Higher tax fears spur capital restructuring in Corporate India

With a new higher tax regime coming into effect from April 1, top corporates and wealthy investors are in a rush to restructure their shareholding.

On Wednesday, Reliance Industries (RIL) announced are structuring involving Rs.1.3 lakh crore of shares within promoter entities.

Similarly, Aurobindo Pharma last week transferred shares totalling Rs.13,200 crore belonging to promoters into a family trust.

Investment guru Shivanand Mankekar, too, was seen undertaking similar restructuring.

Legal experts said shares worth a few lakh crores or more could be restructured before March 31.

Mukesh Ambani controlled RIL said 15 promoter group entities would transfer their 1.19 billion shares in the company to eight other promoter group entities at a price of Rs.1,100.78 per share.

While this amounts to 36.7 per cent of the company´s share capital, the transfer will not result in any change in the promoter group´s shareholding, which stands at 45.24 per cent in the company.

Until now, such transfers didn´t have tax implications.

However, with the new Budget proposal, transfers between individuals and trusts or limited liability partnerships (LLPs) - which were earlier considered a gift - will now be regarded as income and attract tax in the hands of the recipient.

In what would make matters more complex, any transfer made at less than the market value will be deemed ´fair market value´ for computation of tax by tax authorities.

To incorporate these changes, a new section - Section 56 (2) (X) - has been proposed to be introduced into the Income Tax Act. Stringent provisions under this could sound the death knell for corporate restructuring plans, said experts.

“The broad basing of the deemed income provision under Section 56 is unfortunately an extreme provision, and can have unintended consequences, including virtually killing any kind of restructuring, even where the economic interest before and after the transfer is identical or similar, within a family or otherwise,” said Ketan Dalal, senior tax partner, PWC, while declining to comment on any individual company´s plans.

Tax experts said the impact of Section 56 (2) (X) could be felt beyond the stock markets.

(Business Standard)