

**AVOIDABLE EXPENDITURE ON SERVICE TAX BY  
INSURANCE REGULATORY AND DEVELOPMENT  
AUTHORITY (IRDA)**

[Action Taken by the Government on the Observations/Recommendations of  
the Committee contained in their Forty-Eighth Report (16<sup>th</sup> Lok Sabha)]

**MINISTRY OF FINANCE**

**PUBLIC ACCOUNTS COMMITTEE  
(2016-17)**

**SEVENTY-THIRD REPORT**

---

**SIXTEENTH LOK SABHA**



**LOK SABHA SECRETARIAT  
NEW DELHI**

**SEVENTY-THIRD REPORT**  
**PUBLIC ACCOUNTS COMMITTEE**  
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**MINISTRY OF FINANCE**



Presented to Lok Sabha on: 11.04.2017

Laid in Rajya Sabha on: 11.04.2017

**LOK SABHA SECRETARIAT**  
**NEW DELHI**

April, 2017/ Chaitra, 1939 (Saka)

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**COMPOSITION OF THE PUBLIC ACCOUNTS COMMITTEE  
(2016-17)**

**Prof. K.V. Thomas                      -                      Chairperson**

**MEMBERS**

**LOK SABHA**

2.      Shri Sudip Bandyopadhyay
3.      Shri Prem Singh Chandumajra
4.      Shri Nishikant Dubey
5.      Prof. Richard Hay
6.      Shri Gajanan Chandrakant Kirtikar
7.      Shri Bhartruhari Mahtab
8.      Smt. Riti Pathak
9.      Shri Neiphiu Rio
10.     Shri Janardan Singh Sigriwal
11.     Shri Abhishek Singh
12.     Dr. Kirit Somaiya
13.     Shri Anurag Singh Thakur
14.     Shri Shivkumar C. Udasi
15.     Dr. P. Venugopal

**RAJYA SABHA**

16.     Shri Naresh Agrawal
17.     Shri Satyavrat Chaturvedi
18.     \* Shri Bhupender Yadav
19.     Shri Bhubaneswar Kalita
20.     Shri Shantaram Naik
21.     Shri Sukhendu Sekhar Roy
22.     Shri Ajay Sancheti

**SECRETARIAT**

1.      Shri A.K. Singh                      -      Additional Secretary
2.      Shri Sukhi Chand                   -      Joint Secretary
3.      Shri T. Jayakumar                   -      Director
4.      Smt. Bharti Sanjeev Tuteja       -      Deputy Secretary

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\* Elected w.e.f. 09.08.2016 *vice* Shri Vijay Goel, MP appointed as Minister of State w.e.f. 05.07.2016.

**Composition of Sub-Committee - III (Direct and Indirect Taxes) of the Public  
Accounts Committee (2016-17)**

Convenor	:	1.	Shri Nishikant Dubey
Alternate Convenor	:	2.	Shri Satyavrat Chaturvedi
Members	:	3.	Shri Shivkumar C. Udasi
		4.	Prof. Richard Hay
		5.	Shri Sukhendu Sekhar Roy
		6.	Shri Ajay Sancheti

## **INTRODUCTION**

I, the Chairperson, Public Accounts Committee (2016-17), having been authorised by the Committee, do present this Seventy-Third Report (Sixteenth Lok Sabha) on Action Taken by the Government on the Observations/Recommendations of the Committee contained in their Forty-Eighth Report (Sixteenth Lok Sabha) on '**Avoidable Expenditure on Service Tax by Insurance Regulatory and Development Authority (IRDA)**' relating to the Ministry of Finance (Department of Financial Services and Department of Revenue).

2. The Forty-Eighth Report was presented to Lok Sabha/laid in Rajya Sabha on **28 April, 2016**. Replies of the Government to the Observations/ Recommendations contained in the Report were received on 27 February, 2017 and final replies were received on 24 March, 2017. The Sub-Committee-III under the convenorship of Shri Nishikant Dubey, MP considered and adopted the Report at their sitting held on 5th April, 2017 while the Main Committee adopted the Report at the sitting held on 6th April, 2017. Minutes of the Sitting of the Sub-Committee and the Main Committee are given at Appendix-I and II respectively.

3. For facility of reference and convenience, the Observations and Recommendations of the Committee have been printed in thick type in the body of the Report.

4. The Committee place on record their appreciation of the assistance rendered to them in the matter by the Office of the Comptroller and Auditor General of India.

5. The Committee thank the Sub-Committee for finalizing and placing the draft Report before the Main Committee.

6. An analysis of the Action Taken by the Government on the Observations/Recommendations contained in the Forty-eighth Report (Sixteenth Lok Sabha) is given at Appendix-III.

NEW DELHI;  
April, 2017  
Chaitra, 1939 (Saka)

PROF. K.V. THOMAS  
Chairperson  
Public Accounts Committee

## CHAPTER – I

### REPORT

This Report of the Public Accounts Committee deals with Action Taken by the Government on the Observations/Recommendations of the Committee contained in their Forty-eighth Report (Sixteenth Lok Sabha) on “**Avoidable Expenditure on Service Tax by IRDA**” based on the C&AG Report No. 18 of 2015 relating to the Department of Financial Services and Department of Revenue, Ministry of Finance.

