

**Government of India**  
**Ministry of Finance**  
**Department of Revenue**  
**RAJYA SABHA**  
**UNSTARRED QUESTIONS NO. 4047**

TO BE ANSWERED ON TUESDAY, APRIL 3, 2018

CHAITRA 13, 1940 (SAKA)

**LITIGATION RATES FOR CASES INVOLVING TAX MATTERS**

**4047. SHRI NARAYAN LAL PANCHARIYA:**

Will the Minister of FINANCE be pleased to state:

- (a) the details regarding litigation rates for cases involving direct taxes and indirect taxes during the last three years;
- (b) whether litigation rates for cases involving direct taxes and indirect taxes are high; and
- (c) if so, the details thereof and the reasons therefor?

**ANSWER**

**MINISTER OF STATE IN THE MINISTRY OF FINANCE**

**(SHIV PRATAP SHUKLA)**

(a): The details of data for institution/receipts/disposal/pendency of appeals before various institutions for cases involving direct taxes and indirect taxes during the last three years is at **Annexure-I**.

(b): The litigation rates for cases involving direct taxes and indirect taxes are high. The reason thereof is given as under:-

**Direct Tax**

The institution of appeals for direct tax cases is high because in the Income Tax Department, litigation is a natural outcome of complexity of law and facts and multitude of interpretations on the same issue etc.

**Indirect Tax**

The rate of adjudication has increased in last two years with highest adjudication rate at the Commissioner level, as a result of initiatives and monitoring by the field formation, thereby decreasing the pendency in adjudication significantly. Further, there has been increase in receipt of litigation/SCN in last two years together with liquidation of call book pendency resulting in increased receipt followed by increased disposal.

(c): The details of appeals filed at various appellate forms in respect of direct & indirect taxes are at **Annexure-I**. The Government of India has taken various steps to reduce litigation. The detail is given at **Annexure-II**.



Annexure as referred to in reply to part (a) and (c) of Unstarred Question No. 4047 to be answered in Rajya Sabha on 03.04.2018.

The details of data for institution/receipts/disposal/pendency of appeals before various institution for cases involving direct taxes and indirect taxes during the last three years are as under:-

#### Direct Tax

Forum	Institution of appeals			Disposal of appeals			Pendency of Appeal			% of Disposal in terms of institution		
	2014-15	2015-16	2016-17	2014-15	2015-16	2016-17	2014-15	2015-16	2016-17	2014-15	2015-16	2016-17
<b>CIT(A)</b>	97866	120265	148454	73736	94093	117945	232126	258898	290227	75	78	79
<b>ITAT</b>	45072	40087	48328	30494	51010	48385	103238	91971	92386	68	127	100
<b>HC</b>	6419	6326	8184	6060	7452	9511	34281	32138	38481	94	118	116
<b>SC</b>	848	501	723	719	425	462	5661	5399	6357	85	85	64

#### Indirect Tax

Forum	Receipts of appeals			Disposal of appeals			Pendency of appeals			% of disposal in terms of receipts		
	2014-15	2015-16	2016-17	2014-15	2015-16	2016-17	2014-15	2015-16	2016-17	2014-15	2015-16	2016-17
<b>Commissioner Appeal</b>	29559	35443	37530	25435	29216	33875	36120	41515	45163	86.05	82.43	90.26
<b>CESTAT</b>	18549	13873	27851	13635	12527	21141	73639	76688	83338	73.51	90.30	75.91

<b>High Court</b>	4521	4221	3988	4999	4504	4451	14526	14577	14114	110.57	106.70	111.61
<b>Supreme Court</b>	868	669	484	600	1191	463	3339	2925	2946	69.12	178.03	95.66

**Annexure as referred to in reply to part (c) of Unstarred Question No. 4047 to be answered in Rajya Sabha on 03.04.2018.**

### **Direct Tax**

1. As per Central Action Plan (CAP) 2017-18 each CIT(A) shall dispose of a minimum number of 500 appeals or earn 700 units during the year.
2. Central Technical Committee (CTC): to formulate Departmental view on contentious issues. From August 2013 to December 2017, 30 circulars clarifying the Departmental view on contentious issues have been issued.
3. Standard procedure for applying provisions u/s 14A, 68 and 147 of the Income Tax Act which were generating substantial litigation have been issued. It is expected that these will go a long way in minimizing litigation.
4. Extensive workshops are organised by the Directorate of Income Tax (Legal & Research) at various field stations and Training Institutes to sensitize/train officers about improving quality of litigation.
5. The monetary limits for filing of appeals before ITAT & HC were increased substantially vide circular No. 21/2015 dated 10<sup>th</sup> Dec, 2015.
6. To expedite the process of dispute resolution at the level of ITAT, vide Finance Act, 2016, the provision of sub-section (3) of section 255 of the Act has been amended w.e.f. 1<sup>st</sup> June, 2016, increasing the monetary limit for Single Member Court (SMC) from 15 lakh to 50 lakh.
7. National Judicial Reference System (NJRS), an internet-based litigation management system is fully functional. It takes electronic inputs directly from all 27 ITATs and about 12 High Courts and Supreme Court on a regular basis. It is a repository of appeals, documents and judgments.

