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Two-Day
 • NATIONAL SEMINAR •
 on RECENT TRENDS IN
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• Executive Editor •
 Dr. (CA) Paresh Bora



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A study of Recent Tax Development in Indian Tax System

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Abstract: India has a well-developed tax structure with clearly demarcated authority between Central and State Governments and local bodies. Central Government levies taxes on income (except tax on agricultural income, which the State Governments can levy), customs duties, central excise and service tax. Value Added Tax (VAT), stamp duty, state excise, land revenue and profession tax are levied by the State Governments. Local bodies are empowered to levy tax on properties, octroi and for utilities like water supply, drainage etc. Indian taxation system has undergone tremendous reforms during the last decade. The tax rates have been rationalized and tax laws have been simplified resulting in better compliance, ease of tax payment and better enforcement. The process of rationalization of tax administration is ongoing in India.

Introduction : Any Government gets its revenue for expenditure purpose from three different sources i.e. income from taxes, income from services rendered to the general public and various grants and contributions received from foreign countries and international organizations. Mostly each and every government collects its major revenue by way of taxes, which is compulsory charge imposed by the government without rendering any service to tax-payer. By taking into account on whom the money burden of the tax will fall, the taxes are classified into direct tax i.e. taxes on income received and indirect taxes i.e. taxes on expenditure incurred. Income-tax i.e. tax on all types of income received by an individual in a given period comes under the direct tax segment which has proved to be the major source of revenue to the government of majority of the countries in the world and an ideal tax from the point of view of equity. In India, income-tax contributes up to 57.72% to the total revenue of the central government.

Objective:

- To understand the concepts of Indian tax system.
- To understand recent tax development in Indian tax system.
- To understand the latest amendment in Indian tax system.

Concepts of Indian tax system : A tax is a financial charge or other levy imposed upon a taxpayer (an individual or legal entity) by a state or the functional equivalent of a state to fund various public expenditures. (Wikipedia). Taxation Structure of any country is the set of rules and laws setup by that particular country for the collection of taxes from the public. The Fundamental objective of collecting Tax is to raise government revenue for development and welfare programs in the country. The Secondary objectives is to maintain economic equalities by imposing tax to the income earners and improving the economic condition of the general people, to encourage the production and distribution of the products of basic needs and discourage the production and harmful ones, to discourage import trade and protect the national industries (Bhim Chimoriya). Growth and Development of a Country is largely dependent on the Taxation Structure it adopts. High taxation rates and complex tax systems curb growth. Complex Taxation System also results in evasion of taxes and thus increase the parallel economy. Complex Tax Systems are also responsible for hampering the ease of doing business. Whereas countries with simplified taxation systems has resulted in

facilitating ease of doing business as well as growth and development of that particular country. India being one of the largest democracies has a very complex taxation structure featured with a large number of taxes, excessive and complex tax literature (rules and laws), inefficient administration.

Recent tax development in Indian tax system : The taxation system in the Republic of India is quite well structured. The Department of Revenue of the Finance Ministry of the Government of India is responsible for the computation; levy as well as collection of most the taxes in the country. However, some of the taxes are even levied solely by the Local State Bodies or the respective governments of the different states in the nation. There can be little doubt that the nature of the economy, and its structural characteristics, influence the ability to tax and the types of taxes that can be imposed. The standard economic approach to taxation and development focuses on how economic change influences the evolution of the tax system. In this approach, changes to the tax system reflect structural change. For example, a declining informal sector widens the tax net, the growth of larger firms creates a vehicle for compliance, and expansion of the financial sector encourages transparent accounting procedures which facilitate taxation. Such structural approaches have been emphasized in the influential commentaries of Tanzi (1987, 1992) and the review of the issues by Burgess and Stern (1993). Important recent contributions, focusing on specific economic channels, include Gordon and Li (2009), who emphasize the link between taxation and formal finance, and Kleven, Kreiner and Saez (2009) who emphasize third-party reporting through firms. The fact that many states remain unable to levy broad-based taxes is often seen as key to the persistence of weak states in many poor countries, by development scholars like Migdal (1988). Others, such as Herbst (2000), have ventured the hypothesis that some countries in Africa might have been able to strengthen their weak states if external wars had been more frequent on the continent. By picking up similar themes, our approach thus parallels the approach taken by scholars in other branches of social sciences as well as the humanities

latest amendment in Indian tax system.:

1. Income Declaration Scheme, 2016

A one-time disclosure scheme i.e Income Declaration Scheme, 2016 for declaration of undisclosed income of any financial year upto 2015-16 was added in Finance Bill 2016. The same is to be brought w.e.f. June 1, 2016 and it is to remain open up to the date to be notified by the Central Government in the Official gazette. Section 153A or 153C (Assessment in cases of search) The Income Declaration Scheme, 2016 shall not be applicable in case where notices have been issued under section 153A or 153C