2. The **Forty-eighth** Report (Sixteenth Lok Sabha) was presented to Lok Sabha/laid in Rajya Sabha on 28.04.2016. It contained six Observations/Recommendations. Action Taken Notes in respect of all the Observations/Recommendations have been received from the Ministry of Finance and categorized as under:

- (i) Observations/Recommendations of the Committee which have been accepted by the Government:

**Para No.4,6**

**Total: 02**

**Chapter- II**

- (ii) Observations/Recommendations which the Committee do not desire to pursue in view of the replies received from the Government:

**Total: NIL**

**Chapter- III**

- (iii) Observations/Recommendations in respect of which replies of Government have not been accepted by the Committee and which requires reiteration:

**Para Nos. 1, 2**

**Total: 02**

**Chapter- IV**

- (iv) Observations/Recommendations in respect of which Government have furnished interim replies:

**Para No. 3,5**

**Total: 02**

**Chapter- V**

3. The detailed examination of the subject by the Committee had revealed certain shortcomings/deficiencies on the part of the Ministry of Finance which inter-alia included inordinate delay in replying to Insurance Regulatory and Development Authority (IRDA)'s query on collection of service tax, lack of a proper mechanism for addressing issues/queries presented to it, obsolete systems and inability to adapt to latest tools and technologies and gross laxity in adhering to financial discipline. The Committee had accordingly given their observations/recommendations in their Forty-eighth Report.

4. The Action Taken Notes furnished by the Ministry of Finance on the Observations/Recommendations of the Committee contained in their Forty-eighth Report (Sixteenth Lok Sabha) have been reproduced in the relevant Chapters of this Report. In the succeeding paragraphs, the Committee have dealt with action taken by the Government on some of their Observations/Recommendations made in the original Report which either need comment or reiteration.

5. The Committee desire that Action Taken Note in respect of Observations/Recommendations contained in Chapter I and final action taken replies in respect of the Recommendations contained in Chapter V for which interim replies have been given by the Government may be furnished to them within six months of the Presentation of the Report to the House.

#### **I. DELAY ON THE PART OF DEPARTMENT OF FINANCIAL SERVICES (DFS) IN REPLYING TO IRDA**

##### **Recommendations (Para No. 1)**

6. The Committee noted that IRDA, instead of collecting the tax, requested the Ministry of Finance in April, 2012 to get the services rendered by it included in the Negative List and also did not collect the service tax as per the provisions of the Act pending decision from the Ministry. The Committee observed that the Ministry intimated IRDA on 30<sup>th</sup> July, 2013 that the services provided by the Authority are liable to service tax.

The Committee noted that even in this modern era of fast paced developments, it took the Ministry fifteen long months to give clarification on a single query raised by the IRDA resulting in non-collection of service tax during the period. The Committee observed



that the Ministry which imposes penalties for delays on other parties was oblivious of its own laxity.

The Committee were of the view that a time frame may be prescribed for the Ministry to clear all the queries referred to it so that such lapses were not repeated in future. The Committee also desired that responsibility for this delay be fixed and stringent action taken against those found guilty and the Committee be apprised of the same within three months of presentation of this report.

7. The Ministry in their Action Taken Note have stated as under:-

"It is submitted that IRDA's request regarding inclusion of services provided by the Authority in negative list of service tax was received in the Department on 26.04.2012. The subject matter involved a policy decision, this Department referred IRDA's request to Central Board of Excise & Customs, Department of Revenue, Ministry of Finance on 23.05.2012 and followed up vide reminder dated 20.09.2012. The Department expected a decision on applicability of service tax of the services rendered by IRDA in the Budget statement of 2013-14. As there was no mention of this matter in the Budget statement of 2013-14, this Department again reminded Department of Revenue vide OM dated 16.05.2013 and 27.05.2013.

Vide OM dated 26.06.2013, Department of Revenue informed that the services provided by IRDA are neither covered in the negative list nor by any exemption notification and is therefore liable for service tax. This was communicated to IRDA by this Department vide letter dated 26.07.2013. In response, vide their letter dated 13.03.2014, IRDA informed that they have remitted service tax from 1<sup>st</sup> July, 2012 to 31<sup>st</sup> December, 2012 under Voluntary Compliance Encouragement Scheme (VCES) and for the remaining period the payment would be finalised. IRDA also sought clarifications on the term "Government Authority" as defined in the notification no.25/2012-service tax, issued by the Ministry of Finance and requested to inform whether IRDA can be treated as Government Authority and be exempted in payment of service tax. This was again referred to Department of Revenue vide OM dated 29.04.2014 and reminders dated 14.10.2014, 03.11.2014 and 19.12.2014. Department of Revenue vide their OM dated 31.12.2014 informed that the term "government authority" as defined in notification no.25/2012-ST (as amended) covers only such authority or a board/body that carries out any function entrusted to

a municipality under article 243W of the Constitution. IRDA does not carry out any function entrusted to a municipality and hence IRDA is not covered under the definition of "government authority" as defined in the said notification. Therefore, IRDA is liable to pay service tax on any taxable services provided by it.