### **Indirect Tax**

1. The monetary limits for filing appeals before Supreme Court, High Court & CESTAT was fixed at Rs. 25 Lakh (Since 17.08.2011), Rs. 20 Lakhs (Since 30.12.2016) and Rs. 10 Lakhs (Since 17.12.2005) respectively with certain exceptions. Appeals pending at different appellate fora involving revenue below the above said threshold limits are being withdrawn. Similarly cases based on identical/similar issues having attained finality in the Supreme Court are also being withdrawn.
2. A time bound action plan has been put in place to liquidate all pendencies as on 30.06.2017 at Commissioner (Appeal) level i.e. 50239 cases. A Board meeting was convened on 11.09.2017 to address the issue. Since the pendency before various commissioners (A) was uneven, the same required re-distribution. Board, therefore, decided that Pr. Chief Commissioners/ Chief Commissioners need to be empowered to re-distribute these appeals. Accordingly, Board has issued notification No. 26/2017-CX (NT) dated 17.10.2017 in order to empower the Pr. Chief Commissioner/ Chief Commissioner to re-distribute these appeals amongst other Commissioner (Appeals) and equivalent officers within his jurisdiction.
  - 2.1 The other measures include increase in the minimum monthly disposal target from 70 to 100, filling up the vacancies at the level of Commissioner (A) [ at present, out of sanctioned strength of 59 the working strength is 50], principle of first in first out in disposal to be followed, taking assistance of Addl. Commissioners in Commissioner(A) office, etc.

2.2 These measures are expected to make available a larger pool of Commissioners and equivalent officers for liquidation of these appeals by 31.03.2018. The officers have been exhorted to make all-out efforts in this regard, and all Zonal Members have also been requested to closely monitor the same.

3. As on 30.06.2017, there are 82528 cases pending in CESTAT which constitute 56% of total pendency of cases in all fora i.e. 148931. For Liquidation of pending cases in the CESTAT, Chief Commissioner(AR) has been requested to take up the matter of creation of special benches of the Tribunal to dispose of the identical matters at one place in a time bound manner. For this purpose, all the Chief Commissioners (CC) have been requested to identify the cases suitable for bunching. Also Nodal Chief Commissioners have been designated for each bench location of the CESTAT. The CC in whose jurisdiction the CESTAT Bench is located has been designated the nodal CC, who would look into the bunching of the cases pertaining to that Bench as more than one zone is covered under Locational jurisdiction of the CESTAT. The following steps have been taken with regard to bunching of cases in the office of Chief Commissioner (AR), CESTAT:

- Nodal officers have been appointed for all the benches of CESTAT for coordination with the nodal Chief Commissioners.
- The field offices have been asked to depute an officer of the rank of AC/DC to coordinate with the registry and the office of CC (AR), CESTAT to ensure bunching and hearing of the cases expeditiously.
- Chief Commissioner (AR), is personally visiting the Zonal and Regional offices and also meeting up with jurisdictional Chief Commissioners and Commissioners to pursue the issue of bunching. In this regard, Chief Commissioner (AR), has already visited Chandigarh, Mumbai, Ahmadabad and Bangalore.

4. It has been decided that if the issue has been lost in two stages of appeals not to contest further in appeal in order to circumvent filing of frivolous appeals. Such principle is to be applied on a case to case basis so as to ensure that critical issues such as valuation/ refunds that have a snowball effect are taken care of. Instructions in this regard have been issued to the field formations.

5. Prioritization of other pending issues in appeal involving revenue of more than Rs 10 crore. All Zonal Chief Commissioners have been directed to make concerted efforts by filing Interlocutory Application (IA) for early hearing, meeting the Chief Justice, CESTAT President to impress upon them the need for early resolution of cases involving high stakes. Zonal Members are also reviewing such cases for appropriate action. The Board has decided such high stake cases may be pursued vigorously and if it does not yield results, then the matter may be escalated to the Member/Chairman for appropriate action. Member (Central Excise and Legal) has written a DO letter to all the Principal Chief Commissioners/ Chief Commissioners to take up the high value adjudication cases (involving service tax of more than rupees one crore), for priority disposal. Miscellaneous Applications (MA)/ Early hearing petitions has been filed in 197 cases.

6. To display list of all such decisions of Tribunals or High Court that are accepted by the department i.e. settled at the SLP/CA proposal stage on CBEC website and to issue circular when issues get settled in the Apex court for uniformity.

7. In-house legal advisory cell and internal resource group has been created in all the zones to provide technical support to Assessing Officers (AOs) to bring about uniformity in assessment in order to reduce litigation. Further field formations have been asked to conduct in-house training and courses. Eight workshops have been conducted by Directorate of Legal Affairs to familiarize the departmental officers with the litigation process so as to improve the quality of litigation undertaken. These workshops also aimed at improving the quality of SCNs issued and adjudications done by the departmental officers. One seminar cum workshop of Commissioner (Appeals) has been organized to improve the quality of appellate orders.

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