

## Interest on tax refunds haunts government

Delayed direct tax refunds and the high interest outgo are proving to be a headache for the government.

Even as thousands await refunds for the 2011-12 fiscal, the Public Accounts Committee (PAC) of Parliament has called revenue secretary Sumit Bose and attorney general G E Vahanvati for what it believes are "mutually contradictory opinions" by the chief law officer on the expenditure that the government incurred in paying interest on tax refunds. Although the issue dates back to 2011-12, the amount involved in payment of refunds adds up to over Rs 34,000 crore in the last five financial years.

What the PAC is concerned with is the Comptroller & Auditor General's (CAG) observation that the payments were in breach of Article 114(3) of the Constitution as the government did not provide for them in the Budget and were therefore, not cleared by Parliament as other spending proposals.

The CAG has maintained that just like interest payments, which are budgeted for by the finance ministry, even interest paid on delayed refunds should be provided for. In fact, CAG has pointed out that the finance ministry had provided Rs 92 crore as "interest for refund of excess tax" in the 2001-02 but the practice was discontinued and is now treated as an outgo from the gross tax receipts.

The finance ministry has told the PAC that separate accounting of interest on refunds will lead to "very serious difficulties as correct estimation will not be possible". When the committee sought the law ministry's view, in September 2012, Vahanvati responded by saying, "The objection taken by CAG with regard to the practice followed in relation to payment of interest on refunds of excess tax is completely justified. The proper procedure would be clearly to indicate the tax collection as a receipt and estimate the interest payable on refund of taxes as an expenditure. I agree with the view of CAG that the reason given with regard to administrative difficulties is not tenable."

In May this year, however, he decided to "reconsider" his earlier opinion and said interest on refund of excess tax "is not an expenditure and such outgo cannot be considered with other operational expenses", resulting in summons from the PAC for what it believes are "mutually contradictory opinions".

Sources in the government, however, said the "reconsidered" opinion was the result of a fresh reference by the law ministry and the emergence of more facts, legal provisions and notes. In the May 2013 opinion, the attorney general has cited various provisions of the Constitution and also referred to the [Income Tax Act](#) that creates a legal entitlement in favour of a taxpayer. He then referred to the [General Financial Rules](#) where it mentioned that "refund of revenues are not regarded as expenditure for purposes of grants or appropriation".

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