

US agrees to tax talks under mutual agreement procedure

BREAKING the deadlock over Indo-US tax disputes, US authorities have now agreed for a meeting with their Indian counterparts to solve tax cases of US companies in India.

After India approached the US tax authorities for finding a solution to tax cases of about 100 US companies that have opted for the Mutual Agreement Procedure (MAP), the American side has now agreed for a meeting next month to discuss MAP, advance pricing agreements (APAs) and also the Foreign Account Tax Compliance Act, which targets non-compliance by US taxpayers.

A senior finance ministry official told FE that Indian tax authorities would be going to the US to take part in the four-day meeting, which will begin from February 10.

The Indo-US MAP negotiations had got stuck with the US side pressing for the removal of SK Mishra, joint secretary in charge of the international tax division. Talks resumed only after he was replaced by Akhilesh Ranjan on July 10 last year, when finance minister P Chidambaram was visiting the US to woo investors.

Tax officials from both sides have been discussing ways to solve Indo-US tax disputes in the last few months which also continued in Paris at the meeting of global tax authorities on countering Base Erosion and Profit Shifting (BEPS) this week.

“The meeting next month in the US under MAP will give the road ahead for settling pending tax disputes and also devising ways to avoid such cases in future,” said the finance ministry official.

In fact, the Indian side has already firmed up a strategy for this which it wants to adopt once US tax authorities agree for it. Of the 100-plus US firms such as Microsoft that have filed for solution under MAP, around 70 have already filed for APAs, which details how various expenditure and income are to be treated by the tax authorities for a period of five years.

But these are unilateral APAs, which are not recognised by the US authorities, the solution being looked at is to turn them into bilateral APAs so that they get deduction in the US for the tax paid in India.

This will resolve those cases fast and once bilateral APAs are concluded, there would be clarity in tax treatment of the transactions made for at least five years, which will take care of the uncertainty and litigation both.

As the next round of transfer pricing additions have already started, a positive signal from the meeting will help in improving the situation.

In the last two-three years, huge additions have been made to the income of the MNCs like Microsoft, which is facing increased tax demand with the taxman saying the local arm had understated its income from FY06 to FY09 by Rs 5,135 crore.

While total additions to the income of MNCs in FY11 totalled Rs 23,237 crore, it shot up to Rs 45,385 crore in FY12, and in FY13, the transfer pricing adjustments again rose by 54% to Rs 70,016 crore, which included high-profile cases such as Microsoft, Maruti and Shell.

(Financial Express)