Vodafone, Income Tax department set for another round in Supreme Court

Nine months after British telecom major Vodafone won a $2.2-billion legal battle against the income-tax department, the two sides are set for another showdown in the Supreme Court.

The department has challenged in the Supreme Court a Gujarat high court order, which ratified the company's plan to transfer passive infrastructure assets worth Rs 15,000 crore from Vodafone Essar Gujarat Ltd and six other associate companies to group firm Vodafone Essar Infrastructure Ltd.

It claims the scheme was intended to avoid capital gains tax worth Rs 3,500 crore and stamp duty worth Rs 600 crore, a charge Vodafone strongly denies. Passive infrastructure assets include mobile communication towers and other related physical equipment.

The department says a direct transfer of these assets would have attracted the Central sales tax or the state value-added tax and capital gains tax, besides other provision of the Income Tax Act of 1961.

Vodafone, however, claims the scheme, cleared by its board of directors, was aimed at separating its telecom business from other businesses, reducing costs and incentivising infrastructure sharing.

With the apex court set to hear the case, Vodafone is banking on precedents involving rivals Idea, Reliance Telecom and Bharti Airtel, which were allowed by high courts to hive off their passive assets.

In January, the Supreme Court had set aside a Bombay High Court judgement asking Vodafone to pay income tax of Rs 11,000 crore on acquisition of Indian mobile assets in 2007. The court also directed the tax department to return Rs 2,500 crore deposited by Vodafone in compliance with its interim order within two months.

To circumvent the ruling, the government amended the Income Tax Act retrospectively from 1962, giving the department powers to scrutinise offshore merger and acquisition deals.

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