



## Scrapping of Income-Tax Settlement Commission

### Why in news?

The Finance Bill 2021 made a proposal to scrap, from February 1, 2021, the Income-Tax Settlement Commission (ITSC) that offers one-time life opportunity to errant taxpayers.

### What is the Income-Tax Settlement Commission?

- The Direct Taxes Enquiry Committee (commonly known as 'Wanchoo Committee') had recommended the settlement machinery.
- The objective is to ensure that the door for compromise for an errant taxpayer should not remain closed for ever.
- It consists of a Chairman and as many Vice-Chairmen and other Members as the Central Government thinks fit.
- An assessee may, at any stage of a case relating to him/her, make an application in the prescribed form.
- It should contain a 'full' and 'true' disclosure of -
  - i. income which has not been disclosed before the Assessing Officer
  - ii. the manner in which such income has been derived
  - iii. the additional amount of income-tax payable on such income
  - iv. other prescribed particulars
- The Settlement Commission may either admit the application for consideration or reject it.
- Once the application for settlement is admitted, the Settlement Commission will have exclusive jurisdiction to deal with the case.
- No other Income Tax authority will have such jurisdiction.
- Till the time the matter is pending before the Settlement Commission, the Assessing Officer cannot proceed in the matter, in any manner.

### What are the recent proposals?

- The Income-Tax Settlement Commission (ITSC) shall cease to operate on or after 1st February, 2021.

- This means that no application under section 245C of the Income Tax Act 1961 for settlement of cases shall be made on or after 1st February, 2021.
- In respect of pending application, the Central Government shall constitute one or more "Interim Board" for Settlement, as may be necessary.
- Every Interim Board shall consist of three members, each being an officer of the rank of Chief Commissioner, as may be nominated by the Board.

### **What is the rationale for scrapping ITSC?**

- The Settlement Commission is said to have outlived its utility value with the government encouraging voluntary compliance.
- Power of the Settlement Commission was challenged. The commission was also facing other administrative issues.
- Moreover, the government had invoked several other provisions and proposals to settle cases by reducing litigation through 'Vivad Se Vishwas' scheme.
- The government thus expects that the move will simplify tax administration, ease compliance and reduce litigation.

### **Is it constitutionally valid?**

- Some have termed the proposal as 'unconstitutional.'
- Institutions like ITSC cannot be scrapped until the Bill is passed and becomes a law.
- That apart, ITSC is a quasi-judicial body independent of CBDT (Central Board of Direct Taxes).
- All applications filed till January 31, 2021, must be settled by the same body.
- Bringing the cases under the purview of an interim board which reports to CBDT would be unfair.

### **What are the other concerns?**

- The proposal would be a gross injustice to applicants whose cases are pending before ITSC as on January 31, 2021.
- There are assesseees who have filed applications before the Commission.
- They settle their disputes by paying taxes and interest and in return, get immunity from penalty and prosecution.
- They will now have to fight the case before multiple layers of appellate and judicial bodies.
- This will result in spurt of litigations and delayed collection of revenue.
- It will also ruin business of many entrepreneurs as they will be wasting their energy and resources in protracted litigations.
- The discriminatory treatment meted out to such applicants is impermissible

under Article 14 of the Constitution.

- That would go against the very spirit of giving a person right to a fair and effective hearing and rebuttal.
- Scrapping of the Commission may encourage taxpayers to become tax compliant.
- They would fulfil tax obligations as any non compliance would have severe cost and penalty implications.
- But on the contrary, it may compel many to find ways to move out of it and evade levies.
- Moreover, there is a wrong perception that the ITSC is a window for compulsive tax evaders.
- But it is for assesseees who have been compelled to hide their income because of business or personal compulsions.
- Additionally, the Commission was not set up to deal with only search and seizures matters.
- It is also for compliant assesseees keen to pay up their tax liabilities at one go without any provocation from the department.

### **What is the way forward?**

- The Covid-19 pandemic has had a huge impact on the financial health of the country and its economy.
- Given this, the finance ministry may reconsider the decision of scrapping ITSC from February 1, 2021.
- Alternatively, the government can contemplate allowing ITSC to receive fresh applications till March 31, 2021.
- It can settle the pending cases within a stipulated time frame.

**Source: The Economic Times, Business Line**



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