

India accepts Vodafone's offer for informal talks on tax dispute

India has accepted British telecom major Vodafone Group Plc's proposal to hold "informal" talks to decide a set of "mutually agreed rules" to settle the Rs 20,000-crore withholding tax dispute between the two parties, a person familiar with the matter said.

"The government has also consented to Vodafone's proposal of holding these informal talks within the country (India) and asked the company to nominate a representative at the earliest," the person told ET, asking not to be named. The person added that the government wrote a letter of acceptance to the company last week.

The person said that the "agreed set of rules" could result in holding conciliation talks under a neutral jurisdiction — outside the purview of Indian laws and that of United Nations Commission on International Trade Law (UNCITRAL), a proposal mooted by Vodafone in response to the government's June offer to settle the matter under Indian jurisdiction.

Vodafone might even explore the government's counter proposal of conciliation under the Indian laws provided New Delhi assures that the company's acceptance will not tantamount to giving up its "treaty rights" to explore arbitration under UNCITRAL, if the talks failed.

The company had invoked a bilateral treaty between India and the Netherlands to resolve the tax dispute over its 2007 deal to buy Hutchison Whampoa's assets in India. The British company had structured the agreement via its Dutch unit, Vodafone International Holding BV.

The latest development shows that both India and Vodafone are now willing take the extra step towards resolving the over five-year long stalemate.

As reported by ET earlier, Vodafone had shown flexibility by departing from its earlier stance of holding conciliation only under the UNCITRAL, and proposed informal talks in India. Its only condition was that it shouldn't have to submit to the Indian laws.

Vodafone though had rejected India's offer to hold conciliation under the Indian Arbitration and the Conciliation Act. India has been panned locally and globally for amending a law retrospectively and insisting that Vodafone pay taxes on the deal, despite a Supreme Court ruling favoring the company.

The government move hurt the country's image as an investment destination at a time it desperately wants foreign funds amid slowing economic growth and wide current account deficit. India's second-largest mobile phone operator, on its part, has faced an uncertain environment in the country, among its fastest growing markets.

This, among others, has been a major reason behind the company's stalled plans to list its local unit in the country. The company reiterated that it was in talks with India.

"We have always said we would like to reach a solution that is acceptable to both parties." However,

it won't agree to "any proposal that is likely to prejudice legal position and would run counter to the interests of our shareholders".

Vodafone fears any talks under India's jurisdiction might mean giving up of its 'treaty rights' under the bilateral investment treaty the company had invoked last year. "The company fears if the talks fail, it might once again be dragged into litigation under the Indian legal system," another person privy to the matter had told ET earlier.

Government officials couldn't be reached for comment. In June, India offered to settle differences on three points — if Vodafone International Holding is liable to pay taxes, interest and penalties under local income-tax laws on its Hutchison Whampoa's deal — under domestic laws.

(Economic Times)