

**GOVERNMENT OF INDIA
FINANCE
LOK SABHA**

STARRED QUESTION NO:296
ANSWERED ON:13.08.2010
TAX REVENUE LOCKED UP IN COURTS
Jeyadural Shri S. R.;Ray Shri Rudramadhab

Will the Minister of FINANCE be pleased to state:

- (a) whether a large amount of direct taxes is locked up in litigation;
- (b) if so, the details thereof;
- (c) the details of Income Tax cases filed including amount held in various court litigations during each of the last three years and the current year, forum-wise;
- (d) the amount spent on them as lawyer's fees during the same period;
- (e) whether the Government proposes to avail the services of an alternate dispute mechanism, to settle such cases, outside the courts; and
- (f) if so, the details thereof?

Answer

MINISTER OF THE STATE IN THE MINISTRY OF FINANCE (SHRI PRANAB MUKHERJEE)

(a&b) Details of direct taxes locked up in litigation before various authorities as on 31.3.2010 are as follows:

Commissioner Income Tax High Supreme (Appeals) Appellate Court Court Tribunal (HC) (SC) (ITAT)

Amount locked up	2,20,14,836	7,67,100	4,45,736	62,623
in appeals				
(Rs Lakhs)				

(c) Details of Income tax cases filed before various courts both by the department and by assesseees during last 3 years is as follows:

Year	Total No.of cases filed
------	-------------------------

ITAT	HC	SC
------	----	----

2009-10	20,806	9,385	1,506
---------	--------	-------	-------

2008-09	24,145	10,154	1,232
---------	--------	--------	-------

2007-08	26,750	11,691	781
---------	--------	--------	-----

Details of amount locked up in appeals (in Rs Lakhs) before various courts during last 3 years is as follows:

As on ITAT HC SC

31.3.2010 7,67,100 4,45,736 62,623

31.3.2009 9,10,202 8,05,066 38,168

31.03.2008 9,78,922 5,31,450 1,17,030

Pendency of appeals at different fora as on 30.6.2010 and the demand locked up is as under

ITAT HC SC

No of cases pending 17,522 21.568 4.739

Total amount 7,63,550 3,84,901 55,065
(Rs Lakhs)

(d) Before ITAT, Income Tax Department is represented by its own officers i.e. Commissioners and Additional Commissioners. No separate fees (apart from salary) are paid to them. In exceptional cases, special counsels are engaged.

Representation before High Court is done through advocates drawn from panel of Senior and Junior standing counsels before each High Court who are paid on case to case basis in terms of Instruction no.8/07 dt. 30.8.07 of Central Board of Direct Taxes.

Payment to counsels is made from the head 'Professional services' which records expenditure on consultancy fees, fees to staff artists, remuneration of examiners, invigilators etc apart from expenditure on legal services. Details of expenditure under the head 'Professional services' for the last three years and the current year is as under

Financial Actual Expenditure (Rs Lakhs)
Year

2010-11 (upto June 2010) 212.39

2009-10 2196.12

2008-09 1455.03

2007-08 1646.13

Before the Supreme Court, Solicitor General of India , Additional Solicitor General and other law officers of Government of India, represent the Department.. They are under administrative jurisdiction of and are paid by Ministry of Law and Justice (MOLJ). Their fees and emoluments are governed by notifications of Ministry of Law and Justice. Besides cases of Income tax department, the law officers represent other cases of Union of India, other ministries and departments.

(e&f) The alternate dispute resolution mechanism provided within Income Tax Act, 1961 (The Act) is as follows:

(i) As per provisions of section 245A to 245L of the Act, the Settlement Commission is competent to settle those cases for which application is filed by the assesses in terms of the statutory provisions.

(ii) As per Chapter XIX B of the Act, advance ruling on issues can be given by the Authority for Advance Rulings.

(iii) Dispute Resolution Panels (DRPs) have been constituted as an alternative to resolving disputes pertaining to Transfer Pricing cases following insertion of section 144C in the Act by the Finance Act, 2009 w.e.f 1.4.2009

(iv) National Tax Tribunal (NTT) was notified in the Gazette of India on 21st December, 2005. As per section 15 of the Act, The National Tax Tribunal has powers to hear appeal against orders passed by the Income Tax Appellate Tribunal. However the issue pertaining to operationalisation of NTT is pending before the Supreme Court.