

**GOVERNMENT OF INDIA
FINANCE
LOK SABHA**

STARRED QUESTION NO:415

ANSWERED ON:12.05.2006

FRINGE BENEFIT TAX

Prabhu Shri Suresh Prabhakar;Vijay Krishna Shri

Will the Minister of FINANCE be pleased to state:

- (a) the amount collected as Fringe Benefit Tax (FBT) during the last fiscal year;
- (b) whether some tax payers have challenged the constitutional validity of FBT in various High Courts;
- (c) if so, the details thereof;
- (d) whether Government has decided to approach the Supreme Court to get this matter decided by seeking transfer of cases from High Courts;
- (e) if so, the details thereof and whether tax payers are paying this tax in instalments irrespective of the writ petitions;
- (f) whether certain foreign companies are committing irregularities in depositing outstanding FBT;
- (g) if so, the details thereof; and
- (h) the action taken against the foreign companies regarding FBT dues, company-wise?

Answer

MINISTER OF FINANCE: (SHRI P. CHIDAMBARAM)

(a) to (h) : A statement is laid on the Table of the House.

Statement referred to in reply to the Lok Sabha Starred Question No. 415 raised by Shri Vijoy Krishna and Shri Suresh Prabhakar Prabhu, Members of Parliament for 12.5.2006 regarding " Fringe Benefit Tax"

- (a) The amount collected as Fringe Benefit Tax during the financial year 2005-06 was Rs.4749 crores (provisional).
- (b) & (c) Yes Sir. A number of taxpayers have challenged the constitutional validity of Fringe Benefit Tax in various High Courts on the grounds that the tax is arbitrary, unreasonable and discriminatory and ultra-vires the Constitution of India.
- (d) Yes Sir.
- (e) The Government has filed transfer petitions in the cases of Union of India Vs. Khumbhat & Co. and others and Union of India Vs. Magma Leasing Ltd. and others. Both the transfer petitions have been heard by the Hon'ble Supreme Court and the Government was directed to file amendment applications to the transfer petitions incorporating a list of all the writ petitions filed all over the country. An amendment application to the transfer petition in the case of Union of India Vs. Khumbhat & Co. and others has already been filed. The amendment application in the case of Union of India Vs. Magma Leasing Ltd. will be filed shortly. The final decision of the Supreme Court on the issue of transfer of the writ petitions is awaited. However, notwithstanding the filing of the writ petitions, the collection figures of Rs.4749 crores during the financial year 2005-06 indicate that the taxpayers have generally paid their FBT dues.
- (f), (g) & (h) The information regarding irregularities committed by foreign companies in depositing outstanding FBT can only be culled out from the income-tax/FBT returns for assessment year 2006-07. Since the last date for filing of returns is 31.10.2006, returns are yet to be filed. Therefore, at present, the Government has no information of any irregularities by foreign companies in depositing outstanding FBT.