

## I-T Dept. Withdraws Sanofi Appeal from SC

The decade-old retrospective tax controversy that put India on the global map is finally over with the tax department withdrawing its petition from the Supreme Court challenging a 2015 high court ruling favoring Sanofi. While Sanofi, like many other multinationals, settled this with the tax man under India's plan to rescind the indirect transfer of assets amendment or retrospective tax amendment in December, the appeal in Supreme Court was yet to be withdrawn. In a May 6 order, the apex court dismissed all the appeals. "In terms of the request made before the court, the appeals are dismissed as withdrawn," the court ruled. "The controversy around the indirect transfer of shares is now put to bed as the government withdrew its appeal in the Supreme Court. While the settlement scheme was accepted in December, the pending appeals in the SC meant that the matter was technically ongoing," said Rohan Shah, counsel.

In 2009, French drug maker Sanofi Aventis brought a stake in Hyderabad based vaccine manufacturer Shanta Biotech. The transaction was carried out in France as the buyer – Sanofi – as well the sellers Institute Merieux (IM) and group Industrial Marcel Dassault (GIMD) – were French companies. The tax department had demanded ₹2,000 crore in the case including tax and penalties. Andhra Pradesh High Court had quashed the tax demand, after which the revenue department had approached the Supreme Court. According to Ashish K Singh, managing partner of law firm Capstone Legal, this shows the revenue department's commitment of ending litigation for matters on which a policy decision has been taken by the government. "It is pertinent to note that more than 50% of cases pending before the Supreme Court and High Court are against the government and such proactive steps go a long way in setting a precedent in other similar cases before various courts across the country," said Singh.

Apart from Vodafone and Cairn Energy, companies including Sanofi, Mitsui, WNS, Tata group and Genpact that were litigating or had initiated arbitration proceedings against the tax department settled the tax issue with the government. The government has promised it will refund taxes already

collected and withdraw litigation, arbitration and let go of damages, interest or any other cost. In most case the mergers, acquisitions or restructuring conducted by these companies faced taxes in India. The governments rational were the most of the valuation (more than 50%) of the assets or companies that were sold came from India or Indian customers.

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