

## Finance Bill: No relief for Vodafone seen in Pranab Mukherjee's speech

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MUMBAI: Finance Minister Pranab Mukherjee appeared to provide no relief to [Vodafone](#) Plc in the course of a much-awaited speech to Parliament.

The UK telecom major may end up paying withholding tax of 7,900 crore, besides penalty and interest which could push the total tax burden to nearly 20,000 crore.

"As per the speech there is no change for Vodafone between now and the tabled Finance Bill. I haven't seen the final amendment in the Bill, so it is too early to say anything else," said Anuradha Dutt, Vodafone's counsel.

A retrospective clarification to tax rules, part of the [Union budget](#) presented on March 16, 2012, appeared largely aimed at overturning a Supreme Court verdict that had ruled that the transaction in which Hong Kong's [Hutchison](#) had sold its Indian telecom business to Vodafone was not taxable as it took place between two overseas companies.

The FM's speech to [Parliament](#) on Monday fuelled speculation that the ministry may be offering an exit route to the UK telecom giant after he stated that those cases where assessments were complete would not be reopened.

However, ministry officials said the earlier retrospective amendment remains unaffected.

"The retrospective clarificatory amendments now under consideration of Parliament will not be used to reopen any cases where assessment orders have already been finalised," Mukherjee said.

Nishith Desai, founder of leading tax law firm Nishith Desai Associates, said, "It seems the assessments which are in appeal may still be subject to retroactive amendments. This may not be consistent with the assurance given by the Indian PM to Gordon brown in the letter indicating that India does not seek to retrospectively tax such transactions."

The company still has the option of contesting the constitutional validity of the amendment proposed by the [Finance Bill](#) in court or challenge the government's move to tax it under the bilateral trade agreement between India and the Netherlands, where the acquiring arm is head-quartered.

However, lawyers said there is no certainty that the outcome from any of these routes would be favourable to Vodafone. Considering Vodafone is gearing up for a public listing soon, a court battle may undermine future prospects of Vodafone India, said an industry analyst asking not to be named.

Industry sources said an informal understanding of the contours of a possible out-of-court settlement was reached in a recent meeting between the finance minister and the Vodafone chief executive Vittorio Colao.

Department officials have since been cited saying Vodafone would pay the basic tax of around 7,900 crore tax and be exempted from penalty. However the FM's speech contained no indication of any such settlement.

Indian tax authorities have maintained that since Hutchison's asset bought by Vodafone in 2007 for \$11 billion was based in India, Vodafone was liable to withhold capital gains tax. Vodafone was in litigation with the tax department for the entire period since 2007.