Dispute Resolution in Tax Matters: An India-UK Comparative Perspective


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1. Introduction

Over the years, an adversarial system in tax dispute resolution has hindered India's growth owing to the procedural complexities, inordinate delays and expenses involved. Protracted litigation in tax matters and the overall time it takes to resolve a dispute in India has created a perception that the system is unfavourable to taxpayers in general and that even *bona fide* investment is vilified if a tax benefit is involved. This issue gains more importance as a sizeable amount of revenues are locked up in disputes which, if amicably settled, could have had a significant positive impact on the Indian economy. In light of the present economic situation in India, it is imperative that alternative solutions are proposed to resolve tax disputes in India.

Having faced similar issues in the past, Her Majesty's Revenue and Customs ("**HMRC**") in the United Kingdom ("**UK**") has put in place several mechanisms by which the confrontationist approach to tax disputes has been rationalized through efficient case management, avoidance of procedural formalities and increasing opportunities for settlements and alternative dispute resolution. In light of the fact that the Government has recently set up a Tax Administration Reform Commission ("**TAR Commission**") to review the tax administration and dispute resolution systems in India, this article will analyse the tax dispute resolution mechanisms in both countries and look at how India can learn from the UK so as to aim towards more efficient dispute resolution systems involving reconciliatory, consensual and informal processes.

While section II of this article explains the tax dispute resolution process in India and issued seen over the years, section III describes the approach of the HMRC to tax disputes and emphasizes on the successes of alternative dispute resolution in tax matters in the UK. In light of these facts, section

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IV will analyze how India can learn from the UK in terms of tax dispute resolution and how similar processes may be adopted with changes as suitable to India.

2. Resolution of Tax Disputes in India: A Myriad of Procedure

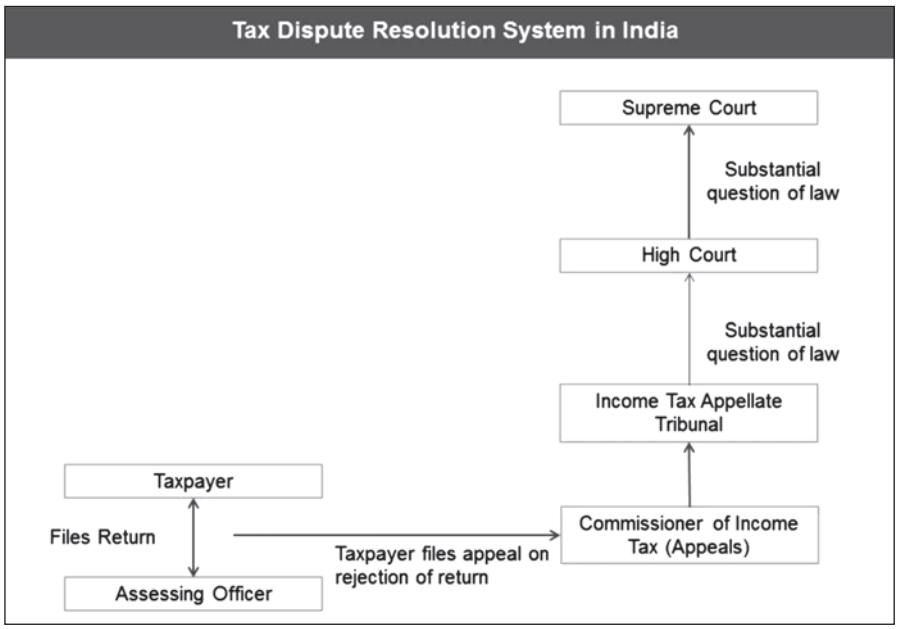
2.1 Dispute Resolution Processes under Indian tax law

In India, procedures applicable to a taxpayer and methods for tax collection and recovery are prescribed by the Income-tax Act, 1961 ("**ITA**"). As per the ITA, the taxpayer is to perform self-assessment by which the onus is on the taxpayer to file his income tax return with the tax authorities within the date prescribed by the ITA.[1] Once the return is filed, it goes to the relevant Assessing Officer ("**AO**"), depending on his jurisdiction for assessment. Based on the examination of a return, the AO may either accept or reject his return and such determination is laid out in the form of an assessment order.[2]

The dispute resolution process in tax matters is initiated if the taxpayer is dissatisfied with the AO's assessment order. If the taxpayer is aggrieved by the assessment order, he can prefer an appeal before the Commissioner of Income-tax (Appeals) ("**CIT(A)**").[3]After giving the taxpayer a fair hearing and considering information available, the CIT(A) may pass an order that enhances, modifies or rejects the AO's order.

