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Supreme Court ruling lets I-T department open closed cases

BY [SUGATA GHOSH](#), ET BUREAU | UPDATED: OCT 31, 2017, 10:24 AM IST

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MUMBAI: Many individuals and small businesses could now find the tax office raking up old wounds and chasing tax demands they believed had been long forgiven. To minimise feuds between the income-tax (I-T) department and small taxpayers, the revenue authorities had in the past decided that for tax demands below certain limits, the department would not wage legal battles to recover dues. These limits were fixed in February 2011 and were raised in December 2015.

A recent [Supreme Court](#) ruling will now change this for many. The apex court has ruled that “the Central Board of Direct Taxes (CBDT) cannot issue any circular having retrospective operation.”

Who all will the ruling impact?



The questions that crop up are: Will the taxman dust off old files to shoot notices to tax payers?

Whom Will It Hurt?

Small assessee facing tax demand of **₹4-10 lakh**

Cases where I-T dept had moved tribunal between 2011-14

Court feuds may rise between taxpayers and tax office

SC ruling questions **CBDT's 2015 circular**

“Many small taxpayers who had earlier faced tax demands of between Rs 4-10 lakh may be impacted.

These cases, which were dismissed by the tax tribunal, may now be revived and referred back to the tribunal. This will increase litigation and assessee too will have to cough up extra legal expenses,” said senior chartered accountant Dilip Lakhani.

In 2011, the nodal tax authority CBDT had said in a notification that the [I-T department](#) would not file an appeal at the I-T Appellate Tribunal if the tax demand is Rs 4 lakh or less. (These understandably pertain to cases where the Commissioner of Appeals — which constitute the first stage of appeal — had ruled in favour of the tax payer.) The same circular also stated that no appeal would be filed before the high court if the amount in question is Rs 10 lakh or less, and at the Supreme Court if the tax demand is Rs 25 lakh or less. On December 10, 2015, the monetary limits for moving the tax

tribunal and high court were raised to Rs 10 lakh and Rs 20 lakh, respectively, while the applicable limit for appealing before the Supreme Court was kept unchanged at Rs 25 lakh.

The notifications allowed retrospective relief to tax payers even if their disputes with the I-T department had originated prior to the dates of the circulars. For instance, between 2011 and 2015, the I-T department had moved appellate tribunals in several cases where the tax demand was between Rs 4 lakh and Rs 10 lakh (because the limit for moving the tribunal was raised from Rs 4 lakh to Rs 10 lakh). However, these appeals by the tax department were dismissed by the tribunals. Now, these tax payers face the risk of tax office reopening these cases.

Armed with the Supreme Court’s ruling on October 12, 2017, the department is currently in a position to move a high court to refer the case (which was earlier closed) back to the tribunal. The SC ruling — in a case between the Commissioner of [Income Tax](#), Bengaluru and Gemini Distilleries — focused on the question as to “whether instructions issued by the CBDT on 09.02.2011 will have retrospective operation or not”.

The apex court ruled in favour of the I-T department which felt that relief arising from monetary limits for ending dispute should only apply to appeals which were filed after the date of the circular and not those initiated before. In other words, it argued that the relief should be prospective and retrospective even though the CBDT’s intention was to reduce legal battles and harassments.

The SC ruling upholds the stand of the I-T department's stand and partly reduces the effectiveness of the CBDT circulars.

"This was not CBDT's intention. Now the fear is that the I-T department would apply the order mechanically, clogging the judiciary with appeals having low revenue impact," said Amit Maheshwari, Partner at the CA firm Ashok Maheshwari & Associates LLP.

The questions that crop up are: Will the taxman dust off old files to shoot notices to tax payers? Will New Delhi tell the department to step back and take it easy? That's anybody's guess.

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