 77 and 78 are not justified and penalties were set aside.

5. The assessee as well as the department are aggrieved by the order of the Commissioner (Appeals). The assessee, has filed Appeal No. 652/07 praying that the demands confirmed by the Commissioner (Appeals) should be set aside giving them the full relief. The Department has filed Appeal No. 637/07 and prayed that order in original should be restored.

6. The Advocate for the assessee made initial submission that the period involved is prior to Service Tax (Determination of Valuation Rules), 2006 were notified on 9-4-2006. He also made a submission that for the period 1-4-2001 to 15-8-2002, there was no mechanism for giving credit of tax paid on input services to be utilized for payment of tax on output services. The relevance of this argument is in the context of services like telephone services on which the service provider has already paid the service tax and it is argued that if serviced tax is again demanded on this part of the value, it would amount to double taxation on the same service.

7. During the relevant time, clearing and forwarding agent was defined under section 65(25) of the Finance Act, 1994 which reads as under:—

"Section 65(25) 'clearing and forwarding agent' means any person who is engaged in providing any service, either directly or indirectly, connected with the clearing and forwarding operations in any manner to any other person and includes a consignment agent."

8. The provision regarding value on which tax was to be paid was contained was in section 67 of Finance Act, 1994 which read as under:—

"For the purposes of this Chapter, the value of any taxable service shall be the gross amount charged by the service provider for such service rendered by him."

Rule 6(8) of Service Tax Rules, 1994.

"The value of the taxable service in relation to the services provided by a clearing and forwarding agent to a client for rendering services of clearing and forwarding operations in any manner shall be deemed to be the gross amount of remuneration or commission (by whatever name called) paid to such agent by the client engaging such agent."

9. The Advocate for the assessee relies on various circulars of the Board stated to the effect that reimbursable expenses and out of pocket expenses will not form part of the value on which the service tax will have to be paid. The circular relied upon is reproduced below:

"F.No. B.11/1/2001-TRU, 9th July, 2001

5. A point has been raised that the service provider, namely, an actuary, an intermediary or insurance intermediary or an insurance agent is reimbursed certain out of pocket expenses such as travelling expenses, boarding and lodging charges on actual basis. These expenses

are reimbursed in addition to the prescribed fee. Whether such reimbursements will be included in the taxable value? In this regard, it is clarified that the amount billed to the client on account of out of pocket expenses which are reimbursable on actual basis, such as travelling, boarding and lodging expenses, the same are not subject to service tax. In this respect, the assessee may be required to provide documentary evidence substantiating his claim."

10. Therefore, it is the contention of the advocate that the demand raised in the show-cause notice is not maintainable at all. They also relied on the following case laws in support of their arguments:—

- (i) Nazir & Co. v. CCE [Final Order No. 1196/2008, dated 15-10-2008]
- (ii) U.M. Thariath & Co. v. CCE [2008] 12 STT 378 (Bang. - CESTAT)
- (iii) Reliance Industries Ltd. v. CCE [Final Order Nos. A/1237-1239/2008-WZB/Ahd, dated 23-6-2008]
- (iv) Malabar Management Services (P.) Ltd. v. CST [2008] 14 STT 107 (Chennai - CESTAT)

11. The learned DR on the other hand, argues that as per section 67 of Finance Act, 1994, the value of any taxable service was to be gross amount charged by the service provider for such service. He basically invites attention to Rule 6(8) of Service Tax Rules, 1994 which made it very clear that value in relation to the services provided by clearing and forwarding agent to a client for clearing and forwarding operation in any manner shall be gross amount of commission by whatever name called, paid to such agent by the client engaging such agent.

12. The learned DR states that by calling the consideration received by different names, it cannot become a reimbursable expense. In the case of reimbursement under the heading freight charges, he specifically argues that what is charged is not actual freight but some amount in the name of freight and in the circumstances, such charges cannot be excluded from the value of taxable services rendered. It is argued that without engaging clerks and utilizing telephones and having godowns for storing the goods and without paying the loading and unloading charges, the assessee could not have rendered the services at all. These are basic cost elements which have to be incurred for providing the service and therefore, there is no scope for any deduction in the gross consideration received from M/s. Whirlpool India Ltd. He relies on the decisions of the CESTAT in the following cases:—

- (i) Mett MacDonald Ltd. v. CCE 2001 (134) ELT 799 (Trib. - Delhi)
- (ii) Naresh Kumar & Co. (P.) Ltd. v. CST [2008] 15 STT 161 (Kol. - CESTAT)

In particular, DR invites attention to the observation of the Tribunal in para 6.10 in the case of Naresh Kumar & Co. (P.) Ltd. (supra) observing that if an expenditure is indispensable and inevitably incurred to provide a service, such cost should essentially form part of cost of service itself and shall contribute to value of taxable service.