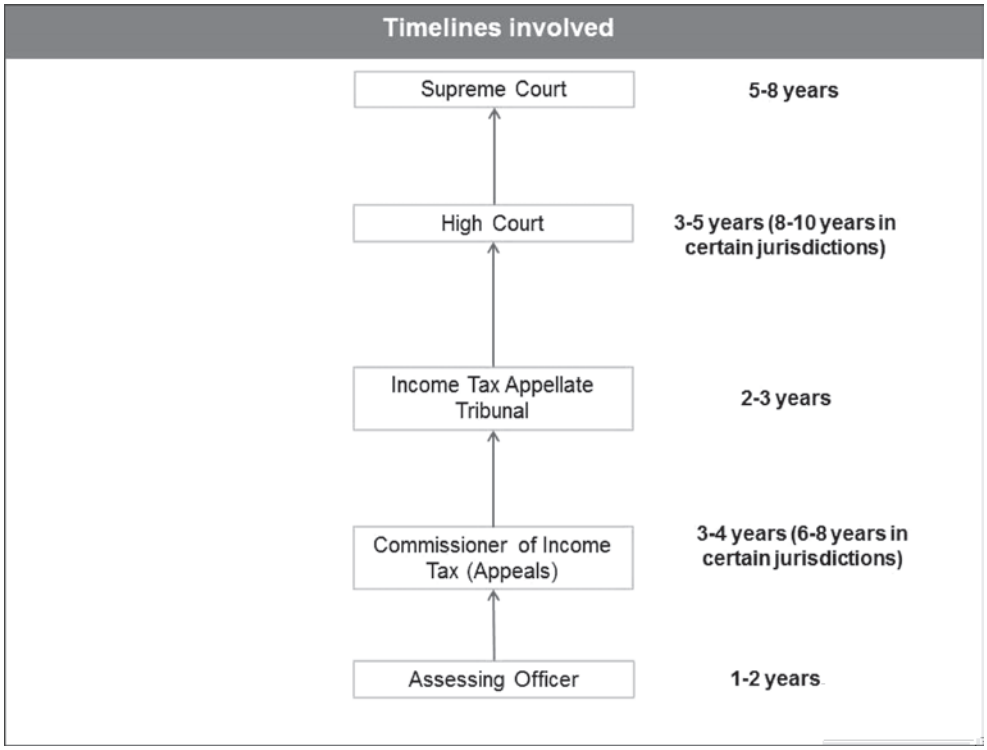
An appeal from the CIT(A) lies before the Income Tax Appellate Tribunal ("**ITAT**") for both the taxpayer and the revenue authorities if aggrieved.[4] The ITAT is a quasi-judicial body with a judicial member and an accounting member. The ITAT is the final fact finding authority and permits a complete re-examination of the facts and evidence. From this stage, the parties have the option of appealing further at the High Court level[5] and then finally at the Hon'ble Supreme Court of India[6].However, such appeals are limited to 'substantial questions of law'.

However, apart from the appellate process, the High Courts or the Supreme Court of India may also be approached for judicial review through a writ petition in cases where miscarriage of justice is involved.



The procedure remains similar for transfer pricing cases where the Assessing Officer himself or a Transfer Pricing Officer ("**TPO**") may require the taxpayer to furnish information and appear before him. An order passed by the TPO can be challenged before the Dispute Resolution Panel ("**DRP**"). An appeal from the DRP lies to the High Court and the procedure of appeal and the scope of review are substantially similar to the aforementioned regular procedures.

