

Pricing pacts with MNCs soon to address tax grievances

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The government's attempt to address the tax-related grievances of MNCs is beginning to show results. The revenue department is set to sign some unilateral advance pricing agreements (APAs) by the end of this month. These agreements are aimed at giving conditional exemptions to MNCs from tax audits. The exemption benefit will be given to companies that agree with the tax authorities on how to value their cross-border transactions that impact their tax liability.

The department is also likely to sign the first bilateral APA with a British firm when the UK Competent Authority on APA visits New Delhi on April 14.

Unilateral APAs offer tax certainty to MNCs in India, but the risk of double taxation in the company's home country persists.

Bilateral APAs, which are signed by the revenue department, its counterpart in the MNC's home country and the company, however, has the added advantage of both the authorities arriving at an understanding on the tax liability of the MNC group in the two countries, ensuring tax certainty in both the markets.

Sources said that automobile and manufacturing companies from the EU are working with the Indian government for bilateral APAs, and the first such deal is likely to be based on share subscription. Once the APA is signed, the transaction has to be executed within six months, sources said.

Highly placed sources also said that India has made progress in resolving past tax disputes with US companies through bilateral talks between the tax authorities in both the countries under the Mutual Agreement Procedure (MAP).

“We have examined a large number of cases in great detail, and both sides have made their positions clear. We have also identified specific issues and these would be resolved soon,” said a senior tax official, who asked not to be named. Both the countries had held talks on the subject in February.

However, a bilateral APA with the US is still a distant possibility.

India also offers a third option, called safe harbour norms, for companies in the IT, ITES, manufacturing and automobile sectors to declare specified minimum profit limits and avoid rigorous auditing and documentation requirements. These norms, which got a lukewarm response, are under review.

“India has received more than 400 APA requests, more than any other country has received in the first two years of the scheme. Considering the meticulous process involved and the manpower constraints of the department, signing a few APAs in a year would be an achievement,” said SP Singh, senior director, Deloitte Haskins and Sells.

(Financial Express)