Accordingly this Department informed IRDA vide letter dated 14.01.2015 that the exemption provided to the "government authority" as defined in the notification no.25/2012/ST (as amended) is not applicable to IRDA and IRDA is liable to service tax. It may be observed from the above that there was no substantial delay on the part of this Department in taking up the matter with the Department of Revenue and communicating the decision to the IRDA. It is submitted that this Department referred IRDA's request to Department of Revenue, which is the appropriate authority to issue the clarification. The subject matter under consideration involved policy decisions and it took some time before a final view could be conveyed to IRDA."

**8. The Committee had noted about the inordinate delay on the part of the Ministry in replying to a single query raised by the IRDA, which resulted in non-collection of service tax during the given period and, eventually, its recoveries are still pending. Though the Ministry, in their reply, have stressed on the need to obtain clarifications from the concerned department which took some time as it involved policy decisions, the Committee are of the opinion that unless expressly exempted the organizations/ authorities should continue to collect taxes even if any clarifications are sought in this regard, which is also clear from the reply of Department of Revenue that " ...all services are liable to service tax, unless they are in the Negative List or are exempted". The Committee took serious note of the fact that it took long fifteen months, which is referred as sometime, by the Ministry of Finance due to its own lackadaisical attitude to decide a query of the IRDA on collection of tax. The Committee are of the strong view that effective coordination between various departments, particularly, of the same Ministry is essential to ensure that collection of taxes is not hampered due to procedural delays to give a clarification on paying of tax. The Committee while opining that timeliness instill a sense of urgency in dealing with issues in hand and also enable prioritization, emphasize on the need to fix a time frame to address all such queries and adhere to the same in future.**

## II. COMPUTERISATION OF QUERY ADDRESSING SYSTEM

### Recommendations (Para No. 2)

9. The Committee noted that the Ministry does not follow electronic approach for receiving/ addressing/ processing the queries received for clarification. The Committee felt that queries such as liability to service tax were a routine matter for the Ministry and could be handled by prescribing a procedure, which can be implemented electronically. The Committee, therefore, desire that the Ministry should adopt and apply electronic system/approach to all its processes to streamline such seeking of clarifications and obtaining information to avoid instances of unconscionable delay. The Committee also felt that such electronic systems should also provide for reporting the time of receiving the queries and the time taken to address them for enabling effective monitoring.

10. In its reply, the Department of Financial Services have stated that:-

"The subject matter of services of Authority, whether to be taxed or not, is a policy matter under Department of Revenue and this is reflected through Budget statement in the form of exemption/negative list. Hence it may not be treated as a routine matter and therefore, it may practically not be feasible to adopt and apply query based electronic monitoring system to provide the clarifications. However, a copy of the Report has been sent to Department of Revenue for taking necessary action and inform the Committee accordingly."

The Department of Revenue, in its reply, further stated as under:-

"The CBEC also addresses citizen grievances through the CPGRAMS. Grievances are received, addressed and solved in the given time frame electronically. At the Zonal level 24 hours e-help lines are operational. Further, at Commissionerate level mechanisms viable for the local conditions have been set in place for effective grievance redressal, GST is scheduled to be operational from 01.7.2017. While the methodology of issuing clarification about taxability in GST is yet to be worked out, it is possible that Ministry may not be able to issue clarifications by its own and

proposed clarifications may have to be discussed by the GST council. The observation of the committee will be kept in mind while evolving the procedure."

11. The Committee had recommended that the Ministry should adopt and apply electronic systems/approach to all its processes to streamline the methodology of clarifications and obtaining information to avoid instances of unconscionable delay. The Committee note from the reply of the Department of Financial Services that policy matters are under Department of Revenue which are reflected through Budget statement in the form of exemption/negative list and hence it may practically not be feasible to adopt and apply query based electronic monitoring system to provide the clarifications. The Committee are dismayed to note that even in the age of digital revolution, the Department of Financial Services is shying away from establishing such an advanced system for addressing/ processing the queries received by it. Instead of switching to e-governance, the Department of Financial Services, in its reply, has expressed its inability to adopt and apply electronic monitoring systems to deal with such issues. The Committee note that Department of Revenue in its reply has, however, stated that citizen grievances are addressed electronically and that the methodology for issuing clarifications about taxability in GST is yet to be worked out. The Committee while noting the reply of the Department of Revenue that the observation of the Committee would be kept in mind while evolving the procedure in the GST regime, reiterate that timely settlement of issues presented before all the Departments of the Ministry is necessary to enhance public trust in Governmental institutions and as e-governance is the only way ahead, all Departments ought to adopt the latest tools/ electronic systems at their disposal to ensure that such inordinate delays are averted in future.

### III. COLLECTION OF SERVICE TAX

#### Recommendations (Para No. 3)

12. The Committee noted that despite receiving the clarification from the Ministry in July, 2013 that IRDA was liable to pay service tax, the Authority sought an opinion from a tax consultant, who confirmed in December, 2013, the service tax liability and assessed the same for the period from 1<sup>st</sup> July, 2012 to 2<sup>nd</sup> December, 2013 at Rs.17.09 crore. The Committee further observed that IRDA then decided to collect service tax payable w.e.f. 1<sup>st</sup>

January, 2014 from service receivers. It however, paid the service tax of Rs.22.58 crore for the period 01.07.2012 to 31.12.2013 from its own funds as it was felt difficult to recover the service tax for the earlier period. It was only after Audit's observation on non-recovery of service tax that the matter was placed before the 87<sup>th</sup> meeting of the Board held on 27<sup>th</sup> March, 2015 and it was decided to recover the entire service tax due. The Committee noted that IRDA had recovered 96% of the total dues i.e. Rs.21.60 crore as against the total of Rs.22.58 crore as on date.

