

CBDT alleges tax settlement commission too lenient on offenders

In a case without parallel, the Central Board of Direct Taxes (CBDT), the agency that collects income tax and sets policies in this space has launched a scathing attack on the Income Tax Settlement Commission (ITSC), a quasi-judicial body that is empowered to grant immunity from prosecution and penalty from any offence under the Income Tax Act.

The CBDT has alleged that the ITSC has been granting immunity to individuals without satisfying whether disclosure of concealed income made before it is "full and true." The Board has also criticised the commission for failing to verify the manner and source of income of individuals found to have committed tax violations.

On March 4, the CBDT circulated a note to all Chief Commissioners (Central) and Directors General (Investigations) stating that the ITSC determined and settled the assessable income (concealed income that is declared) in various cases, which was several times the amount originally admitted in the application made before it.

The note said that the income was settled in such cases, and in addition, the commission granted immunity from penalty and prosecution.

The CBDT's confrontational stance stems from ITSC's rejections of the board's objections to individual applicants who sought immunity from prosecution by appealing before it.

The Commission had recently admitted applications of Congress MP Abhishek Manu Singhvi, energy consultant Satish Sawhney (who has Swiss bank accounts), Sanjeev Lamba, Kailash Lamba, Kammi Lamba and Madulika Lamba (all HSBC account holders in Geneva).

The Income Tax department, which functions under the CBDT, had opposed these applications on the grounds that the disclosure made by them was not full and true. The I-T department had moved court against the decision of the ITSC in the Lamba group of cases, but failed to get relief. To get relief from ITSC, the applicant has to fulfill three conditions, which included making a full and true disclosure of income not declared before tax authorities, disclosure about manner of derivation of income,

and cooperation with the commission during the proceedings. The CBDT note, however, says that "in most of the cases the Commission is recording a satisfaction on the third condition only and granting immunity without recording any satisfaction on the other two conditions." Individuals that sought relief have adopted a modus operandi that the CBDT has frowned upon. "It has also been noticed that the assesses admit additional income for one or two assessment years... but include many other years for which no additional income is offered for settlement. This preempts the Department from making inquiries even in... those years for which no additional income was offered."

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