

Income Tax presses Rs 29,000 crore tax notice including interest on Cairn

Days before finance minister Arun Jaitley, in his Budget for 2016-17, made a one-time offer to waive interest and penalty if the companies paid the principal amount to settle the retrospective tax disputes, the income tax department had sent the UK's Cairn Energy Plc a tax demand notice of over Rs. 29,000 crore, including Rs 18,800 crore in interest that goes back to 2007, reports fe Bureau in New Delhi.

The I-T department had on January 22, 2014 issued a draft assessment order of Rs 10,247 crore against Cairn, on alleged capital gains it made in a 2006 reorganization of its India business.

Under income tax rules, an assessment order issued has to be closed within two years and the notice issued now is to close that assessment.

Cairn is the second firm to have received retrospective tax notice this year after the British Vodafone Group.

Cairn Energy Plc's 9.8% stake in Cairn India, which was "seized" by the I-T department is now worth just `3,200 crore.

"Cairn strongly contests the basis of this attempt to retrospectively tax the group for an internal restructuring," the company said, adding it has initiated international arbitration to settle the tax dispute. On September 16, the tax department wrote to Cairn conveying that it would be appointing an arbitrator to resolve the case soon while saying "this is without prejudice to our firm view that the tax disputes referred to in the said notice for arbitration do not fall within the scope of the India-UK Bilateral Investment Protection Agreement".

The company is claiming full compensation for the value of which its shareholders have been deprived following the tax notice and freezing of its 9.8% shares in Cairn India.

Evoking a sharp reaction from the British telecom giant Vodafone, India's tax department had slapped a notice on Vodafone International Holdings on February 4, seeking `14,200 crore (\$2.1 billion) in taxes and threatening to seize its assets if the demand is not met. "The notice has come in a week when Prime Minister Modi is promoting a tax-friendly environment for foreign investors... This seems a complete disconnect between government and the tax department," a Vodafone spokesperson had then said.

While the latest Budget promised waiver of interest and penalty in regard to retrospective tax cases, top government functionaries have since iterated that tax demands (principal amount) can't be withdrawn.

"The total assets of the Cairn subsidiary against which the tax authorities are seeking to pursue a tax claim are \$477 million (including principally the group's near 10% shareholding in Cairn India Ltd) and any recovery by the Indian authorities would be limited to such assets," Cairn said.

I-T department alleges that Cairn Energy made a capital gain of `24,503.50 crore in 2006 when it transferred shares of Indian assets that were held in a subsidiary set up in the tax haven of Jersey, to newly incorporated Cairn India. Also, the department had slapped a demand notice of `20,495 crore comprising tax of `10,248 crore and interest of `10,247 crore, on Cairn India for failing to deduct withholding tax on alleged capital gains made by its erstwhile owner Cairn Energy.

The 2012 amendments to the Income Tax Act, 1961, made indirect transfer of Indian assets including those executed in previous years taxable in India, despite the Supreme Court striking down the retro tax move against Vodafone earlier.

(Financial Express)