Although time limits are prescribed for completion of assessment and for each level of appeal, such time limits are rarely strictly followed. In a recent discussion paper released by the Federation of Indian Chambers of Commerce and Industry[7], the average time taken at each of these stages has been determined as follows:



As can be seen from the above figures, it is estimated that the tax litigation process in India could take any time between 10-20 years before a dispute is finally resolved after exhaustion of all appellate processes. It is estimated that this time-lag is due to the sheer volume of disputes, an unnaturally unfriendly approach at the lower levels and archaic procedural formalities existent at every level. Owing to this time-lag, as of the beginning of 2012, it is estimated that 2,59,523 tax disputes were pending at all level locking up ₹ 4,36,741crores in dispute.[8] Further as per the White Paper on Black Money released by the Ministry of Finance[9], transfer pricing adjustments have gone up from around ₹ 1,200 crores in 2004 to ₹ 45,000 crores in 2012 (which in itself is almost double the amount recorded in 2011).

The Law Commission of India, in its 115th Report on Tax Courts, back in 1986, had stressfully cited the inordinate delay involved in the tax litigation process in India and had suggested several measures for the enhancement of the process so as to reduce erosion of the tax base.[10] Moreover, the judiciary in India has oft and again pointed out the prevalence of delays in income tax matters. The Hon'ble Supreme Court of India has recently indicted the tax department of causing inordinate delay in the filing of appeals when large demands are involved, which is suggestive of the use of dilatory tactics.[11] The Court pointed out that such delays have resulted in large tax leakage and that the Government should put in place adequate mechanisms to prevent such delays.Moreover, the Courts have been proactive in attempting to curb the continuous incidence of fruitless appeals in tax cases by the department and the delay seen in the refund of paid tax subsequent to successful litigation.[12]

Moreover, the judiciary has, on several occasions, passed strictures against the income tax department for their overly adversarial attitude and for raising large demands. It has been observed that "*orders are passed perfunctorily by the Department only with an idea of effecting recovery before 31st March, though such orders could have been passed earlier in detail and after recording proper reasons.*"[13] In recent times, global attention has been drawn to transfer pricing disputes in India with the Vodafone transfer pricing adjustment amounting to around ₹ 10,000 crore, the Shell India case amounting to approximately ₹ 17,700 crore[14] and most recently, the Nokia case which amounts to around ₹ 10,000 crore[15].[16]Further, the constant use of retroactive amendments to undo accepted positions and the new focus of the Government on anti-avoidance implemented through broad indirect transfer provisions and the General Anti-Avoidance Rules ("**GAAR**") sets the stage for a further spate of litigation in the coming years.

Thus, the tax dispute resolution process in India has suffered from being increasingly confrontational and adversarial and is riddled with inordinate delay at every stage. Thus, there is no doubting the fact that reform in these systems is the need of the hour.

2.2 Alternative Dispute Resolution Initiatives

Although the Indian system has not yet completely embraced alternative dispute resolution for tax matters, there are a few initiatives taken by the Government to reduce the volume of pending tax disputes. Some of these initiatives have been discussed in this section.

A taxpayer can obtain an advance ruling from the Authority for Advance Rulings ("**AAR**") on a question of law or fact in relation to an international transaction,which has been undertaken or is proposed to be undertaken.[17]The AAR is essentially a quasi-judicial body chaired by a retired judge of the Hon'ble Supreme Court of India and functions as an independent, third-party adjudicatory body.

All rulings made by the AAR are binding on both the taxpayer as well as the revenue department. Although these rulings are specific to each case and have no precedential value, they do have mild persuasive value when similar facts are encountered. The ITA mandates that all applications must be disposed of within 6 months from filing. Although procedural delays and administrative issues have extended timelines, most advance ruling applications are disposed of with final order within 1 year from filing of the application.Where the taxpayer or the revenue authorities are aggrieved by the ruling of the AAR, it can be challenged before the High Court by way of a writ petition, but only where there is error apparent on the face of the record.

The AAR has proven to be a very popular forum for non-resident taxpayers and taxpayers involved in international transactions. Taxpayers would prefer going to the AAR at the first instance owing to the following factors:

a. A legalistic determination is made by a judicial mind *i.e*. a retired Supreme Court judge.

b. The adversarial approach of the revenue department that is focused on increased tax collection is avoided.

c. The red-tape associated with regular procedure is avoided.

d. As opposed to 10-20 years if the regular procedure is followed, a binding ruling is generally obtained within 1 year.

