

GOVERNMENT OF INDIA
MINISTRY OF FINANCE
DEPARTMENT OF ECONOMIC AFFAIRS

RAJYA SABHA

STARRED QUESTION NO. *30
ANSWERED ON TUESDAY, NOVEMBER 30, 2021

CRYPTOCURRENCY AND NFT REGULATION

*30. SHRI SUSHIL KUMAR MODI:

Question:

Will the Minister of Finance be pleased to state:

- (a) the current legal stance on trading of non fungible tokens (NFT) on cryptocurrency exchanges;
- (b) whether Government is seeking to make a separate legal framework for Non Fungible Tokens;
- (c) the number of instances of cryptocurrency related frauds and value of such scams booked;
- (d) the tax rate currently applicable to crypto-exchanges and other crypto service providing platforms; and
- (e) the details of how the tax will be applicable and collected?

Answer:

FINANCE MINISTER

(SMT. NIRMALA SITHARAMAN)

- (a) to (e): A Statement is laid on the table of the House.

Q.No. 19, Q.No. 23 & Q.No. 30 were taken up together.

STATEMENT REFERRED TO IN REPLY TO RAJYA SABHA STARRED QUESTION NO. 30 RAISED BY SHRI SUSHIL KUMAR MODI, HON'BLE MEMBER OF PARLIAMENT TO BE ANSWERED ON 30.11.2021 REGARDING CRYPTOCURRENCY AND NFT REGULATION

(a): Currently, Cryptocurrency including non-fungible tokens (NFTs) is unregulated in India.

(b): A Bill on Cryptocurrency and Regulation of Official Digital Currency for introduction in the Lok Sabha has been included in the Lok Sabha Bulletin-Part II as part of Government Business expected to be taken up during the Seventh Session of Seventeenth Lok Sabha, 2021.

(c): The Government does not collect specific information on cryptocurrency related frauds. Further, 'Police' and 'Public Order' are State subjects as per the Seventh Schedule of the Constitution of India. States/UTs are primarily responsible for the prevention, detection, investigation and prosecution of such crimes including financial frauds through their Law Enforcement Agencies. The State Police takes legal action as per provisions of law against the offenders. However, eight cases related to cryptocurrency related fraud are under investigation by the Directorate of Enforcement. Further disclosure of information may not be in larger public interest.

(d) & (e): The extant statutory provisions on scope of total income for taxation as per section 5 of the Income-tax Act, 1961 envisage that total income shall include all income from any source derived.

No separate section or provision in Income-tax Act, 1961 presently deals specifically with the rate of tax, applicability and collection of tax on the income earned by crypto-exchanges and other crypto service providing platforms. The income earned by Crypto-exchanges and other crypto service providing platforms is liable to tax under the head Business or Profession under Chapter-IV of the Income-tax Act, 1961. Applicability of tax rate will depend on status and category of taxpayer.

भारत सरकार
वित्त मंत्रालय
आर्थिक कार्य विभाग
राज्य सभा

तारांकित प्रश्न संख्या 30

(जिसका उत्तर मंगलवार, 30 नवंबर, 2021 /09 अग्रहायण, 1943 (शक) को दिया जाना है)

क्रिप्टोकॉरेंसी और एन.एफ.टी. का विनियमन

30. श्रीसुशील कुमार मोदी:

क्या वित्त मंत्री यह बताने की कृपा करेंगे कि:

- (क) क्रिप्टोकॉरेंसीएक्सचेंजों में गैर-प्रतिमोच्य टोकनों (एन.एफ.टी.) के क्रय-विक्रय के संबंध में मौजूदा कानूनी स्थिति क्या है;
- (ख) क्या सरकार गैर-प्रतिमोच्य टोकनों के लिए एक अलग कानूनी तंत्र बनाने पर विचार कर रही है;
- (ग) क्रिप्टोकॉरेंसीसे संबंधित धोखाधड़ी की कितनी घटनाएं सामने आयी हैं, और इस प्रकार के दर्ज किए गए घोटालों की राशि कितनी है;
- (घ) क्रिप्टो एक्सचेंजों और अन्य क्रिप्टो सेवा प्रदाता मंचों के लिए वर्तमान में लागू कर की दर कितनी है; और
- (ङ) कर किस प्रकार लगाया और वसूल किया जाएगा, तत्संबंधी ब्यौरा क्या है?

