

Santosh's edit

More powers for taxman need to be used with care

Over a period of time, with the introduction of e-filing and analysis of annual information returns (AIR), the taxman's ability to get more taxes from assesseees has risen without the attendant possibility of harassment of honest taxpayers. This is what allowed, for instance, the tax department to identify more than 12 lakh persons who were not paying adequate taxes after analysing 4.7 crore individual pieces of information. While this yielded just around R600 crore of voluntary taxes, it was a big step considering the taxman never visited any of the potential assesseees—a compliance management cell in the tax department is now managing the exercise. A similar exercise also takes place with over 3 crore taxpayers filing their returns electronically. With the tax department now asking each taxpayer to furnish email accounts and mobile phone numbers on the e-filing website, information can be asked for without the taxman visiting taxpayers.

Which is why, some of the additional powers given to the taxman in last week's budget are a bit worrying. In order to verify if tax had been deducted or collected at source, the taxman has been allowed to enter any office under his/her jurisdiction and ask for any information required, apart from the books of accounts and other documents. At a time when the finance minister has said, in the case of cases arising out of the retrospective amendment of 2012, tax orders cannot be passed without being scrutinised by a high-level committee, the budget has a provision which runs contrary to the view that transfer pricing orders have to be handled with care. Under normal circumstances, an Assessing Officer (AO) refers matters to a Transfer Pricing Officer (TPO) to see if the transactions are of an arms-length nature. Once the TPO has given his/her report, the AO or the Commissioner (Appeals) levies a penalty. In the budget, however, the power of levying penalties has now been given to the TPO as well.

Similarly, given the poor track record of the tax department in winning appeals against its orders – the department wins just 20.3% of appeals at the tribunals, 20.6% in the high courts and 11.6% in the Supreme Court, the provision to waive pre-deposits of the tax demand while hearing an appeal was a good one. This has now been withdrawn and a mandatory 7.5% of the

duty and penalty has to be deposited at the first stage of appeal and 10% at the second level of appeals before the Tribunal—at a time when the taxman is under pressure to deliver more taxes, this is a provision that is asking to be abused. Given the large number of complaints against harassment by tax authorities, finance minister Jaitley needs to look at ways to curb this—if the taxman is to get new powers, there has to be a reasonable system in place to check its abuse.