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Megha Middha, is working as an Assistant Professor of Law in Mody University of Science and Technology, Lakshargarh, Sikar (Rajasthan). She has an experience in the teaching of almost 3 years. She has completed her graduation in BBA LL.B (H) from Amity University, Rajasthan (Gold Medalist) and did her post-graduation (LL.M in Business Laws) from NLSIU, Bengaluru. Currently, she is enrolled in a Ph.D. course in the Department of Law at Mohanlal Sukhadia University, Udaipur (Rajasthan). She wishes to excel in academics and research and contribute as much as she can to society. Through her interactions with the students, she tries to inculcate a sense of deep thinking power in her students and enlighten and guide them to

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Mrs.S.Kalpana, presently Assistant professor of Law, VelTech Rangarajan Dr. Sagunthala R & D Institute of Science and Technology, Avadi. Formerly Assistant professor of Law, Vels University in the year 2019 to 2020, Worked as Guest Faculty, Chennai Dr. Ambedkar Law College, Pudupakkam. Published one book. Published 8 Articles in various reputed Law Journals. Conducted 1 Moot court competition and participated in nearly 80 National and International seminars and webinars conducted on various subjects of Law. Did ML in Criminal Law and Criminal Justice Administration. 10 paper presentations in various National and International seminars. Attended more than 10 FDP programs. Ph.D. in Law pursuing.



Avinash Kumar



Avinash Kumar has completed his Ph.D. in International Investment Law from the Dept. of Law & Governance, Central University of South Bihar. His research work is on "International Investment Agreement and State's right to regulate Foreign Investment." He qualified UGC-NET and has been selected for the prestigious ICSSR Doctoral Fellowship. He is an alumnus of the Faculty of Law, University of Delhi. Formerly he has been elected as Students Union President of Law Centre-1, University of Delhi. Moreover, he completed his LL.M. from the University of Delhi (2014-16), dissertation on "Cross-border Merger & Acquisition"; LL.B. from the University of Delhi (2011-14), and B.A. (Hons.) from Maharaja Agrasen College, University of Delhi. He has also obtained P.G. Diploma in IPR from the Indian Society of International Law, New Delhi. He has qualified UGC - NET examination and has been awarded ICSSR - Doctoral Fellowship. He has published six-plus articles and presented 9 plus papers in national and international seminars/conferences. He participated in several workshops on research methodology and teaching and learning.

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HOW TO BRING TRANSPARENCY IN TAXATION SYSTEM IN INDIA?

Authored By - Asmita Saha
Semester-7, 4th Year
BBA.LLB.(Hons.)
Symbiosis Law School, Pune

Introduction

A country's economic development depends upon its tax structure and India's tax structure has gone through a lot of development. India's taxation system is a three-tier setup where both the Government at the Centre and the State can implement taxes. And indeed it is one of the complex systems as it levies a tax on income, wealth-acquired gifts, and property, apart from GST. The prevalence of multi-taxes already burdens the citizens but apart from this, the growth of a parallel black money economy was also growing which could not be curbed down by the Government along with tax evasion. To promote a proper and efficient tax system along with it being transparent became the need of the hour. For this, it is very necessary to identify the loopholes in the legislations, how the tax collection works, and amend or bring stringent laws to correct them.

India's tax regime's outlook has changed over the years beginning with Value Added Tax, being replaced by Goods and Services Tax in 2017, and now presently the Transparent Taxation- Honouring the Honest Scheme to curb down and seal the loopholes of the tax system practiced in India.

Understanding of Problem & Issues

Committee set up for Direct Taxes Enquiry stated that, "Black money and tax evasion, which go hand in hand, have the effect of seriously undermining the equity concept of taxation and warping its progressiveness. Together, they throw a greater burden to the economy."¹

India's taxation system is highly complex which prevents it from being seamless, efficient, and transparent and at the same time faceless. To have a transparent efficient taxation system

¹ Direct Taxes Enquiry Committee (1971).

in India, it is very necessary to fix these three major pillars:

- To have a faceless assessment and appeal
- The physical interface between the taxpayer and the tax department needs to be ended
- Abide by the taxpayer's Charter which states the rights and obligations of a taxpayer

The **issue** is how to bring transparency in the taxation system of India to make it efficient and rectify the loopholes pertaining presently.

