India talks tough, signals it may hit back over H-1B visa curbs

Government may cap royalty payments by American firms in India to their parent companies

BY ASIT RANJAN MISHRA & ELIZABETH ROCHE

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India has signalled it could respond to the US move to restrict H-1B visas by capping the royalty payout by American companies in India to their parent firms.

Not only does the veiled threat signal a toughening of India's stance, the move, if implemented, risks escalating into a full-blown trade war that could harm the otherwise warm relationship between the two countries.

"It is not just that Indian companies are in the US, several big US companies are in India too," commerce minister Nirmala Sitharaman told reporters on the sidelines of an event in New Delhi. "They are earning their margins, they are earning their profits, which go to the US economy. It is a situation which is not where only the Indian companies have to face the US executive order. There are many US companies in India which are doing business for some years now. If this debate has to be expanded, it has to be expanded to include all these aspects. We shall ensure that all these factors are kept in mind."

Commerce minister Nirmala Sitharaman said India still preferred a constructive dialogue with the US. PRADEEP GAUR/MINT

The minister, however, declined to be drawn into a confrontational stance, saying India still preferred a constructive dialogue.

Sitharaman's remarks came two days after US President Donald Trump ordered a review of the H-1B visa regime for bringing skilled foreign workers into the US, a move that could undermine technology and outsourcing firms.

When asked whether there is a case for India to drag countries such as the US, Australia and New Zealand to the World Trade Organization (WTO) for raising barriers to the free movement of professionals, Sitharaman said: "At this stage I can only say that we will ensure that we engage with them constructively. At the same time, I have no hesitation (in) saying that India will ensure that it shall not accept unfair treatment."

At the event, Sitharaman said countries like the US had provided a commitment to the WTO on the number of work visas they would provide, and India can question them if they didn't live up to the commitment.

"The services debate is really very skewed and their treatment of India is at their whims and fancies. The finance minister and the prime minister will be taking up these issues (at appropriate forums)," she said.

At a separate briefing, Indian foreign ministry spokesman Gopal Baglay struck a similar note. "There is a mutuality of interest involved between India and the US. There are Indian workers, Indian companies in the US. There are also US companies in India... in the IT sector in India. I can assure you that the implication of the changes that will come in the visa regime will be part of our conversations."

A surge in royalty outflow has prompted the government to set up an inter-ministerial group, *PTI* reported on Tuesday.

Royalty is paid to a foreign collaborator for transfer of technology, use of brand names or trademarks. To be sure, previously too, the government has threatened to restrict royalty payouts.

Before 2009, companies could remit royalty involving foreign technology transfer to the tune of 5% on domestic sales and 8% on exports. The royalty was capped at 1% of domestic sales and 2% of exports in cases where no technology transfer was involved, such as on account of brand value. These limits were abolished in December 2009.

Lobby groups US-India Business Council and the Confederation of Indian Industry declined to comment on the issue.

asit.m@livemint.com