उत्तर

वित्त मंत्री (श्रीमती निर्मला सीतारामन)

(क) से (ङ):विवरण सभा पटल पर रख दिया गया है।

प्र.सं.19, 23 और प्र.सं. 30 पर साथ-साथ चर्चा की गई

“क्रिप्टोकॉरेसी और एन.एफ.टी. का विनियमन” के संबंध में श्री सुशील कुमार मोदी द्वारा पूछे गए दिनांक 30.11.2021 को उत्तरार्थ राज्य सभा तारांकित प्रश्न सं. *30 के भाग (क) से (ड) के उत्तर में उल्लिखित विवरण।

(क): वर्तमान में, भारत में गैर-प्रतिमोच्य टोकनों (एनएफटी) सहित क्रिप्टोकॉरेसी अनियमित है।

(ख): लोकसभा में पेश करने के लिए क्रिप्टोकॉरेसी और आधिकारिक डिजिटल मुद्रा के विनियमन पर सरकारी कामकाज के भाग के रूप में लोकसभा बुलेटिन भाग-II में सत्रहवीं लोकसभा, 2021 के सातवें सत्र के दौरान संभावित विचारार्थ एक विधेयक को शामिल किया गया है।

(ग): सरकार क्रिप्टोकॉरेसी से संबंधित धोखाधड़ी पर विशिष्ट जानकारी एकत्र नहीं करती है। इसके अलावा, 'पुलिस' और 'लोक व्यवस्था' भारत के संविधान की सातवीं अनुसूची के अनुसार राज्य के विषय हैं। राज्य/संघ राज्य क्षेत्र अपनी विधि प्रवर्तन एजेंसियों (एलईए) के माध्यम से वित्तीय धोखाधड़ी सहित ऐसे अपराधों की रोकथाम, पता लगाने, जांच और अभियोजन के लिए प्राथमिक रूप से जिम्मेदार हैं। राज्य पुलिस अपराधियों के खिलाफ कानून के प्रावधानों के अनुसार कानूनी कार्रवाई करती है। हालांकि, क्रिप्टोकॉरेसी धोखाधड़ी से संबंधित आठ मामलों की जांच प्रवर्तन निदेशालय द्वारा की जा रही है। सूचना का आगे प्रकटीकरण व्यापक जनहित में नहीं हो सकता है।

(घ) और (ड): आयकर अधिनियम, 1961 की धारा 5 के अनुसार कराधान संबंधी कुल आय के क्षेत्र पर मौजूदा सांविधिक प्रावधानों में यह परिकल्पित है कि कुल आय में किसी स्रोत से व्युत्पन्न सभी आय शामिल होगी।

आयकर अधिनियम, 1961 में कोई अलग धारा या प्रावधान वर्तमान में क्रिप्टो-एक्सचेंजों द्वारा अर्जित आय पर कर की दर, प्रयोज्यता और कर संग्रह और अन्य क्रिप्ट सेवा प्रदान करने वाले प्लेटफार्मों से विशेष रूप से संबंधित नहीं है। क्रिप्टो-एक्सचेंजों और अन्य क्रिप्टो सेवा प्रदान करने वाले प्लेटफार्मों द्वारा अर्जित आय आयकर अधिनियम, 1961 के अध्याय-IV के तहत शीर्ष व्यापार या व्यवसाय के तहत कर-योग्य है। कर की दर की प्रयोज्यता करदाता की स्थिति और श्रेणी पर निर्भर करेगी।

