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**INCOME TAX CONTROVERSIES: A COMPARATIVE ANALYSIS OF DISPUTE
RESOLUTION MECHANISM IN INDIA AND UK****-Nikita Gupta¹****ABSTRACT**

This paper deals with the Income tax mechanism in India and the certain determining factors that leads to the controversies on National and International platform. This area of taxation is quite complicated due to the diversity in the incomes of the citizens and their tendency to escape their tax liability by adopting various methods of tax evasion and tax avoidance. In a layman language it is difficult to understand the provisions of the act as the interpretation is very broad and the terminologies used are quite complicated. On the other hand, when the dispute arises the settlement of such should be done as early as possible because it correlates with the economy of the country which runs on the tax collected from its citizens. A comparative analysis is done by the author of various methods of dispute resolution mechanisms followed in India and UK. Although, India is a common law country, and followed the common law while framing our legislation. However, some differences can be seen.

Keywords: Assesse, Income tax, Interpretation, Liability, Employee, Allowances

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INTRODUCTION

India is a country with vast population in a phase of developing and resolving its dispute by various forums established on national and international level. The revenue generated by the government constitutes an integral part of the economy, as it helps them to develop the infrastructure and various needs of the society. Income received by the way of tax collection constitutes an important source of revenue collection in India.

The income capacity of the citizens is also dependent on the qualification and knowledge they possess in the specific area they are working in. The economy of the country also runs on the inflation and deflation as per the demand of the consumers for the particular commodity. On the other hand, when it comes to the revenue generating sources of the country the tax department plays a very crucial role, as it imposes tax on the individual on two broad categories i.e. the Direct form of Taxation and the Indirect form of Taxation.

The revenue generated by the Central Government and the State Government through this source is of extreme importance in the fundamental governance of the country as well as to provide the individuals with different opportunities in distinguish sectors of economy. As it operates on a large scale, no matter it involves disputes arising from various transaction. Tax litigation in India occupies ample of cases being pending in the courts and tribunals. In order to understand the process of Dispute Resolution in India with regard to tax it becomes very significant to understand every component of tax dispute resolution in India.

Taxation system of India is quite complicated as we have various provisions in our legislations dealing with Income Tax and due to the Finance Act which comes every year and brings certain amendments in the Income Tax Act. Thus, this also raises huge number of disputes pending in various tribunals and courts. However, we have various alternatives as well in our country which provides for speedy settlement of the disputes. One such great mechanism was recently introduced by the Finance Act 2020 “VIVAD SA VISHVAS” scheme which provides for one time settlement of the income tax disputes pending before various forums before 31st March.

In India, we have a very big chain or we can say the hierarchy of courts and tribunals dealing with the taxation disputes. It all starts with the AO when the notice of scrutiny is received by the assessee that his ITR is considered for assessment by the AO.² However, after receiving the

² The Hierarchy of Tax Courts and Tribunals in India and how it creates a puzzle for the department as well the assessee. – An analysis done by the Times of India – 11th January 2020.

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Draft Assessment Order the assessee can make an appeal to CIT. In between the assessee also has an option to go for alternative forum i.e. DRP in case of seeking relief from the order of AO. The ITAT is the appellate tribunal in which an appeal can be made against the order of CIT and if the case is of such nature that it involves the question of fact or the substantial question of law the appeal can be made to the High court against the order of ITAT.

Subsequently, the apex court is the highest court of appeal in India and if the High Court is satisfied that the particular case involves such question of law, the interpretation of which has to be done by the Supreme Court the appeal can lie against the decision of the High Court. Thus, this process from AO to Supreme Court involves lengthy court proceedings as well as the wastage of time of the lower tribunals who was not able to satisfy the parties by their orders.

RATIONALE BEHIND INCOME TAX CONTROVERSIES IN INDIA

1. MARKET INTANGIBLES AND DISALLOWANCES

The marketing activities which are used by the enterprises in order to advertise their product in different nation and that would help them to reach their product top³ the targeted audience plays a crucial role in the tax controversies arising in the country where such practices are performed in the way of intangible marketing. In India there are many subsidiary as well as the joint ventures which are providing these services to their holding company. These controversies had raised some severe issues before the income tax tribunals as well as the courts, The crucial issue that is involved in such transactions are whether the expenses are in the nature of international transaction or not.

However, there are many theories which were developed by many common law countries including the bright line theory, existence of an arrangement etc. Since, these theories does not work in every case and there is no hard and fast rule with regard to these transactions and it usually depends on the facts and circumstances of each case.

