

Infrastructure firms may get to consolidate tax payments

In what could boost the growth of the infrastructure companies, which are currently reeling under the burden of massive debt, the government is looking to allow them to file a consolidated group tax return, a person familiar with the development said.

This means, infrastructure companies would be able to consolidate profits and losses in all their subsidiaries and pay taxes as a single entity. Currently, these firms treat each project as a separate entity and the performance of one such operation—mostly registered as a special purpose vehicle (SPV)—is independent from another such operation.

The government is conducting a feasibility research to find out if a model of allowing companies to consolidate the SPVs would lead to any loss in their tax revenue, the person told ET. "Currently, the government doesn't know if allowing such a leeway would lead to increase or decrease in taxes." The government could bring the first phase of the initial changes as early as in the upcoming budget, the person said.

The idea is to push the growth agenda. Industry trackers said that even if it leads to loss in tax revenues for the government, giving such a sop to infrastructure could trigger a much-needed growth in the sector. Most infrastructure companies in the country are struggling to service their existing debt. While some companies, particularly in steel sector, have already started defaulting, many more could do so in the coming months, experts said.

Currently, due to bids for projects or financing requirements, most infrastructure companies have created different SPVs under one vertical and are paying taxes separately, said an industry expert who requested not to be named.

"There are taxable profits in certain SPVs and losses or unabsorbed depreciation in others, leading to different tax outgo in different subsidiaries," he said. Industry experts also point out that if the government is able to push this reform, then many other issues that infrastructure companies face could also be reduced substantially. One of the main reasons for tax disputes between the revenue department and infrastructure companies currently is how the expenses are charged by one SPV to another, or by holding company to an SPV.

"Most of the employees (of an infrastructure company) are based in the holding company and their costs need to be cross-charged to various SPVs.

This leads to a very precarious situation as the cross charge amount has to be precisely at arm's length because income tax officer can attack the SPV for making excessive payment or claiming excessive tax holiday," said Hemal Zobalia, partner, India tax leader for infrastructure and energy sector, at Deloitte India. "This puts the Infrastructure companies between the rock and a hard place situation," he said.

Taxing companies instead of SPVs could be based on tax framework in the US, France, Australia and New Zealand, a person familiar with the development said.

The government had taken recommendations from companies and industry experts in this regard in the first week of January. Many infrastructure companies could be able to pass on the benefits of one project to another if the tax reform is passed.

Currently, top companies could be sitting on stressed debt of anywhere close to Rs 5 lakh crore. Many banks, including the public sector banks, are looking to convert their debt to equity in these companies through strategic debt restructuring. The banks are hoping that they would be able to turn around the business with the help of some external help and then sell the stake in the companies to investors, including the private equity investors.

(Economic Times)