SHRI SWAPAN DASGUPTA: Sir, I have seen the answers to all the three relevant questions on cryptocurrency. There are two ways of ensuring security; one is to control an environment, and the other is to shut yourself in a sealed room. I guess the second way would be full-proof, but, will that be very effective? The question here is, cryptocurrency is extremely popular with youngsters today, and they have been very unnerved by these latest speculations over it. The question which I want to ask is, will an outright ban be desirable? We still await the legislation which hon. Minister of Finance, Shrimati Nirmalaji will be proposing. But, will an outright ban be preferable, or, will it be far better to regulate it because we do not know as to how the cryptocurrency is moving in future? It is still very much 'work in progress'. Therefore, will it be better to influence the course of the crypto currency development by being within the system through a process of regulation as has been done by certain countries? I think, Germany is, probably, one of them, which has done that. It is really the question of which is the most preferable option to exercise without losing track of the larger questions of hot money, security, legality, etc.

THE MINISTER OF FINANCE (SHRIMATI NIRMALA SITHARAMAN): Sir, this is a very interesting time to have this debate, particularly, in the House. I, in fact, recognize Member, Swapan Dasgupta, saying there will be a Bill coming, and, yet, will it be a regulation or will it be a prohibition, indicating that prohibition may not be ideal and also indicating that this whole area is dynamic area and so on? So, keeping the propriety of the House, particularly, as the Session is ongoing, and the fact that we have answered saying that there is a Bill being proposed sooner rather than later, any answer, I would give now, will preempt the discussion which I am sure Swapanji will also participate, when the Government comes with the Bill, with all its nuances and the discussion can, of course, cover all these aspects. So, kindly permit me not to go beyond this.

DR. NARENDRA JADHAV: Sir, there are misleading advertisements regarding the potential of making big profits by investing in private crypto currency like Bit Coin. The younger generation is increasingly finding them more and more tempting. Sir, private crypt to currencies are being used for money laundering, terrorism financing and even drug trafficking. Pending the passage of the Bill, which is expected to ban private cryptocurrencies, my supplementary question is whether there is any plan with the Government to create awareness about the ill-effects of private crypto- currencies out there because unless we create awareness, whatever happens to the Bill will be seen,

that will happen in future. But in the interregnum, given the fact that the younger generation is being persuaded by the ads, I think, there should be a campaign on the part of the Government to explain the ill-effects of cryptocurrency.

MR. DEPUTY CHAIRMAN: It is a suggestion. I think the hon. Finance Minister will keep it in her mind.

DR. AMAR PATNAIK: Sir, from the answer, it is very clear that there will be a Bill on cryptocurrency and regulation of official digital currency for introduction in Lok Sabha, and as the hon. Finance Minister, we should wait for the Bill. But the fact is that the Report which has been mentioned in the answer, 'This inter-Ministerial Committee was set up on 2nd November, 2017. It gave its report in February, 2019.' The context and growth of asset class of cryptocurrency took place actually in the last three years, which has increased about ten times. So, this Report's relevance may not be there as much. The question of banning, whether to ban or not to ban, what kind of cryptocurrency to be banned, I will wait for the Bill, but the fact remains, even if you want to ban, the regulatory capacity should be there to monitor that ban. What are we doing to improve the regulatory capacity of RBI or SEBI for different kind of private or Government CBDCs?

MR. DEPUTY CHAIRMAN: I think all this will be covered under the Bill.

DR. AMAR PATNAIK: Regulatory capacity is not covered.

SHRIMATI NIRMALA SITHARAMAN: I am not saying it will cover everything in the Bill or everything may or may not be covered in the Bill. However, the issues pertaining to regulatory capacities and also the fact that it has proliferated in the last two-three years, are well-taken note of. I can only go that far to say that we have had extensive discussions on this. So, I would request the hon. Member to kindly wait to see what is going to be in the Bill.

