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EY Tax Alert

CBDT issues order giving effect to the Budget proposal of remitting petty tax demands

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Executive summary

This Tax Alert summarizes a recent Order[1] issued by the Central Board of Direct Taxes (CBDT)[2], on remission or extinguishment of small tax demands outstanding as on 31 January 2024 under the Income Tax Act 1961 (ITA) or Wealth Tax Act, 1957 or Gift Tax Act 1958, (referred as relevant Acts).

This Order gives effect to the proposal announced by Finance Minister (FM) in her speech for Interim Budget 2024-25, withdrawing direct tax demands up to INR25000 pertaining to the period up to tax year 2009-10 and up to INR10000 for tax years 2010-11 to 2014-15.

The Order, *inter-alia*, provides conditions/guidelines for withdrawal of outstanding demands as under and it is proposed that the same shall be implemented by Centralized Processing Centre (CPC) preferably within two months:

- Tax demands will include principal amount of tax, interest, surcharge, cess, penalty or fees.
- The maximum ceiling limit for remitting the demands qua a taxpayer will be INR100000.
- Remission/extinguishment of demand will be undertaken in a chronological manner for the tax years and fraction of demand shall be ignored.
- No interest shall be levied for delay in payment of demands.
- Demands do not include demands raised under withholding tax or tax collection at source provisions of the ITA.
- Withdrawal/remission of tax demands under this Order will not give any right to the taxpayers to claim credit or refund of waived amount and will not grant immunity from any ongoing litigation.

[1] F No. 375/02/2023-IT-Budget, dated 13 February 2024

[2] Apex administrative body of direct taxes in India

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Background

The FM, in her Speech [3] of Interim Budget 2024-25, announced withdrawal of petty, non-verified, non-reconciled or disputed direct tax demands up to INR25000 pertaining to the period up to tax year 2009-10 and up to INR10000 for tax years 2010-11 to 2014-15. This was announced keeping in mind the government's vision of improving ease of living and doing business and to improve taxpayer services and the withdrawal is expected to benefit about 10 million taxpayers.

In order to give effect to the announcement made during the budget speech, the CBDT has issued an order vide F No. 375/02/2023-IT-Budget dated 13 February 2024 providing the criteria and procedure for withdrawal of outstanding demand under the relevant Acts.

Details of withdrawal of small tax demands

The CBDT order broadly provides below guidelines/ conditions based on which the tax demands will be withdrawn and same will be implemented by Directorate of Income Tax (Systems)/ Centralized Processing Centre (CPC), Bengaluru, preferably within two months.

- The tax demands to be waived will be those created/modified/raised for tax years up to 2014-15.
- The monetary limit of outstanding tax demands which are to be remitted or extinguished are as follows:

Tax years	Demand outstanding (monetary limits)
Up to tax year 2009-10	Each demand entry up to INR25000
Tax years 2010-11 to 2014-15	Each demand entry up to INR10000

- Tax demands to be remitted, extinguished under this Order includes demands raised under the relevant Acts which are outstanding as on 31 January 2024.
- The tax demands will include principal amount of tax, interest, surcharge, cess, penalty or fee levied under the relevant Acts.
- However, remission/ extinguishment of outstanding demands qua a particular taxpayer cannot exceed the maximum ceiling limit of INR100000. This maximum ceiling limit is computed taking into consideration all outstanding demand entries for all the relevant tax years. While computing the maximum ceiling limit, following points shall also be considered:
    - It includes principal component of tax demand and any interest, penalty, fees, cess or surcharge under the relevant Acts.
    - Any demand entry exceeding the individual monetary limit shall not form part of the maximum ceiling limit.
    - Remission/extinguishment of demand will be undertaken in a chronological manner, i.e., demand entries from the earliest tax year will be considered first and then the subsequent tax years, subject to the monetary limits prescribed per demand entry.
    - Fractions of demand shall be ignored for computing the maximum ceiling. This is irrespective of whether such individual demand falls within monetary limit of demands or not.
    - Interest levied under the relevant Acts on account of delay in payment of demand shall not be considered.
- The demand waived will not be regarded as income of the taxpayer and hence no additional tax liability shall arise in the hands of the taxpayer pursuant to remission or waiver of tax demands.
- There shall be no remission/extinguishment of outstanding demands with respect to tax deduction at source (TDS) and tax collection at source (TCS) provisions of the ITA.
- Post the remission/extinguishment of demands, no interest on account of delay in payment of demand shall be levied under any relevant Acts.
- No audit will be required pursuant to Rule 19(1) of General Financial Rules, 2017 for remission/extinguishment of outstanding demands.
- Withdrawal/ remission of tax demands under this Order will not give any right to the taxpayers to claim credit or refund of waived amount and such waiver shall also not grant immunity from any ongoing criminal proceedings or litigations in the case of a taxpayer.

[3] Dated 1 February 2024

Below illustration depicts the operation of the above Order:

(Amount in INR)

Tax year	Demand amount	Eligible amount for waiver	Cumulative waiver	Remarks
1976-77	24590	24590	24590	Entire amount eligible as the demand is equal to or lower than INR25000
1984-85	27410	Nil	24590	Tax demand is more than INR25000 and hence not eligible for waiver
1997-98	22400	22400	46990	Entire amount eligible as the demand is equal to or lower than INR25000
2010-11	12000	Nil	46990	Tax demand is more than INR10000 and hence not eligible for waiver
2011-12	9500	9500	56490	Entire amount eligible as within the limit of INR10000
2014-15	12100	Nil	56490	While the limit of INR100000 is not reached, Tax demand is more than INR10000 and hence not eligible for waiver
2015-16	6500	Nil	56490	While the limit of INR100000 is not reached, Tax demands only up to tax year 2014-15 covered and hence not eligible for waiver

Comments

Remission of small and long-standing tax demands is a welcome step by the Government and can be seen as a gesture of goodwill which may benefit both taxpayers as well as the tax authority. Further, as stated in the Budget Speech, this may also assist in achieving the government's vision of improving ease of living and doing business and improving the taxpayer services. Disposal of past demands may also reduce litigation, and also help in expediting and releasing many refund claims for subsequent years which otherwise were not issued due to pending tax demands. Additionally, remission of small and old tax demands may help the tax department in streamlining their tax administration operations and may allow them to redirect their resources towards other substantial high-value disputes.

The timeline to complete this process has been stated to be two months, which would also provide a quick resolution for eligible taxpayers, and it is expected that this remission is likely to benefit 10 million taxpayers in India with cumulative revenue impact of approximately INR35000 million.

There is some degree of ambiguity on the interest component of demands to be waived. While the Order states that demand entries will include interest under various provisions of the ITA, it also states that consequent to remission, there shall not be requirement for calculation of interest for delayed payment of demand. Hence, it raises an issue where demand already includes interest for delayed payment of demand.

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