

Sigh of Relief on Tax Front

Law for Safer Workplace

LexCounsel, Law Offices

C-10, Gulmohar Park
New Delhi 110 049, INDIA.

Tel.: +91.11.4166.2861
Fax: +91.11.4166.2862

Recommended by:



Sigh of Relief on Tax Front

In an attempt to provide some respite to the investors and ensure a taxpayer-friendly approach in revenue collection, the Finance Minister of India has recently assured that the Income-Tax Authorities (“ITA”) will not recklessly implement the retrospective tax rules. The Government of India (“GoI”) has introduced retrospective amendments in the Income Tax Act, 1961 which empowers the ITA to tax the indirect transfer of shares when the underlying assets are located in India.

The GoI has now referred the issue of retrospective tax rules to the committee headed by Mr. Parthasarathi Shome, (the “**Shome Committee**”). Earlier, the Shome Committee had recommended that the General Anti Avoidance Rules (“**GAAR**”) be deferred for three years. GAAR, giving ITA powers to scrutinize any transaction that they feel was structured to evade taxes, was introduced in the Finance Act, 2012 to come into effect from April 1, 2013.

Finance Minister has further stated that the implementation of GAAR provisions and the retrospective tax rules would be subject to the final report of the Shome Committee, which is expected by the end of September, 2012.

GAAR provisions and the retrospective tax rules have drawn sharp criticism from all spheres, since its introduction. The recent statements by the Finance Minister appear to be GoI’s effort to perk up the investors who have been apprehensive about the repercussions of implementation of the GAAR provisions and retrospective tax rules.

Law for Safer Workplace

The Lok Sabha (Lower House) (“LS”) on September 3, 2012, finally gave its nod to the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Bill, 2010 (“Bill”), to deal with the menace of sexual harassment at work place. The Bill which was pending before the LS since 2010 underwent a radical facelift, owing to pressures from various women organizations and critical reviews by the parliamentary standing committee, before being approved.

The Bill, which still has to get the Rajya Sabha’s (Upper House) sanction, defines ‘sexual harassment’ to include “any unwelcome act or behavior directly or by implication of physical contact and advances, or a demand or request for sexual favors, or making sexually colored remarks or showing pornography or any other unwelcome physical, verbal or non-verbal conduct of a sexual nature”.

The most noteworthy aspect of the Bill is that it brings under its ambit “domestic workers”, whether employed full-time, part-time or temporarily for household work in any house for remuneration whether in cash or kind, either directly or through any agency.

Some of the key features of the Bill are:

- Provides for safeguards against wrong or fallacious charges of sexual harassment;
- Makes it mandatory for every employer to constitute an internal complaints committee at each office or branch with ten or more employees, to deal with cases and complaints of sexual harassment;
- Enlists offences that will qualify as sexual harassment viz. making sexual remarks, demand for sexual favor, act of physical advance or an unwelcome touch, etc.;
- Applicability of the Bill is wide enough to include not only employees but also clients, customers, apprentice, or daily wage workers who enter the workplace; and
- Provides for penalties for employer for non compliance.

While women organizations and activists have welcomed the passing of the Bill, various other social interest groups have raised their concerns on certain aspects that have not been included or addressed in the Bill such as the Bill not protecting male workers against sexual harassment by co-workers.

By: Abhijeet Das, Associate (adas@lexcounsel.in) and Swagateeka Patel, Associate (spatel@lexcounsel.in)