

எஸ். எஸ். பழநிமாணிக்கம்
S. S. PALANIMANICKAM



MINISTER OF STATE FOR FINANCE
GOVERNMENT OF INDIA
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वित्त राज्य मंत्री
भारत सरकार
नार्थ ब्लॉक, नई दिल्ली-110001

D.O.F.No. 500/44/2011-FTD-I
22nd March, 2011

Dear Thiru

Subramanian Swamy
Vandakkom

A reference is invited to your letter dated 19th January 2011 addressed to Prime Minister of India regarding disclosure of names of Indians having illegal accounts in Liechtenstein, which were obtained from German Government. In your letter you have stated that a plea has been taken by the Government before the Supreme Court in the Public Interest Litigation that the names of Indians having bank accounts in LGT bank of Lichtenstein received from Germany cannot be made public in view of the confidentiality provision of the DTAA between Indian and Germany. You have also mentioned that there is no bilateral agreement between Indian and Germany which contain confidentiality provision and that Law Officers of Government have misled the Supreme Court. In view of the above, a plea was made to make the names public and prosecute them

2. In this regard, I am constrained to disagree with you on the above facts. It may be noted that the confidentiality provision is contained in paragraph 1 of Article of 26 of India- Germany DTAA which reads as under:

"The competent authorities of the Contracting States shall exchange such information as is necessary for carrying out the provisions of this Agreement. Any information received by a Contracting State shall be treated as secret in the same manner as information obtained under the domestic laws of that State and shall be disclosed only to persons or authorities (including courts and administrative bodies) involved in the assessment or collection of, the enforcement or prosecution in respect of, or the determination of appeals in relation to, the taxes covered by this Agreement. Such persons or authorities shall use the information only for such purposes. They may disclose the information in public court proceedings or in judicial decisions."

The words "public court proceedings" referred to in the last line of paragraph 1 of Article 26 of India- Germany DTAA refer to court proceeding arising out of assessment or prosecution of the taxpayer and not the proceeding similar to one currently before the Supreme Court. Further the German authorities, while actually handing over the information, have emphasized that the information is subject to the confidentiality provisions of the DTAA and may be used only for the tax purposes specified therein.

3. From the above, it is clear that information received under the DTAA cannot be made public and can be used only for tax purposes. This clearly shows that the plea taken by the Solicitor General of India on behalf of Government of India before the Supreme Court is in accordance with law.

4. So far as prosecuting the people whose names have appeared in the list, it is submitted that the show cause notices for prosecutions have been issued. Once prosecution is launched, the names would become public.

With regards,

Yours sincerely,

Thiru Subramanian Swamy,
President, Janata Party,
A-77, Nizamuddin (East),
New Delhi-110013.


(S.S. PALANIMANICKAM)

ISSUED