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Budget 2024: Announcement on withdrawal of petty direct tax demands unlikely to reduce pendency in courts, say legal experts

Compared to other ministries, the Finance Ministry files the maximum number of cases. As of Jul 2023 the ministry was fighting over 1.7 lakh cases.

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Withdrawing direct tax demand unlikely to have effect on pendency

Legal experts are of the opinion that the announcement made in the interim budget, 2024, regarding the withdrawal of petty, non-verified, non-reconciled, or disputed direct tax demands might not reduce the pendency in courts as it is below the threshold set for the government to file appeals, per the existing litigation policy.

“In 2019, the Ministry of Finance had enhanced the limit for filing appeals by the income tax department. For appeals before the Income Tax Appellate Tribunal (ITAT), the limit was enhanced to Rs 50 lakh, for appeals before high courts (HCs), it was enhanced to Rs 1 crore, and for special leave petitions (SLPs) / appeals before Supreme Court (SC), the limit was enhanced to Rs 2 crore. Therefore, this step will not affect the appeals pending before ITAT, HC and SC,” said Rubal Bansal Maini, Partner, Luthra and Luthra Law Offices India.

In her budget speech on February 1, **Finance Minister Nirmala Sitharaman** (<https://www.moneycontrol.com/news/business/budget/budget-income-tax-2024-announcements-tax-slabs-standard-deduction-itcg-tax-regime-nirmala-sitharaman-will-fm-sitharaman-introduce-tax-sops-to-woo-voters-ahead-of-lok-sabha-polls-liveblog-12166221.html>), noted that there are a large number of petty, non-verified, non-reconciled, or disputed direct tax demands, dating as far back as 1962. According to Sitharaman, these income tax demands cause anxiety among honest tax payers.

"I propose to withdraw such outstanding direct tax demands of up to Rs 25,000 pertaining to the period up to financial year 2009-10, and up to Rs 10,000 for the financial years 2010-11 to 2014-15. This is expected to benefit about a crore tax-payers," said Sitharaman.

Addressing the press on February 1, **Revenue Secretary Sanjay Malhotra** (<https://www.moneycontrol.com/news/business/personal-finance/govt-to-give-up-on-rs-3500-crore-worth-disputed-direct-tax-demands-revenue-secretary-12175421.html>), stated that as a consequence of this budgetary announcement, the government will give up direct tax demands totalling Rs 3,500 crore. However, a detailed scheme on how the government plans to take this forward is yet to be published.

Vidhan Vyas, Founder, Vyas Legal, said: "While this announcement is welcome and will allow the income tax department to focus on bigger tax evasion matters, it is to be seen if a statutory amendment is made in the income tax act to implement it, or a circular is released explaining the scope of the scheme."

Where will this decision have an effect?

"The quasi-judicial authority, i.e., Commissioner Income Tax (Appeals), will be relieved of some of the burden of pending income tax appeals filed by the income tax department," said Maini.

Appeals against tax demands are challenged before the Commissioner of Income Tax (Appeals), before reaching the appellate tribunals, HCs, and the SC.

Direct tax litigation policy

Compared to other ministries, the Finance Ministry files the maximum number of cases. As of July 2023, the ministry was fighting over 1.5 lakh cases. Time and again, budgetary announcements are made to reduce tax disputes pending in court. In 2020, to put an end to prolonged income tax-related litigation, the government introduced Vivad Se Vishwas, a scheme in which the government and the taxpayer enter into a dialogue to settle disputes.

The scheme was implemented for a brief period of time, and at the end of its tenure, the government announced that it helped resolve more than 1,48,000 income tax cases, and **recover about Rs 54,000 crore**. (<https://www.moneycontrol.com/news/business/economy/vivad-se-vishwas-centre-gains-rs-54000-crore-through-scheme-6737941.html>)

In tune with the intention of reducing litigation, the government in 2019 published a circular enhancing the monetary limit for filing appeals in tribunals, high courts, and the Supreme Court, thus eliminating unnecessary litigation.

"While the government's intent to clean up old, petty, outstanding tax demands is commendable, this is unlikely to lead to a reduction in tax litigation. To achieve a meaningful reduction in tax litigation, more comprehensive and systemic reform is essential. It is hoped that the Finance Minister introduces such reforms in the upcoming full budget," said Rahul Charkha, Partner, Economic Laws Practice.

"The pendency will likely keep increasing unless there are systemic changes in the tax department's adversarial approach," said Dr Dhruv Janssen-Sanghavi, Co-Head of International Tax, Nishith Desai Associates.

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