Literature Review

Major Issues in Tax System in India by **R. Kavita Rao and M. Govinda Rao** analyses India's taxation system. It scrutinizes how the tax system evolved over the years and how much efficient it is, in its implication. Apart from this, it also presents an indepth analysis of the historical and institutional factors which shape the tax policies over the years in the country.²

Tax Administration Reform in India discusses the measures required to widen up the scope of tax base along with tax payers base. It also gives recommendations on the existing mechanism while suggesting the need for a better one, for enforcing tax compliance and transparency in the system.³

Income Tax Data and Facets of Democracy by **R. Kavita Rao** discusses how India's phase of tax terrorism is changing to tax transparency. It focuses on the transparency aspect by deducing it from the Income Tax data using tables and charts.⁴



² M. Govinda Rao & R. Kavita Rao, Major Issues in Tax System in India.

³ Tax Administration Reform in India, 3rd TARC Report (2014).

⁴ R. Kavita Rao, Income Tax Data and Facets of Democracy (2022).

Supporting Evidence and Arguments brought by Government to bring transparency in the tax system

- India took the initiative of CbCR, that is, **Country by Country Reporting Standards** for maintaining tax transparency in international transactions and the IT Department to have a consolidated database of all the activities carried out by multinational companies or enterprises. The Indian Central Board of Direct Taxes set forth rules to maintain and furnish the Master File and CbC Reports with the respect to the international group. This also fulfilled India's goal of BPES Action Plan 13.
- India is also a part of the **Multilateral Competent Authority Agreement** to curb black money transactions.
- **Business Responsibility and Sustainability Reporting** introduced by the listed companies listed takes the initiative to create awareness regarding the ESG, that is, environment, social, and governance consciousness among the businesses. India has made this report mandatory for the top 1000 companies listed.
- **Document Identification Number or DIN** which is a unique computer-generated identification number allotted to every assessment or investigation, appeal, or penalty or, be it rectification to ensure transparency and efficiency in the Income tax department.
- The 2019 scheme of **Transparent Taxation-Honoring the Honest** was initiated and put into force to simplify the taxation process mainly by minimizing the physical communication or give and take, and ensuring transparency in the income tax department to prevent any kind of illegal and foul action. This scheme comprises:
 - **Faceless Assessment Scheme:** Here, initially there was a significant level of physical interaction between the taxpayer and the jurisdictional income tax officer. To eliminate this, the faceless assessment was the first structural reform brought to the Indian tax system. Operations are carried out by a group of remotely based officials and the notice sent can be seen via electronic mode by the taxpayers. Thus, reducing the physical interaction and chances of fraud actions being carried out.
 - **Faceless Appeal Scheme** In faceless appeals cases shall be randomly designated without the taxpayer paying a visit to the office and shall be chosen by AI using the data stored after analysing it.

- **Taxpayers Charter** provides protection to the taxpayer at any stage of the assessment and also would not reveal any information of the individual taxpayer unless if it is required legally. The individual taxpayer when required shall choose their approved representative for carrying out the procedures. There would be methods formulated for raising any kind of removal or protest.

Case Laws

- **Vodafone International Holding BV v. Union of India**, Supreme Court directed “the Indian Tax Department to return 25 million rupees which were deposited by Vodafone in compliance of its interim order within 2 months along with 4% interest. This ruling on FDI is a debated one as it not only gave a positive outlook to the foreign investors but was only benefitting the FDI in long run. But was criticized for avoiding tax by using artificial devices in the name of tax planning.”⁵
- *In McDowell & Co. Ltd. v. CTO*, the Supreme Court in its judgment “drew a dividing line between the evasion of tax and avoiding of tax through tax planning. It stated that colorable devices can’t be a part of tax planning and also wrong to encourage or entertain the belief that it is honorable to avoid the tax payment by resorting to dubious methods.”⁶
- *In Banyan & Berry v. CIT*, Justice Balia too drew “a silver line in respect of tax planning. The Court depreciated the methodology of tax avoidance through tax planning of resorting to colorable device, dubious methods or subterfuge.”⁷
- *In M. V. Vallipappan v. ITO*, the Madras High Court stated that “every attempt at tax planning is illegitimate and must be ignored, or that every transaction or arrangement which is perfectly permissible under law, which has the effect of reducing the tax burden of the assessee, must be looked upon with disfavour.”⁸

⁵ Vodafone International Holding BV v. Union of India 329 ITR 126 (India).

⁶ McDowell & Co. Ltd. v. CTO (1985) 154 ITR 148 (India).