Usually, the plea of the taxpayer is that they have spent a huge amount on the Advertisement marketing services for their Associated Enterprises. However, the judiciary is of the view to ,make any adjustment on the ground of AMP, which is benefiting the owner of that product only is not a correct approach to seek deduction or not to consider it as taxable income in the hands of assessee.

³ Deloitte Tax Policy Paper 6 – A way forward “Reducing Income Tax Disputes in India”

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The Delhi High Court in the case of Sony Ericson⁴ held that the AMP that were incurred by the Indian Companies would amount to International Transaction and would be the benchmarking. With the furtherance of time some exceptions has been made by the court in which the AMP would not be considered as an international transaction like in the case of manufacturers.

2. SECONDMENT OF EMPLOYEES

There are many multi-National Companies which are operating in India and having their Holding Companies in foreign countries from where they are holding most of their work. These Parent companies sometimes send their employees on secondment to another countries in order to fulfill some role which can be performed by the physical presence only.

Usually the time period for these secondments are for short terms but sometimes they extend for the long periods also. In respect to the issue involved under income tax with regard to such transaction is that the cost related to secondment paid by the parent company to its employee would come under the head of technical services or not and therefore is subject to a withholding tax.

On the contrary, the judiciary did not believe in such withholding of tax by stating that these foreign entities does not provide the secondment services. Since, these employees works under the jurisdiction and the supervision of the Indian companies. Thus, the judiciary for the purpose of tax divided the employees under 2 categories

- Economic Employment
- Legal Employment

Thus, the country to which the employees are working in their jurisdiction will be considered as an Economic Employer. However, the country which have an ultimate control over the employee and from where his source of income is derives is the Legal Employer. The Income tax department of India does not go by this view.

They encourage the service relationship in case the employee has been sent to India by their host companies for fulfillment of some tasks and objectives. Under of taxation laws these kind of secondment are taxed under the head of “Fees for Technical Services” When the secondment continues for a longer duration exceeding one year it is classified by the Revenue under the Permanent Establishment of foreign entities in India.

⁴ Sony Ericsson Mobile Communications India Ltd. Vs CIT (2015) 374 ITR 118

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In the case of Morgan Stanley⁵, it was held by the Delhi High Court that foreign companies which are sending their employees in India for the employment purposes will be considered as “Lien over Employment” and not at any cost it would be ignored for the purpose of tax. The court also held that these secondment also implied that foreign company has provided services to the Indian Companies.

The Bombay High Court has followed the same view in Marks and Spencer's⁶ case that once the Indian companies have subjected the salaries of seconded employees to a salary withholding tax, the same again cannot suffer a withholding tax second time during the remittance by the Indian company to the overseas companies.

Thus, this concept of Lien over Employment is considered as one of the crucial aspects in order to decide the issue of secondment of employees by the Income Tax tribunals and the Courts. Thus, by the continuous ratio decidendi of the decisions is very clear that the status of economic employment is primary and supreme and the status of legal employment would be secondary.

3. TAX ISSUES IN DIGITALISED BUSINESSES

Nowadays everything is in digitalized manner that are available in public domain. Due to this, the controversies in the income tax department are increasing on a rapid scale. India being a developing country, many of its citizens are not aware or well educated with regard to the usage of online platform which not only provide ample of opportunities but also saves the time of an individual as everything is available at a fingertip. Secondly, the government sometimes takes advantage of the digitalized platform by generating more tax revenues through this medium.

Recently some payments were made by the Google India to its foreign entity in order to buy some advertisement space which need to be further sold in India. The whole buy and sale transaction is for the purpose of re selling the same to the Indian advertisers. The Income tax department was classifying such transaction to be happened in India covered it under the head of royalty.

However, the contention on the part of Google was that it is a business income which is derived overseas and as there is no Permanent Establishment of Google in India it would not be taxable in India. However, revenue department uphold it as a taxable income in India under the

⁵ Morgan Stanley (2007) 292 ITR 416

⁶ Marks and Spencers (2014) 147 ITD 83

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category of “Royalty” On the other hand, the concept of “Cloud Services” which is taxable in India is also gaining increased litigation in the revenue department. In the case of EPRSS Prepaid recharge⁷ it was held by the Pune Tribunal that the payment received by the Amazon Web services USA by the Indian Company towards the charges of Web Hosting does not constitute Royalty.