However, the advance ruling process is also *prima facie* confrontational and suffers from several of the infirmities that are seen in regular litigation process.Moreover, although the AAR is required to provide a ruling within 6 months from the filing of the application, the AAR has of recent faced a large backlog of cases owing to change in its composition and lack of administrative capacity to handle the volume of applications that are being filed. This is more so owing to the fact that an advance ruling can be applied for in case of both proposed and existing transactions. Thus, there has been opinion of late that the administrative process of the AAR needs an overhaul.[18]

Other initiatives include the setting up of a Settlement Commission for settlement of undisclosed income, introduction of a special DRP for appeals involving transfer pricing disputes and the recent additions of advance pricing

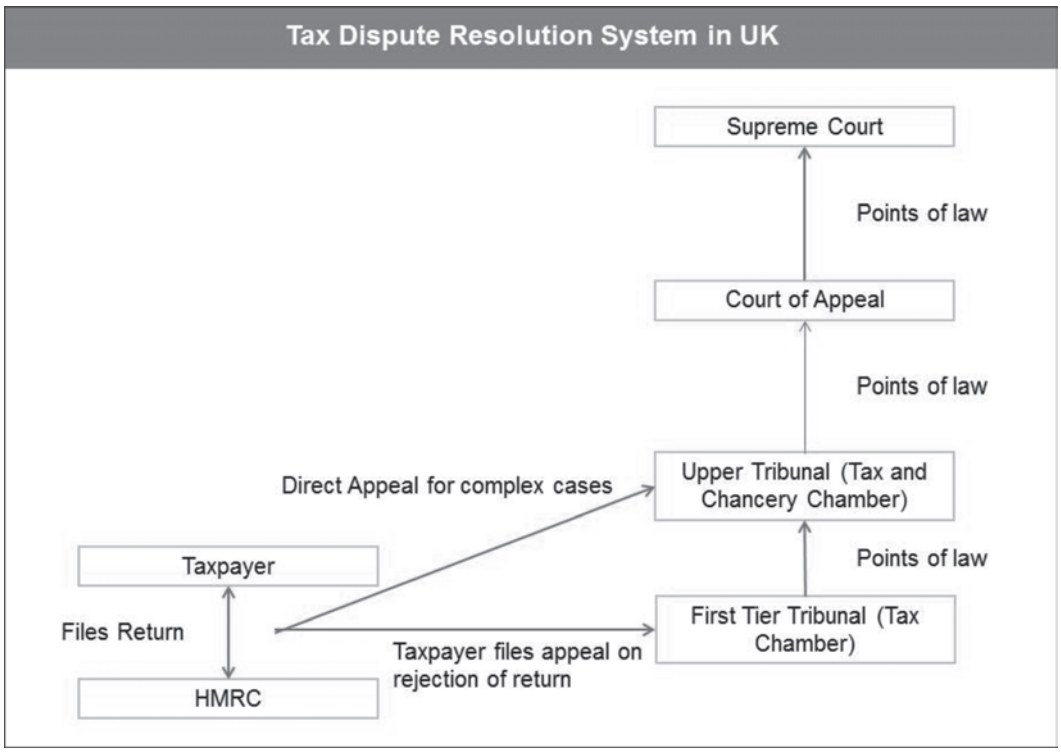
agreements, safe harbour rules, etc. that have all been incorporated in the ITA for the benefit of the taxpayer.

However, the failure of the originally much anticipated DRP in practice suggests that beneficial systems have classically been difficult to implement in India and a robust administrative mechanism needs to be put in place for any such system to succeed. Owing to this, although a system for advance pricing agreements has been put in place for more certainty in transfer pricing disputes, since no time period has been prescribed for the process and since revenue authorities with a traditionally confrontational mindset are involved in the 'team' holding pre-filing consultations with the taxpayer for the process[19], it is to be seen whether this initiative will be successful in reducing the volume of transfer pricing disputes in practice.[20]