The Committee was concerned about the avoidable and inordinate delay on the part of IRDA by seeking the opinion from the tax consultant when the Ministry had already directed them to pay service tax. The Committee desired that accountability be fixed on the officials concerned, so that such matters of financial significance were not neglected in future by the Authority. The concerned officials in the Ministry of Finance should have prevailed upon the IRDA in timely following the provisions of the Finance Bill, 2012. The Committee viewed seriously the failure of the Ministry in this regard. The Committee while cautioning the Authority on being careful in future in financial matters, desired to be apprised of the status of recovery of the balance amount of 4% i.e. Rs.98 lakhs from the service receivers. The Committee further recommended that IRDA should computerise and strengthen its tax collection systems to facilitate service tax collection.

13. The Ministry in its Action Taken Note has stated as under:-

"IRDAI has informed that after receiving Ministry's decision on payment of service tax, the office took up the process of calculation of service tax with the help of a Chartered Accountant firm, in order to determine the correct methodology of calculation of tax i.e. whether 'inclusive' method or 'exclusive' method is to be followed, since IRDAI was new to service tax payment. The processing has taken some time and the authority assured that financial significance will not be neglected and the Authority also assured that it will not be repeated in the future. IRDAI has also requested for a lenient view to be taken in the matter. IRDAI has further informed that as far as recovery of service tax is concerned, the authority has recovered Rs.22.35 crore as against Rs.22.58 crore and they are pursuing vigorously for recovery of balance amount of Rs.23 lakhs. IRDAI has also informed that services provided by IRDAI are exempted from service tax w.e.f. 01.04.2016 vide Tax Research Unit's D.O. No.F.No.334/8/2016\_TRU dated 29.02.2016."

14. The Committee note from the reply of the Ministry that IRDAI had since recovered Rs. 22.35 crore as against Rs. 22.58 crore and they were pursuing for recovery of balance amount of Rs. 23 lakhs. The Committee desire to be apprised of the final status pertaining to the recovery of the balance at the earliest. The Committee noted with concern the avoidable and inordinate delay on the part of IRDA by seeking the opinion from the tax consultant when the Ministry had already directed them to pay service tax. The Committee had desired that accountability be fixed on officials responsible for the avoidable delay in collection of service tax. The Committee while noting that IRDAI has assured that financial significance would not be neglected and repeated in future and also requested for a lenient view in the matter, desire that the officials concerned in the Ministry as well as IRDA may be appropriately warned to be more careful in future and instructions may be issued to all such Authorities/ Regulators and officials of the Ministry emphasizing the significance of financial matters, need for strict financial discipline and avoidance of inordinate delays in matters relating to public moneys.

## CHAPTER II

### OBSERVATIONS/RECOMMENDATIONS OF THE COMMITTEE WHICH HAVE BEEN ACCEPTED BY THE GOVERNMENT

#### Observation / Recommendations

##### **Audit of income and expenditure**

4. The Committee note that at first, the IRDA decided not to collect service tax pending decision of the Ministry and then after the Ministry had given its decision to collect the service tax, IRDA found it cumbersome to collect the dues of service tax from the receivers and paid it from its own funds. The Committee observe that the IRDA should not have used its own funds to pay up the liabilities of the service providers. The Committee further observe that the IRDA, apparently, did not exercise financial discipline and feel that internal audit of the working of the regulator may be done regularly to ensure reasonableness, appropriateness and accuracy of the inflow/outflow of funds. The Committee while noting that C&AG only audits the administrative expenditures of the regulators and the orders that are passed in its quasi-judicial capacity are not subject to Audit are, however, of the strong opinion that though orders may not be auditable, the incomes, wherever and however, generated must fall within the scope of audit.

**[Observation / Recommendations No. 4 of 48<sup>th</sup> Report of the  
Public Accounts Committee (16th Lok Sabha)]**

#### Action Taken:

##### **Audit of income and expenditure**

IRDAI has informed that the authority has also put in place Internal/Concurrent Audit wing which regularly does the internal audit of IRDAI flow of funds to ensure reasonableness, appropriateness and accuracy. IRDAI has further informed that the authority has implemented SAP system for its accounting purpose and tax collections are done through the SAP system.

### **Audit's vetting comments on Ministry's ATN**

The SAP system implemented by IRDAI provides for accounting of Service Tax levied on the fees received. It is to be pointed out that from 01.04.2016, the services provided by IRDAI are exempted from Service Tax.

Hence, ATN is accepted.

**[Ministry of Finance OM No. R-16013/01/2016-Ins.1  
dated 27 February 2017]**

### **Observation / Recommendations**

#### **6. Reimbursement to the subscribers of the VPBY**

The Committee note that in the Union Budget 2015, Life Insurance service provided by way of Varishtha Pension Bima Yojana (VPBY) scheme was exempted from service tax w.e.f. 01.04.2015. However, as LIC had collected service tax on policy subscriber contribution from 14.08.2014 to 31.03.2015, it was decided that LIC would be reimbursed on production of certificate from the Chartered Accountants indicating that the amounts have been reimbursed to the subscribers. The Committee note from the reply of the Ministry that LIC has refunded Rs.108 crore to the subscribers and Rs.1.40 crore is yet to be refunded. The Committee observe that the IRDA should monitor such cases earnestly to ensure that the moneys due to subscribers are paid back expeditiously. The Committee are of the view that IRDA should work in tandem with the insurance companies in such cases and display all such information on its website in bold to safeguard the interests of the subscribers. The Committee desire that the remaining service tax collected from the subscribers of VPBY be refunded at the earliest under intimation to the Committee.

