

Can the budget tackle tax appeal delays and ease taxpayer burden?

Government must address the growing backlog of tax appeals and impact of prolonged litigation on taxpayers

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The central government's efforts to reduce tax-dispute litigation seem to be falling short even after the measures proposed in the previous four budgets.

According to Central Action Plan data, about 550,000 appeals were pending for disposal as of 31 March 2024 at the level of the Commissioner of Income Tax (Appeals) CIT(A), the first level of challenging tax demands. That's an increase of 64% since FY19, when 335,000 appeals awaited disposal at the end of the year, according to data from EY India.

The numbers are especially of concern because the faceless assessment at the CIT(A) level rolled out in 2020 was meant to quicken the process by eliminating the human interface, but the number of pending appeals has only increased since then (see graphics). Year after year, the number of new appeals lodged surpassed the number of appeals disposed of, adding to the backlog.

The main reasons are limited staff and technological limitations, stakeholders said. According to Ajay R. Vaswani, founder of Aras & Company, chartered accountants, it can take over a year to receive the notice for

Will the budget offer solutions to tax litigation woes?

Escalating tax appeal backlog highlights the urgent need for budget reforms



Past Budget measures to ease litigation

- 2020:** Faceless Appeal Scheme (FAS) launched
- ▶ Vivad se Vishwas Scheme launched
- 2021:** FAS revised and National Faceless Appeal Centre (NFAC) set up to facilitate the conduct of e-appeal proceedings in a centralised manner
- 2023:** Joint commissioner (appeals) introduced for small-value appeals
- 2024:** Timelines for reopening of past assessments reduced
- ▶ e-Dispute Resolution Scheme launched
- ▶ Vivad Se Vishwas 2.0 launched

Tax disputes continue to rise



Pending cases across appellate forums (FY24)

Amounts involved (in ₹ trillion)

No. of cases

Appeal disposal delays: A major pain point

WHEN tax demand is raised, it must be paid within one month

THE first hearing at CIT(A) may take up to 12 months from the date of filing an appeal

DURING the appeal, IT department can recover tax by adjusting refunds in subsequent years or attaching assets

involving complicated issues was faster before the faceless regime.

"The faceless regime has definitely been favourable for taxpayers as it has brought down corruption. However, for complicated matters, it doesn't always work as relief is not granted at any stage and the litigation goes on for many years. This is because the facts of each case can be understood better in person when heard directly from the assessee, as opposed to reading a file online," the chief commissioner said on the condition of anonymity. "The central government should consider giving assesses a choice between faceless and in-person appeals," he added.

For small taxpayers, an offline grievance redressal system can be set up consisting of a senior tax officer and an official from another department or a citizen forum who doesn't have a proven bias, said Hegde.

"Such units can be set up in each town or region that gives small taxpayers the option to explain their case in person. This can be a more effective and faster way to dispose of petty issues for which taxpayers have to appeal," he added.

For the cases already pending disputes, especially at the CIT(A) level, capacity building would help, said Shalini Mathur, director, tax and economic policy group, EY India.

"The impact of appointing 100

the first hearing in many cases. "Despite the introduction of the faceless assessment scheme aimed at expediting the tax litigation process, the backlog and procedural inefficiencies have resulted in significant delays," Vaswani said.

"This delay could be attributed to the high volume of cases and limited capacity of the appellate authorities to handle them promptly."

Even before an appeal is filed, the faceless assessment process is saddled with challenges that result in increased appeals.

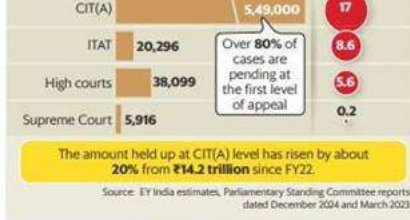
"The positive of faceless assessment is that it has made compliance easier for taxpayers as they can respond online. However, the issue is that in about half the cases, the taxpayer is not conversant with technology, so either the notices don't get a response as the taxpayer doesn't check emails or can login into the IT portal or are unsatisfactorily drafted," a faceless assessing officer (FAO) told Mint on condition of anonymity. "On not getting a response, the tax officer has no option but to pass an order, which then goes into appeal."

