CBDT drops Rs 15-cr cap for transfer pricing scrutiny

Audits may now be based on risk of tax evasion

The government has dropped the Rs 15-crore threshold for referring transactions between a multinational company and its Indian subsidiary for compulsory scrutiny by the tax department.

It might, instead, move towards a risk-based approach to identify international transactions prone to tax evasion.

In the new guidelines on manual selection of cases for compulsory income tax (I-T) scrutiny, issued by the Central Board of Direct Taxes (CBDT), there is no mention of the threshold for picking up cases with international transactions worth Rs 15 crore or above.

NEW NORMS Guidelines for income-tax department
Earlier norm for compulsorily scrutinising Indian subsidiaries of MNCs having transactions of over Rs 15 crore no longer valid.
Charitable trusts whose registration cancelled but availing exemptions to fall under compulsory scrutiny.
Companies will be picked up based on mis-pricing of transactions.
Experts say this will reduce disputes and litigation.
Companies, organisations getting donation of over Rs 1 cr from abroad may not be scrutinised

“Some of last year’s items have been dropped such as the threshold for selection of cases in transfer pricing for scrutiny. It is a relief for taxpayers,” said Sunil Shah, partner, Deloitte.

At present, assessing officers have to refer every cross-border transaction above Rs 15 crore to a transfer pricing officer to check it it was at arm’s length. Experts said a risk-based approach for selecting transfer pricing cases would be more focused and help reduce litigation. For instance, transactions in case of a trading company would easily exceed Rs 15 crore but these are less risky.

“If you compare with other countries, transfer pricing officers in India are overburdened with cases and that affects the quality of assessment. There was a demand from practitioners for doing risk-based analysis of transfer pricing adjustments. You should go for sectors or companies which are more prone to mispricing,” said Amit Maheshwari, partner, Ashok Maheshwary & Associates.

Among other changes in this year’s guidelines, CBDT has spared from compulsory scrutiny all companies and organisations which got a donation from abroad of more than Rs 1 crore.

A few new provisions have been included. If the registration of a charitable trust has been cancelled and it continues to file I-T returns claiming exemption, the case would have to be taken up for scrutiny. In case of information received from other government departments pointing to tax evasion, compulsory scrutiny will be initiated only if the information is specific and verifiable.

“The point is similar to last year but they have changed it to what is specific and verifiable. If any information received from the excise or customs department is based on suspicion, the case cannot be selected for scrutiny,” said Shah.

Most other instructions in the CBDT order are the same as last year. Transfer pricing cases where the I-T department added at least Rs 10 crore to the declared income of Indian subsidiaries of multinational companies in the past assessment years will be compulsorily scrutinised.

Cases involving addition in excess of Rs 10 lakh to income of a company in the earlier year and primarily all search, seizure, survey and reassessment cases, returns filed in response to a notice from the tax department, and tax exemption claimed even after withdrawal of approval, will also be picked up.

Charitable trusts claiming deductions under the I-T Act despite not being registered under the relevant sections would also be under mandatory scrutiny.

“Cases are also being selected under Computer Aided Scrutiny Selection, on the basis of broad-based selection filters. A list of such cases shall be separately intimated in due course by the department to the jurisdictional authorities concerned,” went the order.

CBDT has asked field officers to share details of at least 50 quality assessments from their respective charges.

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