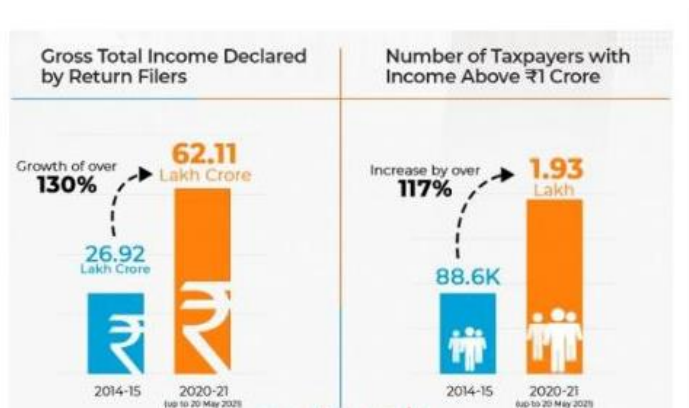
⁷ Banyan & Berry v. CIT 1996 222 ITR 831 Guj. (India).

⁸ M. V. Vallipappan v. ITO (1988) 170 ITR 238 (India).

Facts & Statistical Analysis

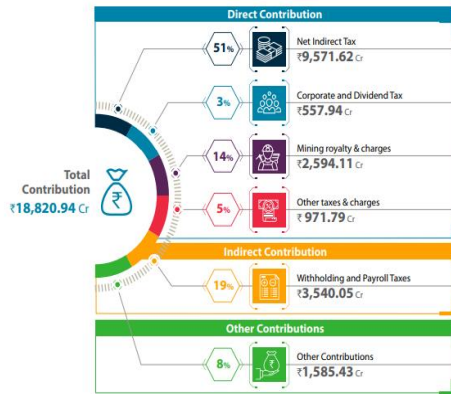
- As per the 2020 Reports based on the faceless assessment of the 2019 cases, it is observed that less than 0.26% of the tax files were selected for audit. Tax Returns were filed by less than 4.18% of the population.

Achievements



- Tax Transparency Report of TATA STEEL for 2021**

Group Contribution for FY 2020-21



Annual Trend (in ₹ Cr)

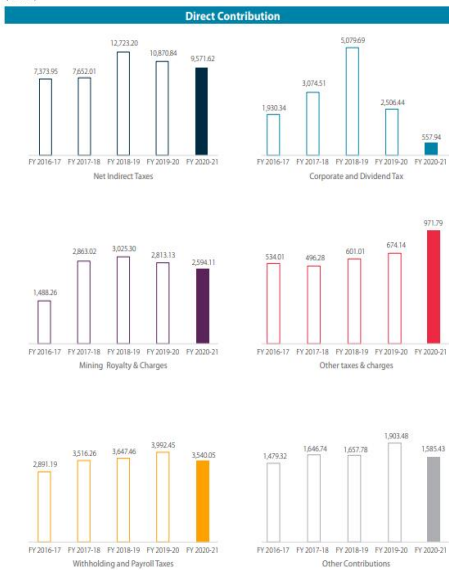
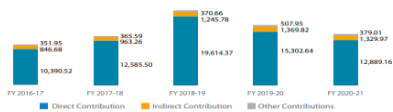
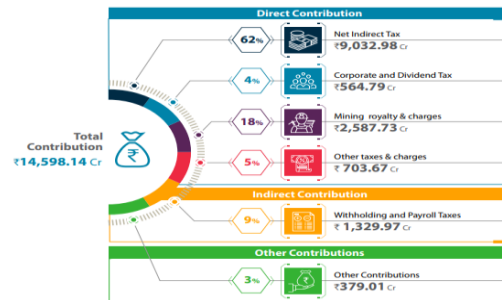


Chart: Group Contribution for FY 2020-21 and the Annual Trend

Region specific: India Annual Split (in ₹ Cr)



Indian Business Contribution for FY 2020-21



Indian Business Contribution for Five Years (FY 2016-17 to 2020-21)

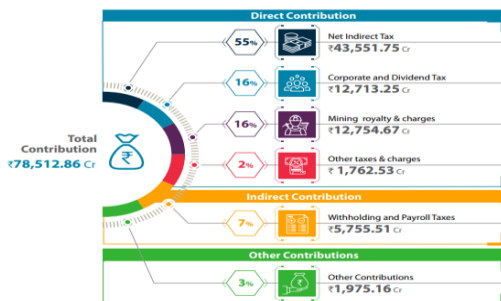


Chart: Indian Business Contribution for the Years 2016-2017 to 2020-2021 and for the Financial Year 2020-21

- Horizontal Tax Monitoring which is followed by the Dutch Tax Authority established an open and transparent relationship with the taxpayers. It puts forth more clarity, proactively identifies and manages risks related to tasks also fastening up the tax return process.