Hardships for small taxpayers

Delays in disposing of appeals is the primary pain point, especially for the small taxpayers. The prolonged processes cause financial distress to them in several ways.

The outstanding tax due is to be paid within 30 days of the demand being raised by the tax authorities. After that, the income tax department can recover the outstanding tax by deducting it from any refunds due to the assessee in subsequent years or by attaching their assets.

In fact, the tax department can do this even when the matter is under appeal and is pending before appel-



late forums unless a taxpayer secures a stay on the demand.

However, there is an added challenge—the taxpayer must deposit 20% of the outstanding demand to secure a stay on the remaining 80% tax due. This can be very burdensome especially for those with high order demands.

If the assessee wins the case, the deposit is refunded with an annual interest of 6%. Moreover depositing 20% of the outstanding demand doesn't guarantee a stay.

"We are seeing cases where the assessee is not being able to obtain stay of demand even when she has already paid 20% of the tax demand," said Rakesh Nangia, managing partner at Nangia & Co.

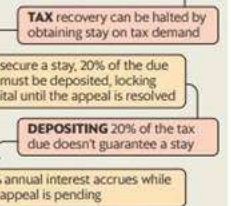
"The CBDT's (Central Board of Direct Taxes) own guidelines prescribe that a stay of demand should be granted in such cases where 20% has already been paid by the assessee. But since the matter is not stayed formally the tax demand appears as outstanding on the income tax portal, allowing the tax department to automatically adjust the refund in future years."

That's not all. Chartered accountant Prakash Hegde said there have been cases where the Centralised Processing Centre (CPC) has adjusted the refund against outstanding tax even when there is a stay order after the matter has been pending in appeal for several years.

"It happens mechanically, and the assessee can dispute it in court. But it's an added difficulty, both financially and administratively, when they are already fighting against the tax demand raised in the first place," Hegde said. Prolonged litigation also means that 12% annual interest on the outstanding demand gets added during the pendency of the appeal.

Hegde said several taxpayers are opting for settlement under the Vivad Se Vishwas scheme just to free themselves from prolonged litigation. The Vivad Se Vishwas scheme allows taxpayers to settle pending cases by paying the tax on the disputed income, with a waiver on the interest as well as the penalties, if any.

"Even in cases where tax demand



was undue, the taxpayer paid it just because they wanted peace of mind after being stuck in litigation for four-five years and get rid of the mounting interest and continued uncertainty," Hegde added.

Addressing the challenges

With expectations that the Union budget for 2025-26 on 1 February will address the backlog of appeals, *Mint* spoke to several tax professionals to understand how the shortcomings in the current faceless regime could be fixed to make it more efficient.

A common suggestion was that the physical hearings for complex cases and those involving demands due to technical errors should ensure better clarity and resolution.

"Although a faceless regime at the first appellate level is a welcome move, the cases involving complex issues with high stakes do not get early closure," said Dharmesh Shah, an income tax lawyer. "Complex matters need detailed understanding of facts and evidence, which is difficult in the faceless regime. Hence, such matters should be allowed for personal and physical hearings."

A chief commissioner of income tax told *Mint* that disposing of appeals

Joint commissioner (appeals), a positive step by the government for small value disputes, will be visible in due course. Meanwhile, the government can look at deploying increased manpower for a limited time period to clear the existing backlog. Moreover, CIT(A) should give precedence to orders with high tax demand so that at least the amount stuck in litigation can be unlocked," she said.

The total tax amount under dispute across various appellate forums was ₹31.4 trillion at the end of FY24.

Mayank Mohanka, founder of TaxAaram India and a partner at S.M. Mohanka & Associates, said the current one-year timeline advised to commissioners to dispose of appeals under Section 250 (6A) should be changed into a mandatory deadline.

"The word 'may' used in the section should be amended to 'shall' in the upcoming budget to make it a compulsory requirement to reduce the backlog of appeals," he said.

Lastly, the conditions imposed on the taxpayers need to be addressed to alleviate their financial burden, said Vaswani.

"Introducing a cap on the interest or allowing for a temporary suspension of accrual during the appeal process could provide relief. Also, lowering the 20% deposit for a stay or deferring adjustment of outstanding tax with refunds until the final resolution of the case would ensure fairness to the taxpayer," he said.



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