2. New Direct Tax Dispute Resolution Scheme, 2016

A new Direct Tax Dispute Resolution Scheme, 2016, has been provided, salient features of which are:

- a) The scheme to be applicable to "tax arrears" (including tax, interest or penalty) determined under the Income-tax Act or the Wealth-tax Act, 1957 in respect of which appeal is pending before CIT(A)/CWT(A) as on February 29, 2016 ;
- b) The declarant

under the scheme be required to pay tax at the applicable rate plus interest upto the date of assessment. However, in case of disputed tax exceeding rupees ten lakh, 25% of the minimum penalty leviable shall also be required to be paid;

c) Consequent to such declaration, appeal in respect of the disputed income and disputed wealth pending before the Commissioner (Appeals) shall be deemed to be withdraw

3. New taxation regime for Securitization Trusts:

Section 115TC (Tax on income from securitization trusts)

Section 115TC provides for situations where a securitization trust defaults in payment of tax and is considered to be assessee in default. Following changes are made therein:

- i) In clause (a), "or security receipt" has been inserted in the definition of "investor";
- ii) In sub-clause (ii), "or" is inserted after the words "Reserve Bank of India",
- iii) A new sub-clause has been added to the definition of securitization trust thereby expanding its definition;
- iv) Clause (e) has been added to define "security receipt", which shall have the same meaning

as given in section 2(1)(zg) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002

4. Section 194K and Section 194L:

Section 194K for tax deducted at source for income in respect of units is omitted.

Section 194L for tax deducted at source for payment of compensation on acquisition of Capital Asset is omitted.

5. Section 194LBA (TDS on certain income from units of a business trust):

Sub - section (1) and sub - section (2) is amended for deducting tax at source on payments in respect of distributed income referred to in section 115UA, being of the nature referred to in clause (23FC) of section 10 and in the nature referred to in sub - clause (a) of clause (23FC) of section 10 also.

6. Section 194LBB (TDS on income in respect of units of investment fund):

In order to rationalize the TDS regime in respect of payments made by the investment funds to its investors, it is proposed to amend Sec 194LBB to provide that the person responsible for making the payment to the investor shall deduct income-tax u/s 194LBB at the rate of 10% where the payee is a resident and at the rates in force where the payee is a non-resident

7. Section 197 (Certificate for lower deduction of tax):

Section 197 is amended to include Section 194LBB, Section 194LBC in the list of sections for which a certificate for deduction of tax at lower rate or no deduction of tax can be obtained.

8. Section 197A:

Sub - section (1A) and (1C) is amended for making the recipients of payments referred to in Sec 194-I also eligible for filing self-declaration in Form no 15G/15H for non-deduction of tax at source.

9. Section 206AA: In order to reduce compliance burden, Sec. 206AA(7) is amended to provide that the provisions of this section shall also not apply to a non-resident, not being a company, or to a foreign company, in respect of any other payment, other than interest on bonds, subject to such conditions as may be prescribed.

10. Section 206C:

Sub-section (1D) is amended to include consideration for sale of any goods (other than bullion or jewellery) or providing any service for the purpose of collecting tax from buyer. A new clause (iii) is inserted to sub-section (1D) which provides that tax should be collected at source for any goods, other than those referred to in clauses (i) and (ii), or any service if the amount exceeds two hundred thousand rupees.

11. Section 2

i) A new clause (23C) has been added to section 2 to define the term "hearing" to include communication of data and documents through electronic mode ii) Section 2(37A) is amended to now provide that "rate or rates in force" for purpose of deduction shall include section 194LBB and section 194LBC.

12. Section 92CA (Reference to TPO)

In section 92CA (3A) it has been provided that if assessment proceedings are stayed by a court order or where a reference for exchange of information has been made by the competent authority and time-limit available to TPO is less than 60 days after excluding the time for which assessment was stayed or time taken for receipt of information, then such remaining period shall be extended to 60 days.

13. Section 115O (Dividend distribution tax on companies)

Sub-section 7 has been added to section 115O to provide that no tax on distributed profits shall be chargeable in respect of any amount declared, distributed or paid by the specified domestic company by way of dividend (whether interim or otherwise) to a business trust out of its current income on or after the specified date.

14. Section 115QA (Tax on distributed income to shareholders)

Amended Section 115QA provide that the provision shall apply to any buy back of unlisted share undertaken by the company in accordance with the provisions of the law relating to the Companies and not necessarily restricted to Sec 77A of the Companies Act, 1956.

15. Section 115TA (Tax on distributed income to investors)

In section 115TA sub-section (5) has been inserted that provides an exception with a prospective effect, to this section for income distributed by a securitization trust to its investors.

