

India, Japan to resolve transfer pricing disputes

Half the 30 such cases, worth Rs.10,000 crore, to be addressed

India is set to sign agreements with Japan to resolve as many as 15 transfer pricing disputes. These agreements follow the one recently signed with the US.

The agreements will be for cases that fall in the ambit of the mutual agreement procedure (MAP). Indian tax officials will travel to Japan next month to sign the MAPs.

However, the agreement with Japan might not be similar to that signed with the US, which was based on a framework that would help resolve a number of cases pending with Indian tax authorities. The MAPs with Japan would be different, as a ‘one-size-fits-all’ approach isn’t possible for industrial relations between India and Japan.

The tax disputes involve Japanese companies in the automobile and auto ancillary sectors, as well as large trading houses. There are about 30 transfer pricing disputes between India and Japan; these pertain to determining royalty, tax dues, profitability of trading houses, and the commission paid.

According to estimates, the MAPs would bring relief of Rs.10,000 crore to Japanese industries.

MAPs prevent tax disputes that aren’t covered in tax treaties through action by one or both contracting states in specific cases.

The major concern for multinational companies and the nations they are headquartered in is the markup and tax dues on costs for services provided.

“We are planning to sign multiple MAPs with Japan to help companies to determine the markup. It will be based on activities to make it easier for companies and tax authorities to work through cases,” said an official.

In the first tranche, the two governments hope to resolve cases in various stages of litigation and assessment.

According to sources privy to the matter, after MAPs with Japan, the Central Board of Direct Taxes (CBDT) plans to sign such agreements with European nations such as the UK and France, too.

“Trade and industrial relations between India and Japan are continuously improving. After the introduction of the new rollback rules, new MAPs and bilateral advance pricing agreements could be signed. These agreements will further aid in improving business relations,” said S P Singh, senior director, Deloitte Haskins & Sells.

Some feel besides signing MAPs and advance pricing agreements (APAs), the government should form a policy that prevents tax controversies from arising. Many multinational corporations sign APAs to avoid litigation while doing business in India. In 2012, 146 applications were filed, followed by 232 the next year.

Recently, India signed a bilateral APA with Mitsui, for five years. Such agreements involve the governments on the two sides, as well as the company concerned.

The governments of the two countries could also finalise a second bilateral APA in June, as some changes have to be made in the wake of new rules for the APA rollback notified by the CBDT.

RELIEF TO MNCS

- Transfer pricing disputes between India and Japan relate to the auto and auto ancillary sectors, as well as trading houses
- Issues to be resolved pertain to royalty, tax dues, profitability of trading houses and the commission paid
- The first tranche of cases would resolve the year of transaction
- Overall, there are about 30 transfer pricing disputes between the two countries

(Business Standard)