

**Government of India
Ministry of Finance
Department of Revenue**

**LOK SABHA
STARRED QUESTIONS NO. *254
TO BE ANSWERED ON FRIDAY, AUGUST 03, 2018
SHRAVANA 12, 1940 (SAKA)**

THRESHOLD LIMIT FOR TAX DEPARTMENTS

*254. SHRI K. ASHOK KUMAR:
SHRIMATI ANJU BALA:

Will the Minister of Finance be pleased to State:

(a) whether the Government has hiked the threshold limit for tax departments to file appeals in tribunals, High Courts and Supreme Court to reduce tax litigations and improve ease of doing business, if so, the details thereof along with the number of direct and indirect tax cases/appeals pending in Supreme Court, High Courts, Income Tax Appellate Tribunal (ITAT), the Customs, Excise and Service Tax Appellate Tribunal (CESTAT) during each of the last three years and the current year;

(b) whether tax litigation in the Central Board of Direct Taxes (CBDT) and Central Board of Indirect Taxes and Customs (CBIC) will get reduced significantly by hiking the above threshold limit and if so, the details thereof;

(c) whether 34 per cent, 48 per cent and 54 per cent of the cases from ITAT, High Courts and Supreme Court respectively are likely to be withdrawn in light of the new threshold limit and if so, the details thereof;

(d) whether the aforesaid change in monetary limit carried out by the Government is also applicable to the cases involving major violation of laws and if so, the details thereof; and

(e) whether the Government has devised any mechanism for speedy disposal of appeals by identifying cases involving huge amounts and if so, the details thereof along with the success achieved in this regard so far along with the further steps being taken to minimize tax litigations and facilitate the ease of doing business?

**ANSWER
FINANCE MINISTER
(SHRI PIYUSH GOYAL)**

(a) to (e): A Statement is laid on the table of the House.

Statement as referred to in reply to Starred Question No. *254 to be answered on 03rd August, 2018 in Lok Sabha on the subject of Threshold Limit for Tax Departments.

The reply to the subject Parliamentary Question is as under:

(a): Yes Madam.

The threshold limits of filing tax appeals by the Department have been hiked. Henceforth, appeals/SLPs shall not be filed in cases where the tax effect does not exceed the monetary limits given hereunder:

SLPs/Appeals in tax matters before:	Earlier monetary limit for filing appeal (Rs)	Revised monetary limit for filing appeal (Rs)
ITAT/CESTAT	10 lakhs	20 lakhs
High Court	20 lakhs	50 lakhs
Supreme Court	25 lakhs	1 crore

Further, all the pending SLPs/appeals below the above specified tax limits will be withdrawn/not pressed except where Constitutional validity of Acts/Rules is under challenge or a major question of law is involved or a case is under investigation by an investigating agency.

The numbers of Direct Tax appeals pending before Income Tax Appellate Tribunal (ITAT), High Court (HC) and Supreme Court (SC) in the last three years is as under:

Financial Year	SC	HC	ITAT
2015-16	5399	32138	91971
2016-17	6357	38481	92388
2017-18	6224	39066	92766

The number of indirect tax cases/appeals pending in Supreme Court (SC), High Court (HC) and Customs, Excise & Service Tax Appellate Tribunal (CESTAT) during each of the last three years and current year is as under: -

Financial Year	SC	HC	CESTAT
2015-16	2925	14577	76688
2016-17	2946	14114	83338
2017-18	3080	14426	65146
2018-19 (Upto 30.06.18)	3142	15314	63438

(b) Yes Madam. The tax litigation percentage in respect of direct taxes and indirect taxes will get reduced significantly by hiking the threshold limit by 41% and 18% respectively.

(c) The details of cases in respect of income tax likely to be withdrawn due to revised threshold limit as per impact analysis, provided they meet other conditions laid down, are as follows:

Forum	Appeals Pending	Appeals likely to be Withdrawn along with percentage (approx.)
ITAT	32,162	10,953 (34.05%)
HC	29,064	13,991 (48.13%)
SC	3,441	1,868 (54.28%)
Total	64,667	26,812 (41.46%)

(d): No Madam, the above monetary limits shall not be applicable where:

- the Constitutional validity of the provisions of an Act or Rule is under challenge, or
- Boards' Notification, Instruction, Order, or Circular has been held to be illegal or ultra vires, or
- Revenue Audit objection in the case has been accepted by the Income Tax Department, or
- the addition relates to undisclosed foreign assets/ bank accounts in cases pertaining to direct taxes, or
- a case is being investigated by an investigating agency.

Cases falling in the above category will be contested on merits notwithstanding that the tax effect entailed is less than the prescribed monetary limits or there is no tax effect. Further, the said monetary limits shall not apply to writ matters and Direct tax matters other than Income tax matters or in cases where the tax effect is not quantifiable or not involved., It is pointed out that as per Section 35R of the Central Excise Act, 1944 made applicable to Service Tax vide Section 83 of the Finance Act, 1994 and Section 131BA of the Customs Act, 1962, where the Department has not filed any appeal in a case because of low monetary/threshold limit, the Department is not precluded from filing appeal in any other case involving the same or similar issues or questions of law.

(e): **Direct Tax**

Yes Madam, special focus was given to the disposal of pending appeals before CIT(A) having large tax effect. This resulted in disposal of 362 appeals involving tax effect of Rs.1.92 lakh crore in F.Y. 2016-17 and 1033 appeals involving tax effect of Rs. 3.03 lakh crore in F.Y. 2017-18.

To minimise the tax litigations and facilitate ease of doing business bunching of cases has been done for cases having similar or common issues before ITAT, HC and SC. Focus is being laid on disposal of appeals having tax effect of less than Rs. 2 lacs to reduce the number of appeals pending before CIT(A). Circular has been issued to withdraw/not press Departmental appeals on issues that have attained finality before HC/SC. Standard procedure has been laid for implementing provisions under sections 14A, 68 and 147 which are the most litigated sections.

Indirect Tax

Interlocutory Applications are being filed in the Supreme Court for early listing and disposal of cases involving revenue of Rs. 10 Crores and above. Till date, 63 such Interlocutory Applications have been filed. Zonal Chief Commissioners have been empowered to redistribute pending appeals among other Commissioner (Appeals) and equivalent officers within its jurisdiction. Out of 51,320 cases pertaining to Central Excise and Service Tax pending with Commissioner (Appeals) as on 30.06.2017, a total of 44, 980 cases have been decided.

To minimize tax litigations and facilitate ease of doing business, field formations have been sensitized to forward only those SLP proposals where in the issue involves substantial question of law to streamline the litigations in Supreme Court. Instruction has been issued that in cases where the Department has lost in two fora, the Departmental appeal proposal is to be accompanied with the certification of satisfaction of the Chief Commissioner that the Department has a strong case on merits. Instruction has also been issued that Department's appeals shall not be filed with the Commissioner (A) below monetary limit of Rs. 2.5 lakh.