3. Tax Dispute Resolution mechanisms in the UK: Moving towards a participative process

3.1 Dispute Resolution process in tax matters

The regular tax dispute resolution system in the UK is similar to that in India where appeals from a determination made by the HMRC are dealt with by administrative tribunals at first and then by Courts.[21] The HMRC determination would suggest the amount payable in excess of returned amount and would follow an enquiry as to the tax returns filed by a taxpayer for one year or multiple years.Where such determination is to be disputed, a taxpayer may file an appeal to the Tax Chamber of the First-tier Tribunal. Further appeals may be filed to the Tax and Chancery Chamber of the Upper Tribunal, the Court of Appeal and the Supreme Court on points of law. In certain complex cases, an appeal may be filed directly to the Upper Tribunal subsequent to the HMRC determination.



Thus, as can be seen from the above, the tax dispute resolution process in the UK is also relatively complex and significant delays were seen in the ultimate resolution of disputes. In light of this and the increasing number of pending tax disputes, the HMRC has in recent times taken a pro-active effort to resolve tax disputes through alternative dispute resolution techniques such as mediation, facilitation and private settlement.

3.2 Alternative Dispute Resolution Initiatives

Of late, private settlement of disputes has generated a lot of interest in common law countries. This is more so in highly technical areas of law, where parties are likely to favour an informed resolution of disputes over one that is necessarily impartial; even as Courts continue to provide precedents on the basis of which dispute resolution can take place outside the courts.[22]

Since the inception of the HMRC in 2005, it has been focused on making the tax system simple and accessible for the taxpayers. In furtherance of this policy, in February 2013, the HMRC has published the Taxpayers' Charter setting out both the rights and the responsibilities of taxpayers "in a single accessible document". This collaborative approach adopted by the HMRC also led to ADR finding its place in the Tribunal Procedure (First-tier Tribunal) (Tax Chamber) Rules of 2009[23]by which the first-tier tribunal is required to encourage the parties to consider ADR wherever appropriate.

The HMRC has adopted a risk based approach in pursuing tax avoidance rather than focusing on particular industries or tax jurisdictions, so as to be able to deal with the most complex tax risks efficiently, while at the same time improving its relationship with large businesses. This was codified in the Litigation and Settlement Strategy (**"LSS"**) which was launched by the HMRC in 2007 and subsequently revised in 2011 to provide guidance on resolution of disputes between taxpayers and the HMRC. Under the LSS, the HMRC is required to adopt a collaborative approach in resolving the dispute in the most cost efficient manner possible.Thus, where the HMRC believes that litigation may lead to a successful outcome, it will not seek to settle the dispute out of court for less than 100% of the tax payable and where the taxpayer is unwilling to concede during the ADR process, it will attempt to resolve the dispute quickly and efficiently through litigation.[24]On the other hand, low risk companies have been promised a "light touch". Measures such as suspending all or parts of the penalties pending against taxpayers, where "careless errors" have been made by the taxpayers, on the condition that they comply with the conditions imposed by the HMRC points towards a system that encourages behavioural change and long term investment in improving accountability and compliance with the law as opposed to mere revenue generation[25]. This, in essence, is the collaborative approach where the HMRC co-operates with the taxpayer in order to achieve compliance.Moreover, 'co-operative compliance' has been stressed upon by the HMRC with respect to high-net worth individuals and large businesses.[26] The Confederation of British Industry has also published a statement of principles providing for ideal tax conduct of companies for transparency which prescribes 'co-operative compliance' with the HMRC as one of the essential principles.[27]

The judicial system in the UK has, over the past decade and a half, adopted a very forthcoming approach to Alternative Dispute Resolution (**"ADR"**). The Civil Procedure Rules carried specific directions to Courts to encourage parties to use ADR procedures so as to achieve fair and expeditious settlement of disputes without unnecessary waste of resources.[28]In fact, Courts have often placed cost sanctions on parties for their unreasonable refusal to consider ADR mechanisms to settle disputes.[29]

On March 23rd, 2001[30], a formal pledge was published by which the Governmental departments and agencies of the UK committed to settle legal disputes by mediation or arbitration wherever the opposite parties were agreeable to the same. Thus, litigation was to be resorted to only as a last resort. Further, under the Solicitors Regulation Authority Code of Conduct, 2011, solicitors may be expected[31] to educate their clients about the option of settling disputes through ADR mechanisms.

