Start-up bodies appeal for ‘angel tax’ relaxation

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A start-up coalition of Nasscom, Indian Angel Network, Indian Venture Capital Association (IVCA) and the network of entrepreneurs TIE, has urged the government to bring in provisions to exclude recognised angel investor groups from angel investment tax levied under Section 56 of the Income Tax (IT) Act, in the upcoming

Union Budget on February 1.

“All we are asking the government is to create a definition of angel group like they did for start-ups, make norms and then investments made by Sebi recognised venture capital funds and recognised angel group should be carved out from angel investment tax,” said Saurabh Srivastava, chairman emeritus of TIE Delhi and co-founder and former chairman of Nasscom.

Under Section 56 of the IT Act, money paid by investors for shares in a private Indian company is subjected to 33 per cent tax if it is more than the Fair Market Value (FMV) as it is considered to be income from other sources in the hands of the company. While the tax rule was introduced to curb the use of black money for investments into private companies, in the last one year several prominent start-ups have received tax notices on the valuation of the shares of the start-ups.

“Normally, valuations in the angel round are based on the long-term expectations of the start-up succeeding. However, recent actions of the I-T department of sending out notices disputing valuations on the premise that valuations done at the angel funding level are way above those done at a subsequent time have been hampering the overall balance sheets of start-ups,” said Srivastava.

Apart from this the start-up sector has also recommended that the government should abolish Minimum Alternate Tax (MAT) for start-ups certified by Department of Industrial Policy and Promotion (DIPP) in order to boost start-up ecosystem in the country. It has also recommended that short term capital gains for start-up investor should be capped at 15 percent and the holding period for computing long term capital gains tax should be 1 year. “As far as the capital gains tax is considered, we have asked the government to not differentiate between public listed companies and start-ups,” said Nishith Desai, founder of law firm Nishith Desai Associates and a board member of TIE in Mumbai.

“In addition the Equalisation Levy that has been imposed is neither classified neither as income tax nor as service tax. The Equalisation Levy combined with GST could potentially go as high as up to 38 per cent. This will have a serious impact on a start-ups which spend about 40 per cent of their budgetary expenses on online advertising and discourage them from incorporating in India,” said Desai. The start-up sector has also asked for “reasonable guidelines” addressing the concerns of the start-ups on notices received by them under Section 68 of the I-T Act enquiring about the source of funds if an investment is made in cash above a certain limit.