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Decriminalise more provisions in tax laws in Budget 2024, say lawyers and CAs

Right now, criminal prosecution in income tax law gets triggered even for trivial human errors such as delays in deposit of withholding taxes, they say. These and similar other provisions do not help build an environment of trust between the taxpayer and the authorities, experts say.

S.N.THYAGARAJAN
([HTTPS://WWW.MONEYCONTROL.COM/AUTHOR/S.N.THYAGARAJAN-27801/](https://www.moneycontrol.com/author/s.n.thyagarajan-27801/))
FEBRUARY 01, 2024 / 06:39 AM IST

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Budget 2024: All eyes on Centre's last fiscal roadmap before parliamentary polls

Legal and accounting experts are seeking more provisions of decriminalisation in both the income tax and goods and services tax (GST) laws from the interim budget that will be presented on February 1.

It will be a vote-on-account since this is an election year.

"The upcoming budget is poised to simplify tax compliances, aiming for a more user-friendly tax portal, clearer guidelines, and increased support for taxpayers. We expect more amendments to the Jan Vishwas Act to decriminalise the penal provisions," said Alipak Banerjee, head of international dispute resolution at

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The Jan Vishwas Bill, which was passed in Parliament during monsoon session 2023, decriminalised 183 provisions in 42 different laws. It was introduced in the Lok Sabha in December 2022.

As many as 113 provisions of the Bill pertain to ease of doing business. The Bill is considered a landmark as it is likely to serve as a guiding principle for future amendments in various laws, saving time and cost for both the government and businesses alike.

Acts, such as the Public Liability Insurance Act, 1991, and the Information Technology Act, 2000, have been amended. These amendments replace many offences that involve imprisonment with just a monetary penalty.

In **Budget 2023** (<https://www.moneycontrol.com/budget/>)³, Finance Minister Nirmala Sitharaman announced that to enhance the ease-of-doing business environment, **more than 39,000 compliances** (<https://www.moneycontrol.com/news/business/budget/union-budget-2023-for-ease-of-doing-business-39000-compliances-reduced-9980261.html>) were done away with and more than 3,400 legal provisions, which had criminal implications, were decriminalised.

'Need to rationalise Income-Tax Act'

Pallav Pradhyuman, partner at accounting firm CK, said: "Prosecution provisions in the I-T Act, 1961, have to be rationalised. At this moment, one can be prosecuted under various Sections of the Act and be imprisoned for periods ranging from 3 months, all the way up to 7 years."

According to Pradhyuman, criminal prosecution gets triggered for trivial human errors such as delays in deposit of withholding taxes.

He further noted that the criminal prosecution is triggered in addition to penalty provisions that already exist. "These and other similar provisions do not help build an environment of trust between the taxpayer and the authorities. Doing away from them would certainly be a welcome step," he said.

In 2020, to **put an end to prolonged income tax-related litigation** (<https://www.moneycontrol.com/news/trends/legal/government-introduces-vivad-se-vishwas-2-to-cut-litigation-costs-improve-ease-of-doing-business-10042491.html>), the government introduced Vivad se Vishwas, a scheme in which the government and the taxpayer enter into a dialogue to settle disputes.

The scheme was implemented for a brief period of time, and at the end of its tenure, the government announced that it helped resolve more than 148,000 income-tax cases, with the recovery of about 54 percent of the amount under litigation.

In 2023, the government introduced the second edition of the scheme for the settlement of arbitration disputes.

Government entities such as the National Highways Authority of India (NHAI) frequently engage private contractors for various works, the terms of which are defined in a contract between them. The contract usually has a clause that enables parties to approach an arbitrator in case of a dispute, which are usually monetary in nature.

Jiddhesh Kumar, managing partner at King Stubb and Kasiva, said: "Provisions in the Income Tax, GST, and Customs laws mirroring sections actionable under the Indian Penal Code (IPC) should be expunged." He further noted that decriminalisation of tax laws will result in 'Minimum Government, Maximum Governance' policy in the legislation.

Jan Vishwas 2.0

[Speaking at the diamond jubilee celebration \(https://www.moneycontrol.com/news/trends/legal/pm-modi-announces-allocation-of-rs-800-crore-for-expansion-of-supreme-court-complex-12135871.html\)](https://www.moneycontrol.com/news/trends/legal/pm-modi-announces-allocation-of-rs-800-crore-for-expansion-of-supreme-court-complex-12135871.html)

of the Supreme Court on January 28, Prime Minister Narendra Modi said that the judiciary plays a crucial role in India's ambition of 'Viksit Bharat @2047', which aims to make the country a developed nation by 2047, the 100th year of its independence. He highlighted that the Jan Vishwas Bill is the result of the government's effort to create a reliable legal framework.

Experts noted that another version of Jan Vishwas might be needed to make a more reliable framework. "The Jan Vishwas Act, 2023, had decriminalised offences under 42 central legislations. There is a clear need to continue decriminalising minor or procedural violations. It will avoid overburdening of courts and speed up the closure of grave cases," said Darshan Bora, Partner at law firm Economic Laws Practice.

S.N.THYAGARAJAN

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FIRST PUBLISHED: JAN 31, 2024 11:12 PM

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