

F. No. A.28011/15/14-SO(Per/EC)-Ad.II

Government of India
Ministry of Finance
Department of Revenue
Central Board of Excise & Customs

New Delhi, the 13th January, 2015


To

All Chief Commissioners/Director Generals under CBEC

Subject: The Lokpal and Lokayuktas Act, 2013 - Submission of declaration of assets and liabilities by the public servants – Clarification on filing of property returns in accordance with existing service rules for different categories of public servants - reg.

The undersigned is directed to enclose a copy of the O.M. No. 407/12/2014-AVD-IV(B) dated 13th January, 2015 on the subject matter for information and necessary action.

Encl. As above


(S.R. Sharma)
Director
Tele: 23095525

Copy to:

1. DGHRD, CBEC, New Delhi.
2. The Website Manager, Directorate of Systems and Data Management, New Delhi with a request to host this Circular on Departmental website

No. 407/12/2014-AVD-IV(B)
Bharat Sarkar/Government of India
Ministry of Personnel, Public Grievances and Pensions
Department of Personnel and Training

New Delhi, the 13th January, 2015

Office Memorandum

Subject: Declaration of Assets and Liabilities by public servants under section 44 of the Lokpal and Lokayuktas Act, 2013 – extension of last date for filing of revised returns by public servants who have filed property returns under the existing service rules - Clarification on filing of property returns in accordance with existing service rules for different categories of public servants –Reg.

The undersigned is directed to refer to this Department's notification G.S.R. No.918(E) dated 26th December, 2014, further amending the Public Servants (Furnishing of Information and Annual Return of Assets and Liabilities and the Limits for Exemption of Assets in Filing Returns) Amendment Rules, 2014, extending the time limit for filing of revised returns by all public servants from 31st December, 2014 to 30th April, 2015 (Annexure-I).

2. In this regard, several queries are being received from various Ministries/Departments/cadre authorities, as to whether there is any need for public servants to file property returns under the relevant provisions of the existing service rules, as applicable to them, since they are now required to file information and annual returns under the provisions of the Lokpal and Lokayuktas Act, 2013.

3. The provisions relating to filing of assets and liabilities by public servants are contained in section 44 of the Lokpal and Lokayuktas Act, 2013 (Lokpal Act). Under the said section, a public servant is required to furnish to the competent authority the information relating to –

(a) the assets of which he, his spouse and his dependent children are, jointly or severally, owners or beneficiaries; and

(b) his liabilities and that of his spouse and his dependent children.

As against this, the general requirement as contained in most of the applicable Conduct Rules for government servants (AIS Conduct Rules, CCS Conduct Rules, etc.) require the public servant to submit a return, giving the full particulars regarding :—

(a) the immovable property owned by him, or inherited or acquired by him or held by him on lease or mortgage, either in his own name or in the name of any member of his family or in the name of any other person;

(b) shares, debentures, postal Cumulative Time Deposits and cash including bank deposits inherited by him or similarly owned, acquired or held by him;

(c) other movable property inherited by him or **similarly owned, acquired or held by him**; and

(d) debts and other liabilities incurred by him directly or indirectly.

Thus, it may be seen that the scope of the information to be furnished under the Lokpal Act is substantially different from that of the information required to be furnished under the applicable Conduct Rules. Further, under the Conduct Rules, public servants are generally required to submit annual property returns as on the 1st January of the year, on or before 31st January of that year. The Lokpal Act [section 44(4)], on the other hand, requires the filing of annual returns as on the 31st March of the year by each public servant on or before 31st July of that year. Thus, the requirements of the Lokpal Act and the relevant Conduct Rules are different in the manner of filing information also. This being the case, the requirement of filing returns under the relevant Conduct Rules can be dispensed with only by amending such rules, both in regard to their substantial requirement and in regard to the manner of filing information, so as to bring them in harmony with the provisions of section 44 of the Lokpal and Lokayuktas Act, 2013 and the rules framed thereunder.

4. In this context, attention of various Ministries/Departments/cadre authorities is further invited to the provisions of section 56 of the Lokpal and Lokayuktas Act, 2013, which reads as under:-

“56. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any enactment other than this Act or in any instrument having effect by virtue of any enactment other than this Act.”

