Panama Papers' India probe checks misuse of legal routes

The documents show the many ways the rich can exploit secretive offshore tax regimes

A multi-agency team is probing misuse of legal routes by which resident Indians can send money abroad. One legal route is the Liberalised Remittance Scheme (LRS), which allows up to $250,000 (Rs 1.66 crore according to Wednesday's exchange rate) to be sent abroad in a financial year. The same team is also probing possible tax evasion by resident Indians who were named in Panama Papers, an unprecedented leak of 11.5 million files from the database of the world's fourth-biggest offshore law firm, Panama-based Mossack Fonseca. The documents show the many ways the rich can exploit secretive offshore tax regimes.

The multi-agency team comprises members of CBDT (Central Board of Direct Taxes), RBI (Reserve Bank of India), and Financial Intelligence Unit (FIU).

The move comes after the Panama Papers showed that hundreds of Indians as shareholders and/or directors in companies incorporated by Mossack Fonseca.

A revenue official said, "There were violations such as money being transferred from foreign bank account A (disclosed to the Indian tax department) to foreign bank B (not declared to the tax authorities). On first impression, we also found irregularities in disclosure requirements on sending money abroad, which indicates misuse of LRS."

The muti-agency team is also looking into round-tripping under LRS. Round-tripping involves getting the money out of one country, sending it to a place like Mauritius and then, dressed up to look like foreign capital, sending it back home to earn tax-favoured profits. It is illegal.

Advait M Sethna, corporate and tax law expert, said, "As the LRS is being misused, there is potential for tax evasion as opposed to tax planning and tax avoidance, permissible. The government should tighten the noose to ensure round-tripping does not lead to tax evasion in India."

Till 2004, sending money abroad required approval of the central bank. In 2004, LRS allowed resident Indians to send up to $25,000 (Rs 16.6 lakh) abroad a year. This limit is now $250,000 a year.

Experts said there may be misuse of the bilateral agreements between India and other countries by offshore entities that invest back in India to avoid taxes. The most common use is for avoidance of capital gains taxes by routing investments through offshore entities located in tax havens such as Mauritius, British Virgin Islands, etc.

"Some countries are following the disclosure norms reluctantly, while in some jurisdictions, the KYC norms are more liberal than others," said a legal expert on the condition of anonymity.

LRS allowed individuals, and even minors, to remit funds for studies, medical treatment, buying property overseas or holding shares in an overseas company.

In 2015, RBI extended permission to several capital account transactions under LRS. It included opening of foreign currency accounts overseas, purchase of property, opening of wholly owned subsidiaries and joint ventures abroad and extending loans to relatives who are non-resident Indians.

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