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CBDT won't act tough with startups to recover outstanding demand

BY DEEPSHIKHA SIKARWAR, ET BUREAU | FEB 07, 2018, 08.23 AM IST

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Giving some relief to startups, country's apex direct taxes body has directed its field officials to refrain from coercive measures to recover outstanding demand in case 'angel tax' is being sought to be imposed.

The Central Board of Direct Taxes (CBDT) has, in a directive, observed that it has noted instances of additions to income being made under the said section in the cases of startups that have otherwise raised "genuine investments" but where assessing officers have disregarded the valuation reports submitted by the startups on grounds that the valuations are 'abnormal'.

In the letter dated February 6, reviewed by ET, the board has asked commissioner appeals CIT to dispose appeals by March 31, 2018. "It has been decided that in case of startup companies that fall within the definition of the Department of Industrial Policy and Promotion (DIPP) notification.....if additions have been made by AOs....no coercive measure to recover the outstanding demand would be taken," it said.

Finance secretary [Hasmukh Adhia](#) had told ET, published February 5, that CBDT was issuing such a directive. Former minister [Pranab Mukherjee](#) had in the finance act 2012 introduced this provision. The angel tax is applicable on the capital raised by unlisted companies from any individual against an issue of [shares](#) in excess of the fair market value.

The law reasons that this excess amount is akin to 'income from other sources' and should be taxed under Section 56 (II) of the [Income Tax Act](#). This was brought in to address laundering of black money through this route.

The tax is not levied on startups recognised by the DIPP under the [Startup India](#) policy announced last year. However, some startups were issued notices by income tax authorities on the ground of higher valuations.



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Tax experts say this move will bring partial relief, but issue would be completely resolved only after a change is made to the definition. "This development is expected to bring relief to hundreds of startups which are struggling with unnecessary tax demands levied by tax officers by using this provision without understanding the dynamics of angel investing and the business model of startups," said Amit Maheswari, partner, Ashok Maheshwary & Associates LLP.

In majority of cases, genuine investments were taxed and additions were done in a routine manner, he said, adding that only after DIPP

amends the definition of eligible startups to bring into its fold pre-2016 startups and tax repayment notifies it, it would bring down curtains to unnecessary litigation in this space which had caused considerable angst in the startup community and led some of the prolific angel investors to invest abroad.

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