13. This is clearly a case where the Appellant is trying to reduce incidence of service tax by accounting his remuneration as a reimbursable expense. For this they rely on certain circulars issued by CBEC in relation to certain types of expenses in relation to other services and ignores provisions of rule 6(8) of the Service Tax Valuation Rules, 1994. The provisions of Rules should get precedence of clarifications issued by CBEC and that too in relation to other matters. The essential criteria to decide whether amounts received from a person availing service will be part of value of service should be the criteria laid down by this

Tribunal in the case of Naresh Kumar & Co. Ltd. (supra). The Appellant could not have provided the service of C&F agents without employing clerks or having a telephone in his office. Even if these expenses are separately billed to the client, the expenses will form part of the value of taxable service. However, cost of transportation is on a different footing. Transportation is a service provided by the person operating the vehicles. There is no proof adduced that the appellant had the responsibility to deliver the goods at the door step of the client. In the case of freight revenue also conceded that it can be considered as reimbursable expense so long as actual freight amounts are claimed. So it is ordered that the Appellant shall submit evidence of cost incurred as freight and such actual amounts of freight shall not form part of the value of service rendered by the Appellant.

14. The argument that if value of telephone charges are included it will amount to taxing the same value twice is not a valid argument because such was the position before extension of Cenvat Credit Scheme to service tax. Such argument could be raised for any type of taxation where credit of tax paid on inputs is not available. The service tax levy has evolved over a few years and presently credit of duty paid on input service is available. In fact in the initial stages of such evolution such credit was allowed only in respect of input services which fell in the same category as the output service. The incidence of taxation at the relevant time is fixed taking into account such multi-level incidence. What is not provided by law cannot be extended by judicial interpretation.

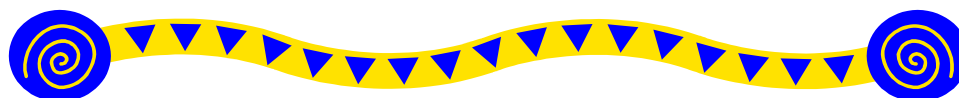
15. The Appellant has a case in the matters relating to the pre-dispatch inspection, octroi and detention charges also. These expenses are not towards any activity that will constitute the service rendered by the Appellant. Abatement from gross receipts received shall be allowed for these expenses also subject to production of vouchers for such expenses.

16. In the case of godown rent, there can be a dispute because the godown might be actually hired by M/s. Whirlpool and the Appellant is paying the rent as an agent present on the spot. However, if the godown is taken on rent by the Appellant for discharging his obligations under the contract, rent for godown will form part of the value even if it is reimbursed separately by the client.

17. To sum up the matters relating to transportation charges, pre-dispatch inspection charges, octroi and detention charges needs re-examination by the adjudicating authority. To enable such examination the M/s. Harveen & Co. has to produce the concerned vouchers before the adjudicating authority.

Consequently the matter of penalty to be imposed also needs to be re-examined. For these purpose the case is sent back to the adjudicating authority.

18. Accordingly the appeals filed by M/s. Harveen & Co. and by the department are disposed of.



**NEWS
&
VIEWS**

Companies of Baba Ramdev.

**Press Information Bureau
Government of India
Ministry of Corporate Affairs**

08-September-2011

Companies of Baba Ramdev

The Minister of State in the Ministry of Corporate Affairs Shri R.P.N. Singh today informed the Lok Sabha that as per latest information available, no company with Baba Ramdev as Director is registered in the country. However, 34 companies are registered in the country with Acharya Balkrishna as Director.