Thus, this raises the controversial issues with regard to the digitalized businesses in the developing nation. The government is required to give the clear views with regard to the digitalized taxation so as to make sure that businesses would not suffer any in justice in making payments. Otherwise, there would be ample of litigations which would burden the courts.

4. REMANDING BACK OF MATTERS BY ITAT

The Income tax issues involves on quite a big scale as the businesses are operating on international level and the transactions with the foreign entities always remains a question of dispute. The party in order to save their tax always tries to find the loopholes in the tax provisions in order to save their tax liability.

However, the revenue department wants to generate income from such transactions so as to boost the economy of their country. Thus, this process of arguments and contentions raised by the assessee leads to remanding back of matters by ITAT to the lower authorities for its fresh adjudication. The ITAT has the power to remand back the matter⁸ if it think fit that the case is of such nature, the consideration of which could be done by CIT or AO from wherever it is appealed. The ITAT also has power to give certain instructions with the remand. There are different views involves with such remand such as :

- There is no harm to both the parties and the ITAT has the power to exercise its judicial wisdom.
- The ITAT could itself look more deeper in to the issue in spite of remanding it back to the lower authorities.

In the case of Hokum Chand Mills⁹ it was held by the Supreme Court that the ITAT has the wide power to remand back the matter to the lower authorities in order to hold the further enquiry and to dispose of the matter based on such investigations. The Supreme Court

⁷ EPRSS Prepaid Recharge Services India (P) Ltd. Vs ITO 2018

⁸ Rule 28 of ITAT Rule 1963.

⁹Hukum Chand Mills Vs CIT (1967)

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supporting this power of enhancement opines that the ITAT being a quasi-judicial body is entrusted with the task of doing the justice with both the parties and is imperative to remand back the matters in the cases where possible so the ITAT can focus on other important matters with due consideration.

In the case of *BallasubhuSetty*¹⁰ the High Court of Mysore held that the remanding back of matter by ITAT should be on some valid grounds where the enough evidence was not procured by the lower authorities or there were some frivolous grounds on which the appeal has been raised against those orders, Thus, ITAT should comply with the necessary requirements depending upon the facts and circumstances of the case. The tribunals also has the power of remanding back when the case evolved some new facts the findings of which were not known to the lower authorities from where the case was appealed on.

In the case of *Commercial Banks*¹¹ it was held by the Calcutta High Court that the investigation on the fresh facts which were evolved later in the case cannot be disputed by any of the parties as they might be major part as to the merits of the case. The ITAT should after considering the issue at hand take the decision otherwise it would lead to miscarriage of justice.

Thus, it should be exercised only in those cases where the Appellate tribunals find that there were insufficient records available with the lower authorities at the time when the dispute arises and now some new evidences has to be considered so as to do justice with the parties involved in the case. On the contrary if this order of remand is not taken with due consideration by the appellate tribunal it would lead to evasion of jurisdiction.

In the case of *Sony Pictures Network India Ltd*¹². it was observed by the Bombay High Court that not dealing with an issue, which is otherwise ripe for consideration and instead remanding to lower authorities, the Tribunal ensured further litigation and continued uncertainty for both the Revenue authority and the assessee.

In the case of *Ramaswamy Iyenagar*¹³ it was held by the Madras High Court that the power given to ITAT under Rule 28 is only incidental to its power to heard both the parties in dispute and give them due consideration as per the arguments raised by them on the basis of documentary evidence and to dispose of the case later based on the merits of the case.

¹⁰PathikondaBallasubhuSettyVs CIT (1967) 65 ITR 252

¹¹ United Commercial Bank Vs CIT (1982) 137 ITR 434

¹² Sony Pictures network India Ltd. Vs ITAT WP 3508 of 2018

¹³ Ramaswamy Iyenagar Vs CIT (1960) 40 ITR 377

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Thus, the matter of remanding back is of great importance and also involves certain demerits when the ITAT just want to pass on its duty. There is a very thin line between exercising a power or exercising a duty. Thus, this power should not be misused by the tribunal otherwise it would lead to grave injustice for any or both the parties involved in the dispute.

5. DISALLOWANCES UNDER THE INCOME TAX ACT

When the determination is done by the Assessing Officer with regard to the income of the assessee and the income showed by him in ITR should be done on some specific grounds otherwise it would also lead to the infringement with the liberty of the person and making him liable in a fabricated case. Sec 14 A of the Income Tax Act deals with various kinds of disallowances. When an AO comes to a conclusion that he is not satisfied with accounts shown by the assessee he must have some valid ground to justify himself.

