

SC Slams Tax Dept for Delays in Filing Appeals in Tax Cases

Slamming the revenue department for the “peculiar phenomenon” of inordinate delays in filing appeals in high-stakes tax cases, the Supreme Court has directed the finance and law ministries to act swiftly to remedy the situation and avoid revenue leakages caused by pliant officials.

Dismayed by the apathy shown by the government and its senior law officers towards its directions on such delays from time to time, a bench headed by Chief Justice SH Kapadia has asked the ministries to look into the issue so that such revenue leakages do not recur. “In a large number of cases, we find a peculiar phenomenon. In cases where huge revenue or tax demand from the department is involved, invariably there is inordinate delay in filing appeals before the high court and special leave petitions in this court,” the judges stated.

Currently, direct tax demands of R36,340 crore are locked in litigation before the high courts and another R2,707 crore in the Supreme Court.

Additional solicitor general Mohan Parasaran informed the court that Central Board of Direct Taxes and law ministry officials are meeting to take a call and he will apprise the court about the developments on September 24, the next date of hearing.

Kapadia, who has been keen to set things in order before he retires on September 28, had taken a tough stand even earlier by seeking an explanation from the attorney general and other law officers.

“We do not know the reason why such inordinate delays (in filing appeals) take place only in matters of (high) stakes. This aspect needs to be looked into. This aspect has been brought to the notice of the attorney general as well as the ministry of law in the past,” Kapadia said.

The court sought the ministries’ views while hearing a tax case involving Citibank where the department is fighting for the recovery of Rs 90 crore from the bank. In this case there were delays of 694 days (about two years) and 450 days in filing the appeals before the Supreme Court and the Bombay High Court, respectively.

While the bench had almost decided to dismiss the revenue department’s appeal in the Citibank case on grounds of undue delay, it was conscious that “once a matter is dismissed on the ground of delay, it has a ricocheting effect”.

The judges were also upset about the department’s excuse that the delay in filing the appeal was not wilful or due to any negligence but due to the lengthy, time-consuming and unavoidable administrative procedures. The government said that there was a huge workload and it has to follow several formalities and strict procedures.

In this case, the income tax department had alleged that the bank was liable to pay more than Rs 59.19 crore as tax during 1991-92 for violating the RBI guidelines on portfolio management schemes (PMS). The bank earned commission, fees and service charges for managing PMS on behalf of its customers.

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