

Bankers want notional profit from debt waiver to be exempted from MAT

K RAM KUMAR

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Say this will encourage new promoters and investors to acquire ownership of stressed entities



Mumbai, December 18:

To incentivise participation of ‘new promoters/investors’ in the resolution of stressed companies under the Insolvency and Bankruptcy Code, banks are seeking suitable amendments to the Income Tax Act, whereby, when a portion of such companies’ debt is waived off, the resulting notional profit arising from recognition of notional income is exempt from minimum alternate tax.

Bankers’ say waiver of a portion of a stressed company’s loan under a resolution plan will be treated as taxable receipt by the revenue authorities and this could deter new promoters/investors from acquiring/taking over ownership of such entities.

The objective of minimum alternate tax (MAT), according to the IT Department, is to bring into the tax net “zero tax companies” which, in spite of having earned substantial book profits and having paid handsome dividends, do not pay any tax due to various tax concessions and incentives provided under the IT law.

IT amendment needed

According to S Ravi, practising chartered accountant, “when a company is being taken over by a new promoter/investor, there could be ambiguity and litigation regarding taxation in case of sacrifice of interest and principal. It is thus imperative to have suitable amendments in the Income Tax Act (to assuage the concerns of the new promoter/ investor).”

In case of amalgamation, Ravi underscored that tax exemptions are clearly defined. So, this can also be done in the case of National Company Law Tribunal (NCLT), which is the Adjudicating Authority under the Insolvency and Bankruptcy Code (IBC) cases where new promoters/ investors step in.

Referring to recent deliberations on resolution of stressed assets under IBC, a senior official of a public sector bank said banks want suitable amendments to the IT Act so that new promoters/ investors are not hassled with the tax liability of the investee company.

“When somebody else takes over an asset, it is like an amalgamation. So, when a new corporate entity takes control, there will be a number of grey areas. This needs to be resolved.

“So, the (MAT) exemption, if it comes, will encourage the fresh promoter or investor to come in (to replace the existing promoter),” explained Ravi, who is also on the board of IDBI Bank.

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