

No MAT on FIs prior to April 1, 2015: FM

The government has accepted the recommendation of the AP Shah committee to not pursue cases against foreign institutional investors (FI) involving minimum alternate tax (MAT) levied prior to April 1, 2015, Finance Minister Arun Jaitley said today.

"I have accepted the recommendations of the Justice AP Shah panel," he told a press conference. "The committee was of the view that it was not the intention of the MAT law for it to be levied upon FIs."

The MAT levy had led to an uproar amongst FIs and was also likely behind a stock market collapse a few months back, following which the government appointed the Shah panel in July.

The government will now amend relevant sections of the Income Tax Act in order to make the levy not applicable, Jaitley said.

The government had already announced in the Budget in February this year that MAT would not be levied on FIs prospectively (from April 1, 2015). But MAT cases prior to April 1, 2015, continued -- something that will now be put to an end.

The Finance Minister, however, said that the Shah panel's recommendations were applicable only for FIs and FPIs and did not pertain to cases involving foreign direct investment (FDI).

The MAT was introduced to facilitate the taxation of 'zero tax companies'.

"It had been observed that many companies, despite showing high profits in their books of accounts and paying substantial dividends, were paying marginal or no tax, by taking advantage of various tax concessions and other incentives, in a manner so as to avoid paying tax," the Justice Shah panel report said.

"MAT was thus envisaged as levying a minimum tax on such companies by deeming a certain percentage of their book profits, computed under the Companies Act, as taxable income."

A controversy, however, arose with respect to the applicability of MAT on FIs due a ruling by the Authority for Advance Rulings in a case involving Castleton.

"The AAR held that Section 115JB was applicable to foreign companies, even if they have no Permanent Establishment or place of business in India. The effect and implication of this ruling was that FIs could be liable to pay MAT," it added.

Justice Shah later told CNBC-TV18 that the panel considered previous rulings, such as with regards to Timken, that in effect said MAT was not applicable for FIs.

"The move to do away with MAT on FIs is a step in the right direction," Nishith Desai of Nishith Desai Associates told CNBC-TV18. "The decision to not explicitly provide relief to foreign companies is a disappointment."

"One hopes that the government broadbases the recommendations of the Shah report to include foreign companies as well when it issues a circular," Ketan Dalal of PwC India said.

The move by the government, however, will only change the sentiment of the stock market, which is already in the midst of a brutal correction, "only at the margin", Jorge Mariscal of UBS said.