**[Observation / Recommendations No. 6 of 48th Report of the  
Public Accounts Committee (16th Lok Sabha)]**

### **Action Taken**

#### **Reimbursement to the Subscribers of the Varishtha Pension Bima Yojana (VPBY)**

This is regarding refund of service tax paid by the subscribers under VPBY scheme upto 31<sup>st</sup> March, 2015. LIC of India had collected service tax on policy subscription amount under the scheme for the period from 14.08.2014 (date of launching of scheme) to 31.03.2015. However, subsequently the premium paid towards VPBY was exempted from service tax w.e.f. 1<sup>st</sup> April, 2015 by the Department of Revenue. However, the said



exemption was not applicable to those who joined the scheme from 14.08.2014 to 31.03.2015.

In order to bring parity among the policyholders contributing under VPBY under different point of time i.e. before and after 1<sup>st</sup> April, 2015, the matter was referred to Department of Revenue (DoR). DoR informed that there is no provision for exemption of service tax from retrospective date. However, DoR has suggested that an amount equal to service tax collected under VPBY from 14.08.2014 to 31.03.2015 would be reimbursed to LIC on submission of CA/Auditors Certificate by LIC. Accordingly, this Department advised LIC to refund the service tax amount collected from the policyholders and produce certificate from CA/Auditors to the effect that amount have been reimbursed to the policyholders for claiming reimbursement by LIC.

LIC has confirmed that the entire service tax on premium amounting to Rs.109,32,26,720 collected from the subscribers of Varishtha Pension Bima Yojana (VPBY) scheme has been refunded and LIC has also produced the certificate from the Chartered Accountants indicating that the amounts have been reimbursed to the subscribers. Accordingly, Department of Financial Services has requested Budget Division, Department of Economic Affairs to make budgetary provision under Revised Estimates (RE) 2016-17 for reimbursement of above said amount to LIC.

#### **Audit's vetting comments on Ministry's ATN**

The observations are not related to the functioning of IRDAI. Hence, no remarks to offer.

**[Ministry of Finance OM No. R-16013/01/2016-Ins.1  
dated 27 February 2017]**

**CHAPTER III**

**OBSERVATIONS/RECOMMENDATIONS WHICH THE COMMITTEE DO NOT  
DESIRE TO PURSUE IN VIEW OF THE REPLIES RECEIVED FROM THE  
GOVERNMENT**

**-NIL-**

## CHAPTER IV

### OBSERVATIONS/RECOMMENDATIONS IN RESPECT OF WHICH REPLIES OF GOVERNMENT HAVE NOT BEEN ACCEPTED BY THE COMMITTEE AND WHICH REQUIRES REITERATION

#### Observation / Recommendations

##### **Audit of income and expenditure**

##### **1. Delay on the part of DFS in replying to IRDA.**

The committee note that IRDA, instead of collecting the tax, requested the Ministry in April, 2012 to get the services rendered by it included in the Negative List and also did not collect the service tax as per the provisions of the Act pending decision from the Ministry. The Committee observe that the Ministry intimated IRDA on 30<sup>th</sup> July, 2013 that the services provided by the Authority are liable to service tax.

The Committee are distressed to note that in this modern era of fast paced developments, it took the Ministry fifteen long months to give clarification on a single query raised by the IRDA resulting in non-collection of service tax during the period. The Committee observe that the Ministry which imposes penalties for delays on other parties is oblivious of its own laxity.

The Committee are of the view that a time frame may be prescribed for the Ministry to clear all the queries referred to it so that such lapses are not repeated in future. The Committee also desire that responsibility for this delay be fixed and stringent action taken against those found guilty and the Committee be apprised thereof within three months of presentation of this report.

**[Observation / Recommendations No. 1 of 48<sup>th</sup> Report of the  
Public Accounts Committee (16th Lok Sabha)]**

#### Action Taken:

##### **Delay on the part of Department of Financial services in replying to IRDAI**

It is submitted that IRDA's request regarding inclusion of services provided by the Authority in negative list of service tax was received in the Department on 26.04.2012. The subject matter involved a policy decision, this Department referred IRDA's request to Central Board of Excise & Customs, Department of Revenue, Ministry of Finance on

23.05.2012 and followed up vide reminder dated 20.09.2012. The Department expected a decision on applicability of service tax of the services rendered by IRDA in the Budget statement of 2013-14. As there was no mention of this matter in the Budget statement of 2013-14, this Department again reminded Department of Revenue vide OM dated 16.05.2013 and 27.05.2013.

Vide OM dated 26.06.2013, Department of Revenue informed that the services provided by IRDA are neither covered in the negative list nor by any exemption notification and is therefore liable for service tax. This was communicated to IRDA by this Department vide letter dated 26.07.2013. In response, vide their letter dated 13.03.2014, IRDA informed that they have remitted service tax from 1<sup>st</sup> July, 2012 to 31<sup>st</sup> December, 2012 under Voluntary Compliance Encouragement Scheme (VCES) and for the remaining period the payment would be finalised.