The details of the above companies, State-wise alongwith their annual turn-over are as under:-

Sl. No.	State/UT	No. of Companies	Annual Turn-over (in Rs. Lakhs)
1.	Uttrakhand	23	9484
2.	Uttar Pradesh	5	4
3.	NCT of Delhi	4	16306
4.	West Bengal	1	800
5.	Maharashtra	1	0
	Total (1to 5)	34	2659

As filing of Annual Returns and Balance Sheets by companies for the year 2010-11 is due w.e.f. 1st October, 2011, the reasons for increase in turn-over of these companies in a short span of period cannot be identified at this stage.

The Minister was replying to a written question on the number of companies of Baba Ramdev and Acharya Balkrishnan functioning in the country; the details of companies and whether the Government has identified the reasons for increased turn-over of these companies in a short span of period.

CONSTITUTION OF INDIA

[Compiled Shri Sanjay Pandey, G.

Secretary, TBA BIHAR, PATNA.]

Part III Fundamental Rights

Article

12

Definition

In this Part, unless the context otherwise required, "the State" includes the Governmental and Parliament of India and the Government and the Legislature

of each of the States and all local or other authorities within the territory of India or under the control of the Government of India.

Article 14 Equality before law

The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India.

Article 15 Prohibition of discrimination on grounds of religion, race, caste, sex or place of birth

(1) The State shall not discriminate against any citizen on grounds only of religion, race, caste, sex, place of birth or any of them.

(2) No citizen shall, on ground only of religion, race, caste, sex, place of birth or any of them, be subject to any disability, liability, restriction or condition with regard to -

(a) access to shops, public restaurants, hotels and places of public entertainment; or

(b) the use of wells, tanks, bathing ghats, roads and places of public resort maintained whole or partly out of State funds or dedicated to the use of general public.

(3) Nothing in this article shall prevent the State from making any special provision for women and children.

(4) Nothing in this article or in clause (2) or article [29](#) shall prevent the State from making any special provision for the advancement of any socially and educationally backward classes of citizens or for the Scheduled Castes and the Scheduled Tribes.

Article 16 Equality of opportunity in matters of public employment

(1) There shall be equality of opportunity for all citizens in matters relating to employment or appointment to any office under the State.

(2) No citizen shall, on grounds only of religion, race, caste, sex, descent, place of birth, residence or any of them, be ineligible for, or discriminated against in respect of, any employment or office under the State.

(3) Nothing in this article shall prevent Parliament from making any law prescribing, in regard to a class or classes of employment or appointment to an office under the Government of, or any local or other authority within, a State or Union territory, any requirement as to residence within that State or Union territory prior to such employment or appointment.

(4) Nothing in this article shall prevent the State from making any provision for the reservation of appointments or posts in favour of any backward class of citizens which, in the opinion of the State, is not adequately represented in the services under the State.

(4A) Nothing in this article shall prevent the State from making any provision for reservation in matters of promotion to any class or classes of posts in the services under the State in favour of the Scheduled Castes and the Scheduled Tribes which, in the opinion of the State, are not adequately represented in the services under the State.

(5) Nothing in this article shall affect the operation of any law which provides that the incumbent of an office in connection with the affairs of any religious or denominational institution or any member of the governing body thereof shall be a person professing a particular religion or belonging to a particular denomination.

Article 17 Abolition of Untouchability

"Untouchability" is abolished and its practice in any form is forbidden. The enforcement of any disability arising out of "Untouchability" shall be an offence punishable in accordance with law.

Article 19 Protection of certain rights regarding freedom of speech, etc.

