PwC seeks GAAR clarity on various M&A deals

GAAR will be effective from the next financial year

As mergers and acquisitions gain momentum in India, tax consultant PwC has said the income-tax department should provide more clarity on General Anti-Avoidance Rules (GAAR) on these activities.

GAAR will be effective from the next financial year.

PwC wants clarity on things such as consolidation through amalgamation by which the losses of certain entities are set off against the profits of others.

Also, it should be made clear whether GAAR will be invoked when a private limited company is converted into a limited liability partnership (LLP) and its profits are distributed, the tax consultant says in its report Mergers and Acquisitions: The evolving Indian Landscape.

PwC wants to know what will happen when a company with substantial reserves is merged into a new concern and the resultant entity is converted into an LLP.

Another situation in which clarity is required is when a listed company's controlling stake is gifted by an entity to an individual, PwC says.

The Central Board of Direct Taxes (CBDT) came up with a clarification on GAAR on January 27.

However, industry wants more of them and case-by-case examples. A tax official said some uncertainty in GAAR would remain; otherwise, it would become Specific Anti-Avoidance Rules (SAAR).

The PwC report says the first half of 2016 saw a 12 per cent increase in the value of M&As despite a fall in the number of deals. It did not mention the recent M&As in the telecom space since those came later.

Hiten Kotak, Partner and Leader, M&A Tax, PwC, says ever since the litigation on the tax dues of Vodafone started in 2007, uncertainties surrounding M&As in India came into prominence, so much so that companies have now started taking tax-insurance policies.

He, however, also says that while the government is issuing clarifications on indirect transfers, it is also tightening the screws on various fronts, such as the renegotiation of India's tax treaties, the looming advent of GAAR in 2017 and the adoption of the Base Erosion and Profit Shifting (BEPS) action plans.

The report says these are challenging times for businesses, with economic and political volatility dominating the headlines the world over.

Brexit, a potential Grexit, a slowing Chinese economy and the growing threat of terrorism—all tend to contribute to a negative and gloomy investor sentiment.

However, despite global volatility, CEOs are continuing to search for growth and value.

(Business Standard)