Opinion

This 3-fold structural reform carried out by the Government is a must-try as it is an initial step towards promoting tax transparency and its implementation will only lead to further observation for rectification and to promote of a transparent taxation system in India. As per the 2020-21 Union budget data, an amount of Rs. 8.02 Lakh Crore related to direct tax is disputed with approximately 40% of it being pending to be resolved for over two years.

- The **Faceless Assessment** was introduced so as to avoid any kind of human interface or interaction between the citizen paying tax and the Income-tax division to cut down all sorts of corrupt practices carried out. As per Income Tax Act, 1961's Section 143(2), 1961,⁹ the National e-Assessment Center can issue a notice on the assessee for determining the issues for picking up a case for assessment to which the answer has to be written down within a time frame of only 15 days. After this, cases are assigned to Regional e-Assessment Center for investigation where the individual hearings are held via video conferencing. All the interchanges are sent through electronic media. As per Section 119, the Central Board of Direct Taxes order states coordination of the investigation officers and the officers of the TDS department will only be the Income Tax Authorities to direct the overview under Section 133A.¹⁰
- **Faceless Appeal** was brought into force by amending the Income Tax Act of 1961's Section 250(6A)¹¹ and introduces two angles, that is, reassessment and examination. Approximately, 30 to 40% cases are there for reassessment which can be dismissed once electronically the accurate income or the hidden income is revealed leading to the source of error or fraud committed.
- The Tax Payers Charter safeguards the security and matters related to classification for the citizens, which was too stated in **Justice K.S. Puttaswamy & Anr. v. Union of India** case. The case stated that 'Taxation laws which require the furnishing of information certainly impinge upon the privacy of every individual which ought to receive protection.'¹²

⁹ The Income Tax Act, 1961, No. 43, Acts of Parliament, 1961 (India).

¹⁰ The Income Tax Act, 1961, No. 43, Acts of Parliament, 1961 (India).

¹¹ The Income Tax Act, 1961, No. 43, Acts of Parliament, 1961 (India).

¹² Justice K.S. Puttaswamy & Anr. v. Union of India (1964) 1 SCR 332 (India).

Suggestions

- Whenever there is a disagreement, it is suggested to have a constructive dialogue with the authorities in charge of the concerned matter to solve the issue within a stipulated time frame.
- It is necessary for every Indian company to present its TTR to the Government. Tax Transparency Report is a report which discloses the tax contribution made by a company to the Government where they operate. This step would ensure maintaining a transparent dialogue with stakeholders on contribution made to public finances.
- BRSR mainly revolves around the ESG aspects but at the same time it also, focuses on any framework that supports increased tax transparency and also, reporting. Indian companies like, Vedanta or Cipla have taken inspiration from huge tax transparent companies like Netherland's Unilever or US's Johnson & Johnson by adopting the GRI 207 standard for their tax disclosures. This needs to be followed by the other Indian companies too, to promote tax transparency.
- Presently, we should promote voluntary disclosure of taxes by businesses and multinational companies. This would show their relevance to society as a direct indicator of their contribution to all stakeholders, which include, customers, vendors or regulators, employees and investors rather than as a statutory obligation.

Conclusion

Tax avoidance is a major problem in India as in the 1.2 billion population, only 3% pay income tax, but in this many evade paying tax. As per the current report of the State of Tax Justice, India loses more than Rs.75000 crore because of international corporate tax abuse and private tax evasion. At the same time, the statistics show that around 0.41% of the three trillion dollar GDP of India is lost in tax abuse. All of these show the deep rooted abuse, corruption and fraudulent activities of taxes in India's taxation system. We needed reforms to fix these, so for this, the government came forward with the Faceless Scheme. With this begins the era of transparent taxation.

Transparency in India's Tax System can become a truth from myth only if the citizens too, support the Government by abiding by the norms set forth by the Tax Payers Charter. Not only individuals but also companies need to follow tax practices diligently by avoiding illegal and fraudulent practices.

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