श्री नीरज शेखर : सर, जैसा कि सब लोग कह रहे हैं कि इस पर बिल आने वाला है, लेकिन bitcoin, जो एक crypto currency है, वह एक डॉलर से शुरू हुई थी, आज उसका मूल्य 60 हजार डॉलर है। एक अनुमान के अनुसार भारत देश में करोड़ों लोगों ने इसमें निवेश किया है, इसमें अपना पैसा लगाया है और लाखों-करोड़ रुपए इसमें चले गए हैं। क्या भारत सरकार उन लोगों को बताने की कोशिश कर

रही है कि अभी यह सुरक्षित नहीं है, अगर इसमें पैसा इन्वेस्ट कर रहे हैं, तो इससे आगे नुकसान हो सकता है? क्या जब तक बिल नहीं आता है, तब तक वित्त मंत्रालय लोगों को यह समझाने की कोशिश कर सकता है कि वे इसमें निवेश न करें? क्या इस संबंध में वित्त मंत्रालय कुछ रहा है?

SHRIMATI NIRMALA SITHARAMAN: Sir, hon. Member, Shri Neeraj Shekhar and, for that matter, the hon. Member from Odisha, Dr. Amar Patnaik, both had raised this question. I am sure, economist Shri Jadhav also mentioned that. Yes, the Bill will come. But, till then, definitely, through SEBI, through RBI, and once the Government of India also, there have been statements issued and, fairly, awareness-building attempts have been made to say that this is a risky area and that the people who are going in there be conscious as to what they are doing. It is also said that this is an area where yet there is not a regulatory framework. I am sure, the House remembers that some two and a half years ago, when Reserve Bank of India attempted to regulate this, it was through the Supreme Court the matter was highlighted that in the absence of a clear-cut policy, regulation by RBI also may not be proper. So, that drove the attempt to have a group and an inter-Ministerial group went into it and then a policy came up. The policy was not issued, but now we are bringing in a Bill. Time has lapsed; in the meanwhile, it has also proliferated. At the same time, awareness issue of 'alert', if I may use the word, has been issued so that the people are fairly cautioned that this may be a high risk area to go in. That much has been done. Maybe, more can be done on that area. I concede to hon. Member, Shri Neeraj Shekhar's concern. But, that is the point. We are doing those little things, but the Bill is what is being keenly looked for.

श्री नीरज शेखर : सर, अभी किसी ने पहले ही बोला कि आप कहीं किसी वेबसाइट पर जाइए, इंटरनेट खोलिए, तो इसके बहुत advertisements आ रहे हैं और हमारे नौजवान साथी उसमें पैसा लगा रहे हैं। मैं यह जानना चाहता हूँ कि जब तक इस पर बिल नहीं आता है, तब तक ये जो advertisements आ रहे हैं, क्या भारत सरकार इनको बंद करने के लिए कुछ उपाय कर रही है?

श्रीमती निर्मला सीतारमण : सर, अभी तक बंद करने का कुछ उपाय नहीं है, मगर caution देने के लिए, युवाओं के लिए इस विषय में जो रिस्क है, उसके बारे में ध्यान दिलाने के लिए सरकार, सेबी तथा आरबीआई के द्वारा कदम उठाए जा रहे हैं। जैसा कि मैंने कहा कि वे इसे और अधिक मात्रा में कर सकते हैं, मगर अब हम इस कगार पर आ गए हैं कि इस पर बिल जल्दी ही आने वाला है।

SHRI SUJEET KUMAR: Sir, with the proliferation of crypto exchanges and explosion of crypto transactions, it is inevitable that scams, frauds and, as hon. Member, Shri

Jadhav, said, money-laundering also are going to happen in a massive way. I suspect that anti-national forces might also try to use these platforms to hurt the Indian economy and to possibly destabilize the Indian economy. Is the Government aware of any such move by anti-national forces and, if yes, what is it trying to do? Thank you.

