

Tax department issues notices to directors of defaulting firms

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Tax officials are increasingly issuing notices to directors of private limited companies which default on their tax dues, experts said.

Directors are being held accountable for the tax compliance of the companies they work for under section 179 of the Income Tax Act dealing with recovery of dues.

Business Standard reported on Tuesday quoting four people familiar with the matter that the number of such notices issued "has risen exponentially over the past few weeks." The report, however, did not give the number of such notices sent.

A highly placed official in the Income Tax department said that in the case of closely held companies, the provision in the law is very clear in empowering officials to recover tax dues. "If the company fails to comply, the law allows recovery of outstanding dues from the directors. There is no anomaly in this. We are working perfectly within the parameters of law," said the official, who did not wish to be named. The official also explained that directors in such cases are offered an opportunity to give their view and that no coercive action is taken.

The provision is meant to put pressure on the leadership of defaulting companies to pay up. The government is currently on a drive to step up tax compliance both on direct and indirect taxes as historically tax compliance has been low in the country. A second tax official, who also spoke on condition of anonymity, said that in many cases, the amenities enjoyed by directors of companies are booked as expenditure of the companies, which reduces its profits as well as corporate tax liability. This also reduces the personal income tax liability of the director concerned.

According to Ved Jain, former president of accounting rule maker the Institute of Chartered Accountants of India (ICAI), section 179 allows officials to hold those who were directors on the board of a private company during the period when the tax dues arose to be liable to pay unless they can prove that non-recovery of dues cannot be attributed to any gross neglect on their part. Such decision of the tax official is not appealable but the director could move a high court to get it quashed, said Jain. This provision in law is now seen to be put to use more frequently, he said.

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