In the case of *Godrej and Boyce*¹⁴ it was held that this objective satisfaction on the part of AO must be derived by the working of the expenses and the said calculations were fabricated in order to hide the original income derived by the assessee.

Recording of the satisfaction is mandatory and as per the Income Tax Rules so as to not give the discretionary power in the hands of Assessing Officer and the failure on the part of AO to record his objective satisfaction will constitute a failure on the Assessing Officer's duty. This reasoning

Thus, it is very clear from the former judgments given by various tribunals and the courts that if the assessee is taking the benefit of disallowance under Section 14 A the working of such with the documentary evidences should be presented to the Assessing Officer for his verification. Otherwise it would lead to difficulties and would create more complicated situation for the assessee if the dispute of disallowances reaches to the higher authorities. At that point of time the assessee would not be able to successfully press this ground. Thus, the tribunals has the power to struck down the disallowances if they are not fulfilling the criteria.

The borrowings of the assessed and the investments made by him also plays a very crucial role at the time of filing an Income Tax return. The disallowances are available on the investment made by the assessee. However his borrowings from the bank and the interest paid on such borrowings are also free from income tax. Thus, this nexus between the borrowings and the

¹⁴ *Godrej and Boyce Manufacturing Company Ltd. Vs DCIT (328 ITR 81)*

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investment of the assessee should satisfy the doctrine of proportionality with the reasonable restrictions mentioned under the Income Tax Rules.

6. TRANSFER PRICING CONSIDERATIONS

The businesses in India are operating on a vast scale which also involves the foreign entities in the transactions pertaining to day to day activities of the business. When the component of International transactions comes in to picture the Revenue department becomes more active as there are big chances that such transactions are done with the motive of saving the income and to curb the tax in the country from where such transaction was performed.

When the calculation of arms length price is done by the Transfer Pricing Officer by keeping certain comparable to come at the price they never leave out the payment made for the intra group services. Where the documentary evidences are maintained by the assessee to support his international transaction it would take less time to come at the arms length price rather than going in dept detail of such transaction.

In the cases of transfer pricing, once the case is made out against the assessee the onus of proof is on him to prove his innocence with regard to that transactions with all the available evidences in the documentary form and which are also available in public domain are also accepted by the courts and tribunals. If the taxpayer would not be able to prove his onus then such expense would be disallowed in totality.

The transfer pricing adjustment is very innovative and complicated task which requires due consideration as well as the time in order to do the justified reasoning with the transaction made by the parties involved in the case. Sec. 92 C of the Income Tax Act provides for the transfer pricing adjustment and the procedure to be followed by the TPO for such transaction. On the contrary if the comparable selected are not adequate or the provision is not followed it would favour the taxpayer.

In addition to that, once the mistake is made by the tax authorities in making such transfer pricing adjustment same is not possible to correct and the tax authorities would not be given the second chance to rectify their mistake. This reasoning was upheld by the Mumbai tribunal in the case of CLSA India Private Limited.¹⁵

¹⁵ CLSA India Private Limited Vs DCIT (2019)

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Thus, it is very clear from the above mentioned judgments, that once the case is opted for the scrutiny by the Transfer Pricing Officer or AO the audit of such should be done in a wise manner and as per the provisions given under the Income Tax Act and the income tax Rules. Simultaneously, it is always advisable to the tax payer to always maintain his documents in a proper manner so as to render his accounts free from all kinds of tax controversies if his return is selected for the scrutiny.

Thus, the quality and the quantity of the evidences also plays a crucial role during the whole process followed by the TPO. This department is entrusted with the crucial task of benchmarking and if they will not be able to prove their method opted it would clear the way for the tax payer.

TAX DISPUTE RESOLUTION IN INDIA

The tax litigation in India is increasing on a rapid scale which overburdens the judicial and quasi-judicial bodies made under the act. Under, the dispute resolution mechanism, the alternatives are provided in order to resolve the dispute at early stage and not to stretch the case to the extent it takes a long time resolving it. The Alternative Dispute Resolution has provided 5 methods to resolve the disputes. These are :

- Arbitration
- Mediation
- Conciliation
- Negotiation
- Settlement

MUTUAL AGREEMENT PROCEDURE {MAP}

The MAP is a provision which has been entered into between the countries. Usually, the bilateral treaties between the countries has this provision which is binding on both the countries in the form of double taxation or any other clauses.¹⁶

Under this system, the Competent authorities of both the countries are empowered to resolve the disputes i.e. the government of both countries takes the first step towards resolving the dispute. Thus, when they both come together they will come to a decision relating to the tax

¹⁶Vinod Gupta : “ Module 3 : TDS, Deductions, Trusts, MAT” 30th Edition Publication: Pooja Law House
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controversy involved in the case. This meeting which is conducted by the CA of both the countries is not in the presence of the tax payer and they are to resolve the dispute by coming to a mutual agreement.