16. Section 124 (jurisdiction of AOs)

Sec 124(3) is amended to specifically provide that cases where search is initiated under section 132 or books of accounts, other documents or any assets are requisitioned under section 132A, no person shall be entitled to call into question the jurisdiction of an Assessing Officer after the expiry of one month from the date on which he was served

with a notice under sub-section (1) of section 153A or sub-section (2) of section 153C or after the completion of the assessment, whichever is earlier.

17. Section 211:

Sub-section (1) which provides that advance tax on current income to be calculated in the manner laid down in Sec. 209 is substituted. Clause (a) makes assessee other than those mentioned in clause (b) liable to pay advance tax while clause (b) makes an eligible assessee in respect of an eligible business referred to in section 44AD liable to pay advance tax.

18. Section 220:

Provisos are inserted after Sec. 220(2A)(iii) to provide that -
i) an order accepting or rejecting application of an assessee shall be passed by the concerned officers within a period of twelve months from the end of the month in which such application is received.

19. Section 234C:

Consequential changes are made in Sec. 234C in line with advance tax provisions amended in point no. 12 above.

20. Section 244A

Interest on refund u/s 244A -

- i) If return filed after the due date - interest on refund to be payable from the date of filing return
- ii) Interest on refund of self assessment tax - from date of filing return or payment of tax whichever is later.
- iii) For the purpose of determining the order of adjustment of payments received against the taxes due, the prepaid taxes i.e. the TDS, TCS and advance tax shall be adjusted first.
- iv) Further, additional interest of 3% would be payable where the refunds arise on account of appeal effect and there is delay in passing of order giving effect to appellate order beyond 3 months or beyond the period of extension granted by Commissioner or Principal Commissioner.
In such cases, interest would be payable for the period from date following the date of expiry of 3 months or extended period as the case may be to the date on which the refund is granted

21. Section 252 (Appellate Tribunal)

- i) Sub-section (3)(b) is amended which provides that Senior Vice-President of ITAT is precluded from appointed by Central Govt. as President.
- ii) Sub-section 4A is omitted.
- iii) Sub-section (5) is amended which provides that Senior Vice-President is precluded from exercising powers and functions of the President as may be delegated to him by the President

22. Section 253 (Appeals to Appellate Tribunal):

Sub-sections (2A) and (3A) of section 253 have been omitted in order to expedite the litigation process and omit filing of appeal by the Assessing Officer against the order of the Dispute Resolution Panel. To give effect to this, relevant amendments are made to sub-section (3A) and (4) of the section.

23. Section 254 (Powers of Appellate Tribunal)

The time limit for rectifying the order of appellate tribunal is now 6 months from the end of the month in which the order was passed.

24. Section 255

The monetary limit for disposing of the Taxpayer's case by the Appellate Tribunal is now increased to fifty lakh rupees from fifteen lakh rupees.

25. Section 273A and 273AA

Section 273A and 273AA is amended to provide time limit for disposing applications made for immunity for penalty. Proposes that order under sub-section (4) for either accepting or rejecting the application in full or part shall be passed within a period of twelve months from the end of the month in which the application under the said sub-section is received by the Principal Commissioner or the Commissioner.

26. Section 281B

Sec. 281B is amended to provide that AO shall revoke provisional attachment of assets when assessee furnishes bank guarantee for an amount not less than fair market value of such provisionally attached property or for an amount sufficient to protect the interest of Revenue.

27. Section 282A.

An amendment was proposed in Section 282A(1) so as to provide that notices and documents required to be issued by income-tax authority under the Act shall be issued by such authority either in paper form or in electronic form in accordance with such procedure as may be prescribed.

28. Section 132

Sec 132A was added to provide that the provisions of chapter VII shall also not apply to taxable commodities transactions entered into by any person on a recognized association located in unit of IFSC where the consideration for such transaction is paid or payable in foreign currency, and thus this transaction was exempted from CTT w.e.f June 1st 2016.

Conclusion :

As a state moves from collecting a low level of public revenue of around 10% of national income towards collecting around 40%, tax bases typically shift from trade taxes and excises towards labor income and other broad bases such as value added. To study this process is a challenge of appreciating incentives and constraints. Incentives are shaped

by political institutions, existing power structures, and societal demands that the state perform certain functions. Constraints are imposed by a society's economic environment, social cleavages, and political interests. Over time, these constraints can be shifted and governments play a key role for such shifts. They may invest to improve the working of the economy and the efficiency of public-goods provision. They may also try to create a sense of national identity and propose reforms to political institutions. Analyzing such issues requires a dynamic framework and this chapter has sketched an approach.

Throughout the chapter, we have taken political institutions as given. But it is questionable whether the forces that shape the development of the tax system can be separated from those that lead to institutional change. States that raise significant revenues will find themselves facing strong demands for accountability and representation, creating a two-way relationship between political development and the growth of the tax system

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