IRDA also sought clarifications on the term "Government Authority" as defined in the notification no.25/2012-service tax, issued by the Ministry of Finance and requested to inform whether IRDA can be treated as Government Authority and be exempted in payment of service tax. This was again referred to Department of Revenue vide OM dated 29.04.2014 and reminders dated 14.10.2014, 03.11.2014 and 19.12.2014.

Department of Revenue vide their OM dated 31.12.2014 informed that the term "government authority" as defined in notification no.25/2012-ST (as amended) covers only such authority or a board/body that carries out any function entrusted to a municipality under article 243W of the Constitution. IRDA does not carry out any function entrusted to a municipality and hence IRDA is not covered under the definition of "government authority" as defined in the said notification. Therefore, IRDA is liable to pay service tax on any taxable services provided by it. Accordingly this Department informed IRDA vide letter dated 14.01.2015 that the exemption provided to the "government authority" as defined in the notification no.25/2012/ST (as amended) is not applicable to IRDA and IRDA is liable to service tax.

It may be observed from the above that there was no substantial delay on the part of this Department in taking up the matter with the Department of Revenue and communicating the decision to the IRDA. It is submitted that this Department referred IRDA's request to Department of Revenue, which is the appropriate authority to issue the clarification. The

subject matter under consideration involved policy decisions and it took some time before a final view could be conveyed to IRDA.

### **Audit's vetting comments on Ministry's ATN**

The subject matter involving policy consideration was taken by Department of Revenue. As the issue is not related to IRDAI, no remarks to offer.

**[Ministry of Finance OM No. R-16013/01/2016-Ins.1  
dated 27 February 2017]**

### **Observation / Recommendations**

#### **2. Computerisation of query addressing system**

The Committee note that the Ministry does not follow electronic approach for receiving/ addressing/ processing the queries received for clarification. The Committee feel that queries such as liability to service tax is a routine matter for the Ministry and can be handled by prescribing a procedure which can be implemented electronically. The Committee, therefore, desire that Ministry may adopt and apply electronic systems/approach to all its processes to streamline such seeking of clarifications and obtaining information to avoid instances of unconscionable delay. The Committee also feel that such electronic system should also provide for reporting the time of receiving the queries and the time taken to address them for enabling effective monitoring.

**[Observation / Recommendations No. 2 of 48<sup>th</sup> Report of the  
Public Accounts Committee (16<sup>th</sup> Lok Sabha)]**

### **Action Taken:**

#### **Computerisation of query addressing system**

The subject matter of services of Authority, whether to be taxed or not, is a policy matter under Department of Revenue and this is reflected through Budget statement in the form of exemption/negative list. Hence it may not be treated as a routine matter and therefore, it may practically not be feasible to adopt and apply query based electronic monitoring system to provide the clarifications. However, a copy of the Report has been sent to Department of Revenue for taking necessary action and inform the Committee accordingly.

The CBEC also addresses citizen grievances through the CPGRAMS. Grievances are received, addressed and solved in the given time frame electronically. At the Zonal level 24 hours e-help lines are operational. Further, at Commissionerate level mechanisms viable for the local conditions have been set in place for effective grievance redressal. GST is scheduled to be operational from 01.07.2017. While the methodology of issuing clarification about taxability in GST is yet to be worked out, it is possible that Ministry may not be able to issue clarifications by its own and proposed clarifications may have to be discussed by the GST council. The observation of the committee will be kept in mind while evolving the procedure.

**[Ministry of Finance OM No. R-16013/01/2016-Ins.1  
dated 27 February 2017]**

#### **Audit's vetting comments on Ministry's ATN**

The observations are not related to the functioning of IRDAI. Hence, no remarks to offer.

**[Ministry of Finance OM No. 137/70/2016-Service Tax  
dated 24 March 2017]**

## CHAPTER V

### OBSERVATIONS/RECOMMENDATIONS IN RESPECT OF WHICH GOVERNMENT HAVE FURNISHED INTERIM REPLIES

#### Observation / Recommendations

#### 3. Collection of Service Tax

The Committee note that despite receiving the clarification from the Ministry in July, 2013 that IRDA was liable to pay service tax, the Authority sought an opinion from a tax consultant, who confirmed in December, 2013, the service tax liability and assessed the same for the period from 1<sup>st</sup> July, 2012 to 2<sup>nd</sup> December, 2013 at Rs.17.09 crore. The Committee further observe that IRDA decided then to collect service tax payable w.e.f. 1<sup>st</sup> January, 2014 from service receivers. It however, paid the service tax of Rs.22.58 crore for the period 01.07.2012 to 31.12.2013 from its own funds as it was felt difficult to recover the service tax for the earlier period. It was only after Audit's observation on non-recovery of service tax, the matter was placed before the 87<sup>th</sup> meeting of the Board held on 27<sup>th</sup> March, 2015 and it was decided to recover the entire service tax due. The Committee note that IRDA has recovered 96% of the total dues i.e. Rs.21.60 crore as against the total of Rs.22.58 crore as on date.

