CBDT sets up panel to decide retro tax cases

The committee will be headed by the joint secretary of the foreign tax and tax research-I unit of the CBDT

The Central Board of Direct Taxes (CBDT) on Thursday set up a high-level committee to scrutinise all Income-Tax (I-T) cases arising of the retrospective tax amendment.

The four-member committee will be headed by the joint secretary of the foreign tax and tax research-I unit of the CBDT. It will decide on such cases within of 60 days of receiving them from the assessing officer (AO).

It will be incumbent upon the AO to approach the committee when faced with an I-T case that is for the period before April, 2012.

The other members on the panel include the joint secretary (tax planning and legislation-I), commissioner of I-T appeals and the director (foreign tax and tax research-I), who will also be the secretary of the committee.

Finance Minister Arun Jaitley had announced the new mechanism in his Budget speech on July 10.

According to the terms of reference for the new committee, it would, on receipt of the reference from the AO "examine the proposed action of the AO and after providing an opportunity to the assessee, take a decision on the proposed action".

In a notification, CBDT said, "The committee shall convey its decision in writing to the AO with copy to the principal commissioner or the commissioner concerned and the assessee."

The apex body of direct taxes system in the country said: "The committee shall endeavour to decide the reference within 60 days of its receipt by the Secretary of the committee. However, the committee shall have due regard to any limitation period involved in the proposed action."

An AO "shall seek prior approval" of the committee when faced with a situation that any income is deemed to accrue or arise in India before April, 2012 through transfer of a capital asset situated in India following the amendments introduced with retrospective effect, the notification said.

The Assessing Officer will thereafter proceed in accordance with the directions of the committee, the CBDT notification said.

It added that CBDT "may intervene" in the working or deliberations of the committee, as and when required.

“The first report shall be submitted in respect of period ending December, 2014 and subsequent reports shall be submitted on half yearly basis (June 30 and December 31 every year),” the notification said.

An amendment to the I-T Act with retrospective effect was undertaken by the UPA government in 2012 to protect revenue and it had evoked sharp reactions from domestic as well as global investors.

The development followed a Supreme Court judgement that went in Vodafone's favour in a tax case arising out of the UK firm's buying Hong-Kong based Hutchison's telecom business which included India operations.

Following the amendment to the tax laws, the authorities issued a letter to Vodafone International Holdings BV stating that the company was required to pay about Rs 11,217 crore in tax along with interest.

Besides, an Income-Tax department's order in January this year held that Edinburgh-based Cairn Plc made capital gains of Rs 24,503.50 crore when it transferred its entire India business from subsidiaries incorporated in Jersey to the newly incorporated Cairn India in 2006.

In his Budget speech, Jaitley had said the new government will not ordinarily bring about any change retrospectively which creates a fresh liability.

"The sovereign right of the government to undertake retrospective legislation is unquestionable. However, this power has to be exercised through extreme caution and judiciousness keeping in mind the impact of each such measure on the economy and the overall investment climate," Jaitley said in his budget speech for 2014-15.

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