Cairn Energy Taxation Issue

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In News

British oil and gas explorer Cairn Energy Plc has said that it is seeking $1.4 billion (Rs 10,300 crore) from the Indian government in **losses arising from the expropriation of its investments to enforce a retrospective tax demand.** The Cairn Energy case is the second most high-profile retrospective tax litigation. Previously, an **arbitration court in the Hague had** ruled that India's Rs 22,000-crore demand from Vodafone Group Plc **violated the bilateral investment treaty (BIT)** between India and the Netherlands.

More About Cairn Energy in India

- Cairn Energy began investing in India in the 1990s, becoming **one of the first international companies to participate in the country's oil and gas industry.**
- While it became the operator of the **Ravva oil and gas field on India's eastern coast** initially, it was in January 2004 that the company made its biggest **hydrocarbon discovery of the Mangala oil field in Rajasthan.** This was followed by **discoveries of Bhagyam and Aishwarya oil fields** nearby.
- In total, Cairn and its partners invested Rs 45,000 crore in India in various projects. It also built the **Mangala Processing Terminal** which still accounts for more than a third of the country's crude oil production.

More About the Taxation Issue

- The Income Tax authorities had slapped Rs. 30,700 crore penalty on Cairn Energy.
- The assets held by Cairn India Holdings had to be transferred to a company registered in India, which was done by Cairn India (an Indian entity) buying the entire

stake in Cairn India Holdings from Cairn U.K. Holdings.

- It involved a **transfer of ownership of an Indian entity by way of an overseas transaction involving parties which did not fall under Indian tax jurisdiction.**
- The tax authorities argued that **though the deal was between two overseas entities, the shares derived their value from assets held in India, and hence were liable for capital gains tax.**
- The government had **retrospectively amended the law** to allow indirect transfers which derive substantial value from assets located in India to be subjected to tax.

Retrospective Taxation

- Retrospective tax is nothing but a combination of two words “retrospective” and “tax” where “retrospective” means taking effect from a date in the past and “tax” refers to a new or additional levy of tax on a specified transaction. Hence, retrospective tax means **creating an additional charge or levy of tax by way of an amendment from a specified date in the past.**
- Till date one of the major and most controversial retrospective amendments carried out was **bringing indirect transfer under the tax bracket by Finance Act 2012.**
- Retrospective tax is **not so easily welcomed by taxpayers as it creates an additional levy on the transaction which is already concluded when the provisions of law were different.** Taxpayer would have planned his finance and tax based on the law as it existed at that time and disturbing the same by way of unjust and unwarranted retrospective amendments is unreasonable.