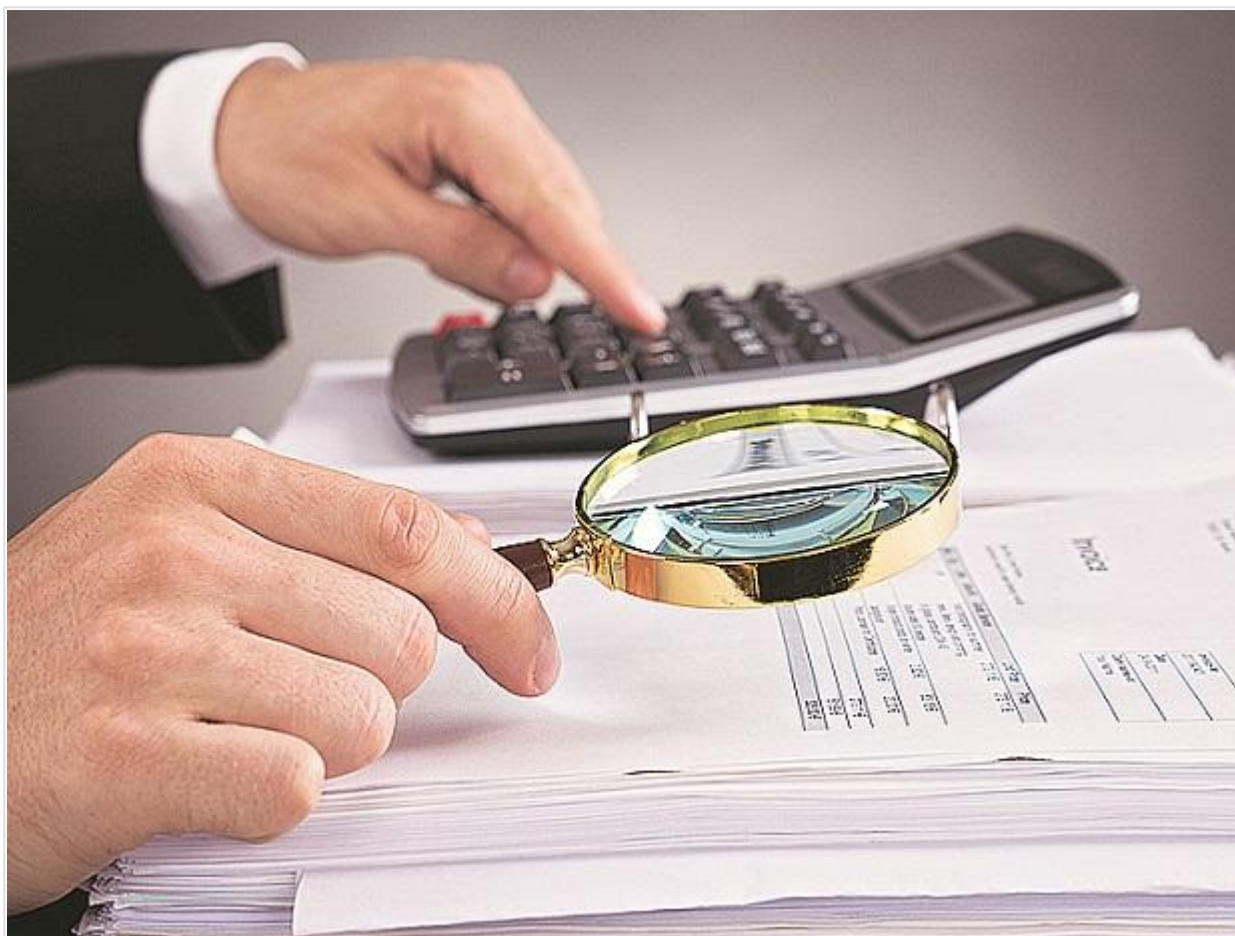


Business Standard

Income Computation and Disclosure Standards embroiled in legal dispute

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Indivjal Dhasmana | New Delhi November 04, 2017 Last Updated at 21:33 IST



The Income Computation and Disclosure Standards (ICDS), which played a key role in improving the country's ranking by over 50 notches in ease of paying taxes in the World Bank report, have not gone down well with industry even as the authorities say that these create consistency in computing

taxable income.

In fact, the Chamber of Tax Consultants has filed a writ petition against the ICDS in the Delhi High Court, challenging the constitutional validity of these standards. The court has heard the matter and reserved the judgment.

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Earlier tax accounting was done on a conservative basis to recognise income as and when it arose. For instance, a company in construction was allowed to show income from a contract after work had reached a specified level, say, after four years. This is called the completed contract method.

However, the tax department felt companies were manipulating their books to show lower profit.

Companies, on the other hand, used to say they were preparing their accounts on the basis of the latest standards.

To address this, the Central Board of Direct Taxes (CBDT) came up with its own accounting standard — ICDS — for tax purposes.

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DECODING ICDS

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In its petition, the chamber said that the Income Tax Act should have been changed to bring these standards and these should not have been introduced through a notification.

It says the CBDT has violated the mandate laid down in Article 265 of the Constitution, according to which no tax can be levied or collected except by the authority of law.

It cited the decision of the seven-judge Bench of the Supreme Court in the case of Harishankar Bagla, in which it was held that while delegating the powers of legislation to the executive, the legislature must declare the policy of the law and the legal principles, which are to control the given legislation and must provide a standard to guide the officials or body in power to execute the law.

Also, in the case of Vasanlal Maganbhai Sanjanwala, the Supreme Court held that the legislature had to lay down the policy and principle to afford guidance for carrying out the policy in question before it delegated its subsidiary powers in that behalf.

The chamber also challenged the ICDS for being “violative” of Article 19 (1) (g), which states that all citizens shall have the right to practise any profession or carry on any occupation, trade, or business.

It contended that the standards will increase the compliance burden and taxpayers will have to spend time in preparing and reconciling income in accordance with the ICDS and accounting standards.

The Income Tax Simplification Committee, headed by Justice Easwar also noted in its report that many of the provisions of ICDS are capable of generating a legal debate about which at present there is no clarity.

Amit Maheshwari of Ashok Maheshwari and Associates says the ICDS goes against some settled tax positions by courts. With so many changes happening in regulatory and tax systems, the ICDS is one change that could have been avoided, he says.

The authorities, however, say that the ICDS gives a clear method of computing income and reduces the scope of interpretation.