- (1) All citizens shall have the right -
- (a) to freedom of speech and expression;
 - (b) to assemble peaceably and without arms;
 - (c) to form associations or unions;
 - (d) to move freely throughout the territory of India;
 - (e) to reside and settle in any part of the territory of India; and
 - (f) to practice any profession, or to carry on any occupation, trade or business.
- (2) Nothing in sub-clause (a) of clause (1) shall affect the operation of any existing law, or prevent the State from making any law, in so far as such law imposes reasonable restrictions on the exercise of the right conferred by the said sub-clause in the interests of the sovereignty and integrity of India, the security of the State, friendly relations with foreign States, public order, decency or morality, or in relation to contempt of court, defamation or incitement to an offence.
- (3) Nothing in sub-clause (b) of the said clause shall affect the operation of any existing law in so far as it imposes, or prevent the State from making any law imposing, in the interest of the sovereignty and integrity of India or public order, reasonable restrictions on the right conferred by the said sub-clause.
- (4) Nothing in sub-clause (c) of the said clause shall affect the operation of any existing law in so far as it imposes, or prevent the State from making any law imposing, in the interests of the the sovereignty and integrity of India or public order or morality, reasonable restrictions on the exercise of the right conferred by the said sub-clause.
- (5) Nothing in sub-clause (d) and (e) of the said clause shall affect the operation of any existing law in so far as it imposes, or prevent the State from making any law imposing, reasonable restrictions on the exercise of any of the rights conferred by the said sub-clauses either in the interests of the general public or for the protection of the interests of any Schedule Tribe.
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(6) Nothing in sub-clause (g) of the said clause shall affect the operation of any existing law in so far as it imposes, or prevent the State from making any law imposing, in the interests of the general public, reasonable restrictions on the exercise of the right conferred by the said sub-clause, and, in particular, nothing in the said sub-clause shall affect the operation of any existing law in so far as it relates to, or prevent the State from making any law relating to, -

(i) the professional or technical qualifications necessary for practicing any profession or carrying on any occupation, trade or business, or

(ii) the carrying on by the State, or by a corporation owned or controlled by the State, of any trade, business, industry or service, whether to the exclusion, complete or partial, of citizens or otherwise.

Article 21 Protection of life and personal liberty

No person shall be deprived of his life or personal liberty except according to procedure established by law.

Article 22 Protection against arrest and detention in certain cases

(1) No person who is arrested shall be detained in custody without being informed, as soon as may be, of the grounds for such arrest nor shall he be denied the right to consult, and to be defended by, a legal practitioner of his choice.

(2) Every person who is arrested and detained in custody shall be produced before the nearest magistrate within a period of twenty-four hours of such arrest excluding the time necessary for the journey from the place of arrest to court of the magistrate and no such person shall be detained in custody beyond the said period without the authority of a magistrate.

(3) Nothing in clauses (1) and (2) shall apply -

(a) to any person who for the time being is an enemy alien; or

(b) to any person who is arrested or detained under any law providing for

preventive detention.

(4) No law providing for preventive detention shall authorize the detention of a person for a longer period than three months unless -

(a) an Advisory Board consisting of persons who are, or have been, or are qualified to be appointed as, Judges of a High Court has reported before the expiration of the said period of three months that there is in its opinion sufficient cause for such detention:

Provided that nothing in this sub-clause shall authorise the detention of any person beyond the maximum period prescribed by any law made by Parliament under sub-clause (b) of clause (7); or

(b) such person is detained in accordance with the provisions of any law made by Parliament under sub-clauses (a) and (b) of clause (7).

(5) When any person is detained in pursuance of an order made under any law providing for preventive detention, the authority making the order shall, as soon as may be, communicate to such person the grounds on which the order has been made and shall afford him the earliest opportunity of making a representation against the order.

(6) Nothing in clause (5) shall require the authority making any such order as is referred to in that clause to disclose facts which such authority considers to be against the public interest to disclose.

(7) Parliament may by law prescribe -

(a) the circumstances under which, and the class or classes of cases in which, a person may be detained for a period longer than three months under any law providing for preventive detention without obtaining the opinion of an Advisory Board in accordance with the provisions of sub-clause (a) of clause (4);

(b) the maximum period for which any person may in any class or classes of cases be detained under any law providing for preventive detention; and

(c) the procedure to be followed by an Advisory Board in an inquiry under sub-clause (a) of clause (4).

Article 32 Remedies for enforcement of rights conferred by this Part

(1) The right to move the Supreme Court by appropriate proceedings for the enforcement of the rights conferred by this Part is guaranteed.

(2) The Supreme Court shall have power to issue directions or orders or writs, including writs in the nature of habeas corpus, mandamus, prohibition, quo warranto and certiorari, whichever may be appropriate, for the enforcement of any of the rights conferred by this Part.

(3) Without prejudice to the powers conferred on the Supreme Court by clauses (1) and (2), Parliament may by law empower any other court to exercise within the local limits of its jurisdiction all or any of the powers exercisable by the Supreme Court under clause (2).

(4) The right guaranteed by this article shall not be suspended except as otherwise provided for by this Constitution.