The Committee observe with concern that there was an avoidable and inordinate delay on the part of IRDA by seeking the opinion from the tax consultant when the Ministry had already directed them to pay service tax. The process took five months for calculating the service tax liability. The Committee desire that accountability may be fixed on the officials concerned, so that such matter of financial significance are not neglected or repeated in future by the Authority. The concerned officials in the Ministry of Finance should have prevailed upon the IRDA in timely following the provisions of the Finance Bill, 2012. The Committee view seriously about the failure of the Ministry in this regard. The Committee while cautioning the Authority on being careful in future in financial matters, would further like to be apprised of the status of recovery of the balance amount of 4% i.e. Rs.98 lakhs from the service receivers. The Committee further recommended that IRDA should computerise and strengthen its tax collection systems to facilitate service tax collection.

[Observation / Recommendations No.3 of 48th Report of the  
Public Accounts Committee (16th Lok Sabha)]

## **Action Taken**

### **Collection of Service Tax**

IRDAI has informed that after receiving Ministry's decision on payment of service tax, the office took up the process of calculation of service tax with the help of a Chartered Accountant firm, in order to determine the correct methodology of calculation of tax i.e. whether 'inclusive' method or 'exclusive' method is to be followed, since IRDAI was new to service tax payment. The processing has taken some time and the authority assured that financial significance will not be neglected and the authority also assured that it will not be repeated in the future. IRDAI has also requested for a lenient view to be taken in the matter. IRDAI has further informed that as far as recovery of service tax is concerned, the authority has recovered Rs.22.35 crore as against Rs.22.58 crore and they are pursuing vigorously for recovery of balance amount of Rs.23 lakhs. IRDAI has also informed that services provided by IRDAI are exempted from service tax w.e.f. 01.04.2016 vide Tax Research Unit's D.O. No.F.No.334/8/2016\_TRU dated 29.02.2016.

With effect from 01.07.2012 the tax base has been broadened and all services are liable to service tax, unless they are in the Negative List or are exempted. Thus the liability of a service provider is seen vis-a- vis the legal definition of "service" and not by the nature of the body (i.e a regulator). As mentioned earlier, in order to ensure that the tax base is wide, exemptions are kept at minimum. GST is scheduled to be operational from 01.07.2017 and in the GST regime, policy decisions will be taken by the GST council.

### **Audit's vetting comments on Ministry's ATN**

Out of Rs.22.58 crore, IRDAI has recovered Rs.22.35 crore as on date. Rs.23 lakh is pending recovery.

As 99 per cent of service tax has since been recovered, the ATN is acceptable..

**[Ministry of Finance OM No. R-16013/01/2016-Ins.1  
dated 27 February 2017]**



## **Observation / Recommendations**

### **5. Regulators as service providers**

The Committee note that in view of the surge in number of services and service providers, the number of regulatory authorities have also increased which are mandated with dual roles, i.e. both regulation and development of the respective sectors and for achieving these aims, they provide certain services for which charges/fees are taken. The Committee also note the reply of the Ministry while deciding on the issue of exemption to IRDA that "it was a conscious decision of the Government to keep the exemptions at the minimum and hence the services rendered by IRDA are liable to service tax". The Committee are of the view that instead of taking decisions to only align with the strategy to keep the exemptions to the minimum, the Ministry should analyse whether services rendered by these regulators should be liable under service tax and whether all the regulators are paying service tax for services rendered by them and bring out a policy decision on the same under intimation to the Committee.

**[Observation / Recommendations No. 5 of 48th Report of the  
Public Accounts Committee (16th Lok Sabha)]**

### **Action Taken**

#### **Regulators as service providers**

The subject is a policy under the domain of the Department of Revenue, Ministry of Finance and they are the exclusive authority in the matter of service tax. As such the policy decision as desired by the Committee needs to be taken by Department of Revenue, Ministry of Finance. Accordingly, Department of Revenue has been requested to take appropriate action in the matter and inform the Committee accordingly.

#### **Audit's vetting comments on Ministry's ATN**

The observations are not related to the functioning of IRDAI. Hence, no remarks to offer.

**[Ministry of Finance OM No. 137/70/2016-Service Tax  
dated 24 March 2017]**

**NEW DELHI;  
6 April, 2017  
16 Chaitra, 1939 (Saka)**

**PROF. K.V. THOMAS  
Chairperson  
Public Accounts Committee**

CONFIDENTIAL**MINUTES OF THE NINTH SITTING OF SUB-COMMITTEE-III (DIRECT AND INDIRECT TAXES) OF PUBLIC ACCOUNTS COMMITTEE (2016-17) HELD ON 05<sup>TH</sup> APRIL, 2017.**

The Sub- Committee sat from 1030 hrs. to 1045 hrs. on 05<sup>th</sup> April, 2017 in Committee Room "E", Parliament House Annexe, New Delhi.

**PRESENT**

Shri Nishikant Dubey - Convenor

**MEMBERS****LOK SABHA**

2. Prof. Richard Hay

**RAJYA SABHA**

3. Shri Ajay Sancheti

**LOK SABHA SECRETARIAT**

1. Shri S.C. Chaudhary - Joint Secretary
2. Shri T. Jayakumar - Director
3. Smt. Bharti S. Tuteja - Deputy Secretary

2. At the outset, the Convenor, Sub-Committee III of PAC (2016-17) welcomed the Members to the Sitting of the Sub-Committee. Then, the Sub-Committee took up the draft Report on the subject **"Action Taken by the Government on the recommendations/observations contained in the 48<sup>th</sup> Report of PAC (16<sup>th</sup> Lok Sabha) on Avoidable Expenditure on Service Tax by Insurance Regulatory and Development Authority (IRDA)"** based on 48<sup>th</sup> Report of PAC (16<sup>th</sup> Lok Sabha) for consideration.

