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 assessees 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 assessees 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 assessees 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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