This, agreement between the Competent Authorities of both the countries is not binding on the taxpayer and he can recourse to the normal litigation, as per their domestic law. However, it is important to note down that the MAP is an alternative remedy available to the taxpayer and simultaneously they can seek the advantage of their domestic law by starting the litigation in that revenue case.¹⁷

The tax administration system followed in UK is somewhat similar to India where after determination made by the department is first dealt with the administrative authorities created under the Income Tax Act and after that an appeal can be made to the courts against the order of the department. The HMRC will conduct the enquiry and the proceedings and will determine the excess amount to be payable by the taxpayer. In addition, if the tax payer is not satisfied with the decision of HMRC he can apply to Tax Chamber¹⁸.

Following this is the tax payer is still not satisfied with the determination he can make an appeal to the Chancery chamber and courts of appeal. Important thing to be noted here is that an appeal to Supreme court with regard to the tax dispute can only be made if it involves :

- Question of Law
- Substantial Question of Law

Considering the tax settlement mechanism in UK the picture is very clear the process is quite complex and it take significant delays in resolving the disputes. In order to curb this problem, the HMRC has introduced various Alternative dispute resolution techniques which includes :

1. Mediation
 - Facilitation
 - Private Settlement

¹⁷AhujaGirish : “Direct Taxes , law &Practise” (Professional Edition)

¹⁸ Available at : www.gov.uk/guidance/tax disputes.

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Let us study these alternative measures in detail in order to know the pros and cons attached with it and its implementation in India so as to resolve the pending tax disputed as well as to make our tax dispute settlement process at par with U.K.

ALTERNATIVES DISPUTE RESOLUTION INITIATIVES BY UK

The private settlement of disputes had gained a great interest in UK and various others common law countries. Since, this method is used in high technical areas of law but with time the court is also laying emphasize to then settlement of dispute resolution and often lays precedent on it.¹⁹

The incorporation of HMRC was in the year 2005 and since then they are working quite hard in bringing new policies, circulars and notifications with regard to the effective settlement. In order to make the taxpayer aware of his rights and responsibilities a “Taxpayer Charter” was introduced by them.

These rights and responsibilities are available in a single accessible document which is in public domain. This, initiative of UK government promoted lots of disputed to be resolves by ADR and save the precious time of both administration and the tax department including the courts.²⁰

In order to curb the practice of tax avoidance the HMRC has more focused on “Risk Approach” so as to know the internal issues involved in the balance sheet which promote the tax payer to avoid its tax rather than focusing on particular industries and their tax jurisdiction and at the same time it also worked on how to improve their relationships with large businesses houses, as they generate a large source of revenue from their enterprises.

Also the litigation settlement strategy was introduced by HMRC which provides in depth guidance on how the different disputes of tax could be resolved in the most efficient manner which will benefit both the tax payer and the department. They have also introduces this concept of waving of the penalties of the tax payer where the taxpayers had made the careless errors with the promise that they will not repeat this mistake in future and will abide by the law. Thus, this collaborative approach from the side of HMRC will create a sense of morality in the minds of taxpayer. It works as an essential principle in the UK tax regime.²¹

¹⁹ Jack b. Weneisten.”Some benefits and Risks of Privatisation of Justice through ADR”

²⁰ UK Government Rules (SI 2009/273)

²¹ Confederation of British Industry. Published by CBI on tax principles for business. (May 8 2013)

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The courts in UK has also played a crucial role in the development of ADR as the rules of CPC are also applicable on them. In fact courts also imposed the cost sanctions on the parties on their refusal to ADR when the dispute is of such nature which could be easily resolved by adopting for out of the court settlement mechanism.

In 2001 a pledge was also adopted by the departments and the agencies of the UK to settle their disputes by arbitration or mediation where both the parties agreed for. The process of Arbitration is more rigorous on the parties as it is binding on them and arbitral award acts as a decree of the court.