The above provisions mandate that even if there are any provisions in any existing law (which, inter alia, includes relevant Conduct Rules framed under Article 309, etc.) which are inconsistent with the provisions of the Lokpal Act, the provisions of the Lokpal Act shall have effect, notwithstanding such inconsistency. Thus, the provisions regarding filing of information/annual returns regarding assets and liabilities by public servants under section 44 of the Lokpal Act shall have effect, notwithstanding anything inconsistent therewith in the applicable Conduct Rules. In other words, the filing of information/annual return under the Lokpal Act in the manner prescribed by rules made under that Act, is a mandatory requirement, and the same cannot be dispensed with under any circumstances, except by an amendment of the Act itself.

5. Attention in this regard is also invited to section 57 of the Lokpal Act which reads as under:-

“57. The provisions of this Act shall be in addition to, and not in derogation of, any other law for the time being in force.”


A combined reading of section 57, along with section 44 of the Act, would make it clear that the requirement of filing returns regarding assets and liabilities under the Lokpal Act is in addition to, and not in derogation/supersession of the requirement of filing similar returns under the existing Conduct Rules. In view of this, the requirement of filing of property returns under the existing Conduct Rules is an independent requirement under the applicable rules and the same can be dispensed with, only by amending those rules. In other words, the requirement of filing returns of assets and liabilities under the

applicable Conduct Rules has to continue, till such time as the provisions of those rules are harmonised with the relevant provisions of the Lokpal Act and the rules framed thereunder, by carrying out appropriate amendments in them.

6. Attention in this regard is also invited to the Central Government's notification, S.O. 3272(E) dated 26th December, 2014 (Annexure-II), further amending the Lokpal & Lokayuktas (Removal of Difficulties) Order, 2014, for the purpose of extending the time limit for carrying out necessary changes in the relevant rules relating to different services from "three hundred and sixty days" to "eighteen months", from the date on which the Act came into force, i.e., 16th January, 2014. In view of this, all Ministries / Departments/cadre authorities are required to complete the necessary exercise for harmonising the provisions of relevant Conduct Rules with the provisions of the Lokpal Act and the rules made thereunder, within this extended time of eighteen months. All Ministries/Departments and other cadre controlling authorities have been appraised about this requirement separately through D.O. letters of even number dated 8th September, 2014 and 29th December, 2014 issued by this Department. In view of this, it is incumbent upon all Ministries / Departments/cadre controlling authorities to ensure that the relevant conduct rules relating to services administered/controlled by them are brought in harmony with the provisions of the Lokpal Act and rules made thereunder within this extended time limit of eighteen months.

7. All Ministries/Departments/cadre authorities are, therefore, requested to ensure that -

- (a) necessary follow-up action for harmonising the provisions of the relevant rules relating to all categories of public servants (as defined in the Act) falling under their respective jurisdiction/administrative/cadre control is completed within the revised time limit of 18 months from the date of coming into force of the Act, i.e., 16.01.2014, as now provided in the Order dated 26th December, 2014 (i.e., on or before 15th July, 2015), positively; and
- (b) all public servants falling under their respective jurisdiction / administrative/cadre control, continue filing their annual property returns under the existing provisions of the applicable Conduct Rules [such as the AIS (Conduct) Rules, CCS (Conduct) Rules, etc.,] till such time as the exercise as indicated in (a) above is completed and the relevant service rules are brought in line with the provisions of the Lokpal and Lokayuktas Act, 2013 and the rules framed thereunder.


(Jishnu Barua)
Joint Secretary to the Govt. of India
Tel: 23093591

To

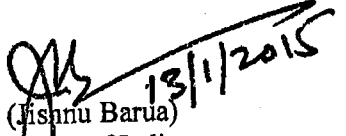
1. All Secretaries to the Govt. of India (as per standard mailing list)
2. All Chief Secretaries of State Governments
3. All Administrators of the Union Territories

Copy for information and with a request for similar action, forwarded to:

- (i) Secretary General, Lok Sabha
- (ii) Secretary General, Rajya Sabha
- (iii) Comptroller and Auditor General of India
- (iv) Secretary, Election Commission of India

Copy also to-

- (1) Special Secretary & Establishment Officer, DoPT, for kind information.
- (2) Joint Secretary (Estt.) with a request to take immediate necessary action for amendments/modification of CCS (Conduct) Rules, 1964 and their implementation.
- (3) Director (Services) (Shri Diwakar Nath Mishra), DoPT, with a request to take immediate necessary action for amendments/modification of AIS (Conduct) Rules and their implementation.


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