

Income Tax department to revive 'demand notice' in Vodafone tax case

The tax authorities will revive the 'demand notice' to force Vodafone Group Plc to pay up thousands of crores in taxes, indicating the government's determination to press its claims on the UK-based mobile phone giant but at the same time setting the stage for further litigation.

The demand notice, which is akin to an order to pay a specific quantum of tax, will be re-validated and sent to the company soon after the Finance Bill is passed in Parliament, two senior officials told ET.

The Finance Bill is to be taken up for discussion and voting once Parliament re-convenes in early May, and the case will be re-opened "automatically" once the Bill becomes an Act, one of them, a lawyer advising the government, said.

"There is no need to send a show-cause notice," the person said, explaining that such a notice is usually sent at the start of legal proceedings and the Vodafone case has long passed that stage.

The second person said a clause in the Finance Bill known as the validation clause will be used to revive tax claims that were set aside by India's Supreme Court in January this year.

The Budget for 2012-13 contained a provision to retrospectively tax past cross-border M&A deals.

This, experts have said, is especially aimed at overturning the SC ruling that said Vodafone would not have to pay \$2.3 billion in capital gains tax on a 2007 transaction that involved the purchase of a controlling 67% stake in Indian telecom company Hutch Essar from a company controlled by Hong Kong's Hutchison Whampoa.

The Budget's provisions have been slammed by Vodafone, and triggered remonstrations from foreign leaders and business lobbies decrying a lack of predictability in India's tax regime.

But the finance ministry is unmoved by such complaints and officials say it will cite a letter written by the income tax authorities in March 2007 to Vodafone specifically warning it that it should withhold tax before paying Hutchison.

Prime minister Manmohan Singh, who has received letters from industry bodies in the US, UK and Japan, has asked finance minister Pranab Mukherjee to address the queries and clarify India's stand on the matter. The finance secretary is writing a note on this, a senior government official told ET.

Amid all the intense lobbying and mounting pressure, the finance ministry has stuck to its stand that the country is "no tax haven" and is well within its right to clarify legislation to remove doubts of tax liabilities. This was communicated to the British Chancellor of the Exchequer George Osborne who called on Mukherjee on Monday in the capital.

(Economic Times)