SHRIMATI NIRMALA SITHARAMAN: Sir, the risk that this can lead to some kind of illegal transfers to not-so-desirable activities are matters which are, in the regular course also, being monitored by institutions, by enforcement authorities and so on. The Ministry of Finance benefits by inputs from them. So, I would only tell the Member that these are matters which are definitely being discussed at various levels.

श्री सुशील कुमार मोदी : माननीय उपसभापति महोदय, अभी मैडम ने advertisements के बारे में बताया। I want to ask Madam that in the last four months, there were a flurry of misleading ads in the TV, print media and social media and they are promising heaven to the investors. And during the World Cup 2020, more than Rs. 50 crores were spent by the crypto exchange companies. मैं यह जानना चाहता हूँ कि is there any plan to ban such advertisements? क्योंकि RBI के जो statements आए हैं, उन्हें किसी ने पढ़ा नहीं है। वे statements केवल अंग्रेज़ी के अखबारों में आए हैं। Are you going to insert some advertisements prominently in all the regional, Hindi and English newspapers? My second question is: Since these ads are without any disclaimer, is the Government of India thinking of banning such advertisements which are misleading और जिसके कारण लोगों के करोड़ों रुपयों का नुकसान हो सकता है? इसलिए मेरा यह specific question है कि is the Government of India contemplating to ban such misleading advertisements till that Bill comes to this House? I am asking because nobody knows whether this Bill will come or not. Last time also it was mentioned in the Bulletin, but it could not come into the House. इसलिए मेरा आग्रह है कि क्या सरकार इनको ban करने के बारे में विचार करेगी?

SHRIMATI NIRMALA SITHARAMAN: Sir, there are two things. Last time also there was a Bill proposed and then it didn't happen. I just want to remind the hon. Member that yes, last time there was a Bill proposed, but subsequently, because there were other dimensions which in the real time we thought it was important to bring into the Bill, that Bill has been re-worked and in a way the Bill which is coming now is a new Bill. But never mind, the work done on that have all been taken on board here. So, the intent was either we improve that Bill or come with a Bill which is going to be far more recent. So, the intent of getting the Bill at that time was there. It was a genuine intent. Now we

are coming up with a new Bill. So, it is not as if last time we just put it there and didn't want to come with one and so leading to suspicion that this time also we are putting a Bill and we may not come up with one. No, let me be clear on that. The earlier attempt was definitely to come up with the Bill, which the House can consider. But later, because rapidly a lot of things had to come into play, we started working on a new Bill and this is the Bill which is now being proposed. Once the Cabinet clears the Bill, it will come here before the House. That is one thing. The second thing is about the misleading advertisements and whether we are banning them. I want to inform the hon. Member who has been a Finance Minister earlier in Bihar and has also been in a very influential and guiding positions in the GST Council whose advice all of us have benefited from. So, I value his question. There are with the Advertising Standards Council of India, the ASCI, which provides guidelines on advertisements. Their guidelines are being studied and the regulations that they have are all being looked into so that we can take, if necessary, some kind of a position or a decision to say how we are going to handle this. I can inform the hon. Member.

SHRI SUSHIL KUMAR MODI: Sir, my second question is: Is Government seeking to make a separate legal framework for NFT. It has not been replied in this answer. It should not be a part of Crypto Currency Act. So, (1) is the Government thinking of a separate legal framework for NFT; and (2) because you have answered in (d) part of the question, I would like to know how many people have paid income tax on cryptocurrencies and how much tax has been collected? Can the Minister tell the House as to how many people have paid income tax on cryptocurrency and how much tax has been collected?

SHRIMATI NIRMALA SITHARAMAN: Sir, I don't have the ready information as to how much tax has been collected on cryptocurrency or how much has been paid on it.

As regards NFT (Non-Fungible Token), hon. Member desires to have a separate legal framework. At this moment, I may not be able to say whether I will give a separate framework or not. But, certainly, as I said, all these matters are being discussed.

MR. DEPUTY CHAIRMAN : Q No. 20. Hon. Member not present.