However, in mediation there is a friendly settlement of disputed between the parties with the help of mediator but it is not binding on the parties. The rules were also imposed on the attorneys to make their client aware of the ADR mechanisms and how the litigation should be considered as a last resort. Thus, the hierarchy of courts with regard to tax disputes in UK is:

- SUPREME COURT
- COURT OF APPEAL
- THE CHANCERY DIVISION
- HMRC
- THE TRIBUNALS

Can India also follow this practice by adopting a similar approach?

India is a common law country and our legal system is somewhat similar to UK. Our tax law was grown up after independence and the provisions of the Income tax Act was made by our legislature only. Every year amendments are brought under the Act by the way of Finance bill in order to boost up our economy and its taxation system. The modernistic approach adopted by the HMRC is a great way of resolving the pending tax disputes.

The cooperative approach adopted by the HMRC by understanding the taxpayers in depth in a great way to pave the dispute resolution rather than following the adversarial system which is followed in India²². This cooperative compliance would definitely make the taxpayers understand the issues involved.

²² Dispute resolution In tax Matters : An India – UK Comparative Perspective , Published By : Nishithdesai associates in the year 2017.

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The general attitude of HMRC works toward in achieving the trust of the tax payers by providing security to them and collection of legitimate revenues from the enterprises which are running on losses or operates on low scale.

The HMRC before framing its guidelines consults with the law firms, accountancy firms and the multinational companies which are working on large scale and who have a skilled knowledge of dealing with the tax disputed of their clients by providing them with the specialized knowledge in their area of practice. It is of no doubt that collection of tax is of utmost importance and reducing the base erosion is supreme.

However, a balance can be maintained so as to make the dispute resolution process easy. In India if a friendly approach is adopted with the low business taxpayers it would help to resolve the technicalities and grave issues involved in settlement.

Considering the cultural differences between India and UK is quite difficult to adopt their ADR mechanism in tax dispute resolution. India follows the principle of natural Justice which states that No one should be a judge in his or her own cause²³. Thus, by going with the mediation where the party themselves decide the outcome of the dispute it would not be of any use. If adopted, it might get challenged in the Supreme Court as law made against the basic structure of the Constitution. Thus, leading to wastage of time and money of both the judiciary and the legislature.

CONCLUSION

We have adversarial system of law prevailing from the common law countries and is based on the maxim of natural justice that “No one should be condemned unheard”²⁴. Thus, sometime it call acts a flaw in our system which leads to delay in solving of the disputes pending before the courts and tribunals.

It is believed that the efficacy of a great mechanism lies in minimising the disputes rather than making the chains where the parties can hide themselves for the longer period by taking the advantage of the loopholes under the taxation system and due to the hierarchy of courts and tribunals in our country.

On the other hand one of the main issue which gives rise to the tax disputes was with regard to the difficult use of terminologies in the provisions of the statue by the drafters. Thus, it

²³ JN Pandey: “The Principles that Governs India”

²⁴ “Principles of Natural justice”- The Constitution of India. Rule of Law is the main essence of the basic structure doctrine which has been set as a precedent by the apex court of the country.

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instigates the parties to take advantage by interpreting the law in their favour. Moreover, the guidelines, notifications and circulars issued by the CBDT acts a temporary measures only.

The present tax climate of the country is very diplomatic in nature as we have ample of laws prevailing but still the cases in the courts are pending in huge numbers. Thus, it raises the demand for the strict improvement in the tax administration of the country so if the laws are made in the proper manner with the clear interpretations it will not leave any room for confusion and the parties would have to abide by the provisions given in the statue. Thus, a clear statutory interpretation at the time of enacting any law or making any amendment is the need of an hour.

India, is a federal country with unitary bias. We have the doctrine of separation of powers prevailing in our country which has been evolved by the supreme court through its precedent. It acts as a law of the land. Judiciary in India is independent from the executive and legislative. Thus, giving of more power to the apex court of the country by directly referring the disputes to the Supreme Court which are of complex nature and involves the question of law would help to save the time of the lower courts and tribunals as well as leads to speedy disposal of cases. It is beneficial for the rapid growth of the country and to improve the economic wealth because the amount of money pending in these disputes is in huge numbers which could be used for may technological as well as scientific advancement of the country.

In transfer pricing transactions it could be easily summarised with the number of cases that the intention of the parties entering in such transactions is to save their tax liability by using the comparisons which are not relevant and does not fit their case. It is very widely believed that in order to implement the provisions of transfer pricing a great level; of technical skill is required which accurately minimize the tax liability to be imposed and thus, the transfer pricing methods should be applied as per the facts and circumstances of the case.