FinMin to ease transfer pricing rules

Move to simplify tax regime, reduce litigation and help improve business environment

The finance ministry is streamlining safe harbour rules and advance agreements, two mechanisms to determine the price of services rendered by a multinational to its subsidiary in India.

Safe harbour rules — directives on margins the tax authorities should accept for the transfer price declared by an assessee — have drawn a tepid response since they were introduced a couple of years ago. There is also a huge backlog in advance pricing agreements (APAs), an ahead- of- time understanding between a taxpayer and the tax authority on an appropriate transfer pricing methodology.

The move would simplify the tax regime, reduce litigation and help improve the business environment, a finance ministry official said.

The steps will involve lowering the margins in safe harbour rules and definitions will be reworked to remove ambiguities. India announced the safe harbour rules in 2013, but the high margins of up to 25 per cent on total operational profits have made it unattractive for companies to use them.

“We are addressing issues related to transfer pricing to align it with best practices. We are revising the safe harbour rules that will include revisiting the definition and revising the margins, considered high by companies,” said a tax official.

Information technology (IT) and information technology- enabled services (ITeS) companies with transactions of up to Rs.500 crore have a safe harbour operating margin of 20 per cent and those with transactions above Rs.500 crore have a margin of 22 per cent. Knowledge process outsourcing companies have a safe harbour operating margin of 25 per cent.

Experts argue there is ambiguity in the definition of IT, ITeS and knowledge process outsourcing companies with a lot of overlap. Moreover, the margins decided in tribunals or in advance pricing agreements turn out much lower, ranging between 15 and 18 per cent.

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