3. The Convenor invited suggestions of the Members on the above-mentioned draft report. After discussing the contents of the draft report, the Sub-Committee adopted the same.

4. The Sub-Committee authorized the Convenor to place the same before the Main Committee for consideration and adoption.

## APPENDIX II

**MINUTES OF THE TWENTY-NINTH SITTING OF THE PUBLIC ACCOUNTS COMMITTEE  
(2016-17) HELD ON: 6 APRIL, 2017.**

The Committee sat from 1030 hrs. to 1100 hrs. on 6 April, 2017 in Room No. "51", Parliament House, New Delhi.

**PRESENT****Prof. K. V. Thomas**

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**Chairperson****MEMBERS****LOK SABHA**

2. Shri Prem Singh Chandumajra
3. Shri Nishikant Dubey
4. Prof. Richard Hay
5. Smt. Riti Pathak
6. Shri Neiphiu Rio
7. Shri Abhishek Singh
8. Dr. Kirit Somaiya
9. Shri Anurag Singh Thakur
10. Shri Shiv Kumar C. Udasi

**RAJYA SABHA**

11. Shri Bhubaneswar Kalita
12. Shri Ajay Sancheti

**LOK SABHA SECRETARIAT**

1. Shri A. K. Singh - Additional Secretary
2. Shri S. C. Chaudhary - Joint Secretary

3. Shri T. Jayakumar - Director
4. Shri Paolienlal Haokip - Deputy Secretary
5. Smt. Bharti S. Tuteja - Deputy Secretary
6. Shri A. K. Yadav - Deputy Secretary

#### **REPRESENTATIVES FROM THE OFFICE OF THE COMPTROLLER AND AUDITOR GENERAL OF INDIA**

1. Shri. Nand Kishore - Dy.CAG (DCR)
2. Shri Mukesh P. Singh - D. G (ACE)

2. At the outset, the Chairperson welcomed the Members and the representatives of the Office of the C&AG of India to the sitting of the Committee. The Chairperson then apprised the Members that the meeting has been convened to consider and adopt six Draft Reports as already circulated to Members. Thereafter, the Committee took up the following draft reports one by one for consideration:

- (i) \*\*\*\*                      \*\*\*\*\*                      \*\*\*\*\*                      \*\*\*\*\*
- (ii) \*\*\*\*                      \*\*\*\*\*                      \*\*\*\*\*                      \*\*\*\*\*
- (iii) \*\*\*\*                      \*\*\*\*\*                      \*\*\*\*\*                      \*\*\*\*\*
- (iv) \*\*\*\*                      \*\*\*\*\*                      \*\*\*\*\*                      \*\*\*\*\*

(v) Draft Report on Action taken by Government on observations/ recommendations contained in 48<sup>th</sup> Report (16<sup>th</sup> Lok Sabha) on "Avoidable Expenditure on Service Tax by Insurance Regulatory Development Authority (IRDA)";

- (vi) \*\*\*\*                      \*\*\*\*\*                      \*\*\*\*\*                      \*\*\*\*\*

3. After deliberations, the Draft Reports were adopted unanimously by the Committee except Draft Report at Serial No. (iii) above wherein minor changes/modifications were suggested by a Member.

4. Hon'ble Chairperson, thereafter, also informed the Members that a group photograph of Members of PAC with Hon'ble Speaker, Lok Sabha has been organised on 7 April, 2017.

at 1000 hrs at the courtyard behind P.N.O, near Gate No. 1, Parliament House. He requested all the Members to be present on the occasion.

5. The Chairperson thanked the Members for their participation in the consideration and adoption of the Draft Reports and the representatives of the C&AG of India for assisting the Committee in the examination of the subjects.

*The Committee then adjourned.*

**APPENDIX-III**  
(Vide Paragraph 5 of Introduction)

**ANALYSIS OF THE ACTION TAKEN BY THE GOVERNMENT ON THE  
OBSERVATIONS/RECOMMENDATIONS OF THE PUBLIC ACCOUNTS COMMITTEE  
CONTAINED IN THEIR FORTY-EIGHTH REPORT (SIXTEENTH LOK SABHA)**

(i)	Total number of Observations/Recommendations	-	6
(ii)	Observations/Recommendations of the Committee which have been accepted by the Government:	-	Total : 2 Percentage: 33.33%
	Para Nos. 4 and 6		
(iii)	Observations/Recommendations which the Committee do not desire to pursue in view of the reply of the Government:	-	Total : 0 Percentage: 0%
	-Nil-		
(iv)	Observations/Recommendations in respect of which replies of the Government have not been accepted by the Committee and which require reiteration:	-	Total : 2 Percentage: 33.33%
	1 and 2		
(v)	Observations/Recommendations in respect of which the Government have furnished interim replies:	-	Total : 2 Percentage: 33.34%
	Para Nos. 3 and 5		