**Govt Seeks A-G View on Next Step in Voda, Shell Cases**

In keeping with the Narendra Modi government's resolve to minimise litigation, the Ministry of Finance has sought the Attorney General's opinion on whether it should appeal in the Supreme Court against high court verdicts that favoured Royal Dutch Shell and Vodafone in tax cases. “The matter has been referred to the AG and the law ministry,“ a finance ministry official told ET. The government may appeal against the high court rulings only if the law ministry gives the goa head. Overseas investors and the domestic industry, which have often labeled the aggressive actions of income tax authorities as tax terrorism, are tracking the cases closely. The government had promised a non-adversarial tax regime soon after taking over in May and has already unveiled a series of measures in this regard, including a reduction in the filing of frivolous appeals. Transfer pricing refers to the rate at which the various entities of a large company sell goods and services to each other. The transfer pricing cases against Shell and Vodafone pertain to the alleged undervaluation of shares they purchased from their Indian subsidiaries. “The aggressive approach of tax authorities and the earlier government in case of Vodafone and Shell led to erosion of confidence of global investors...It is perti nent for the CBDT (Central Board of Direct Taxes) to consider both the judgments of the H'ble Bombay High Court and issue clarification in respect of reporting of transactions pertaining to issue of shares to foreign associated enterprises as well as whether the same will result in transfer pricing adjustment,“ said Suresh Surana, founder of RSM Astute Consulting Group, a network of accounting and advisory firms. A Grant Thornton report had placed India as the third-most litigious country in respect of transfer pricing. The case against Shell was with regard to the issue of 870 million shares to Shell Gas BV in Rs.10 each. The Income 2008-09 at ` Tax Department contended that the shares were grossly undervalued and assessed them at Rs.183 per share. It then added the difference to the taxable income of Shell India. Funding a subsidiary through shares is a common practice among multinational companies, which view it as a capital transaction and outside the transfer pricing bracket. However, the income tax authorities argued the transaction was a transfer pricing arrangement and the money received by Shell India for the shares should be added to the company's total earnings, an argument that the high court rejected. The Bombay High Court on Tuesday quashed the department's tax order that proposed an Rs.18,000 crore in lieu of addition of ` these transactions to the income of Shell India Markets Pvt, the Indian subsidiary of Shell.

Source : [www.taxmann.com](http://www.taxmann.com)

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