The HMRC's approach favouring collaborative dispute resolution techniques has been met with a largely positive response.[32]Ordinary litigation process causes inordinate expenses and delays and settling a dispute for an agreeable amount may thus be a better outcome than where a Pyrrhic victory is delivered at the end of a long drawn out litigation. In fact, Lord Justice Jackson in his Review of Civil Litigation Costs published in 2009, pointing out the fact that parties often

decline settlement until a much later stage when substantial costs have been incurred. He has recommended the use of ADR at the earliest possible stage to avoid costs.[33]

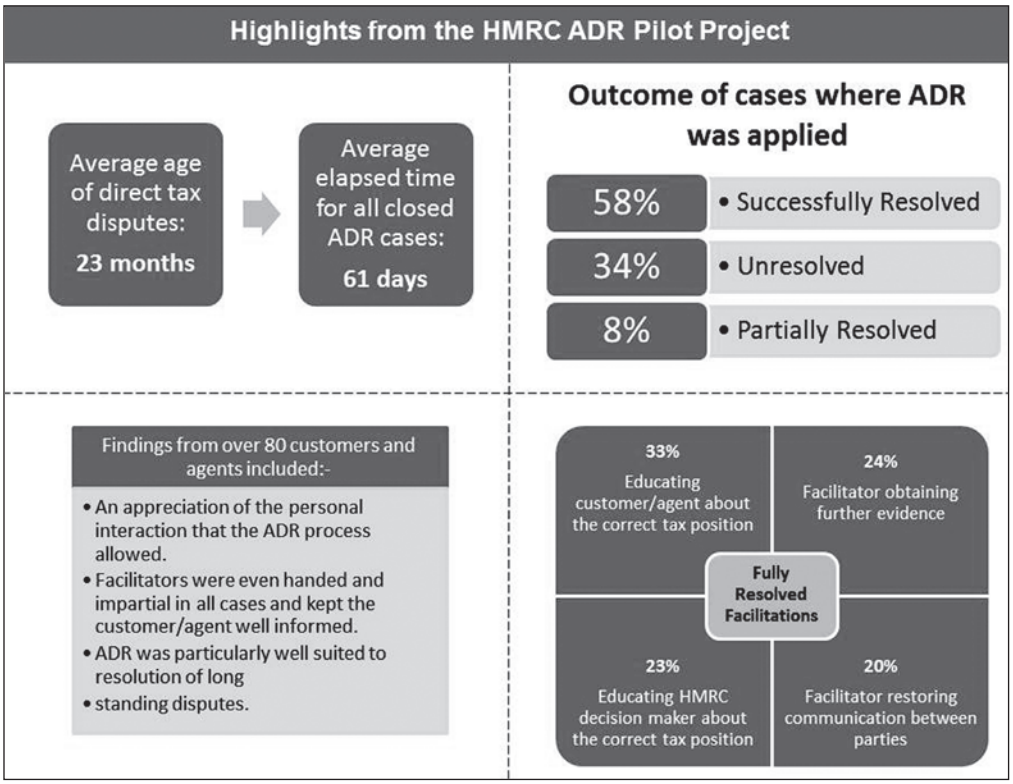
In this context, the commentary to the LSS provides for alternative dispute resolution, and mediation in particular as a preferred mode for dispute resolution.[34]In addition, the HMRC has released a Guidance Note for resolving tax disputes through ADR[35]which approves primarily of the following methods of ADR:

(*i*) Facilitative mediation where an independent third party mediator offers no opinion but brings the two parties together;

(*ii*) Evaluative mediation, where the mediator may offer a view on the merits of the respective parties' cases; and

(*iii*) Non-binding Neutral Evaluationwhere a neutral third party expert provides an opinion that is not binding.

In practice, facilitative mediation may be the more favoured approach in pre-litigation settlement of tax disputes because evaluative mediation and neutral evaluation practically duplicate the role of courts and tribunals.In pursuance of this approach, the HMRC has, since 2011, conducted pilot projects for evaluating the benefits of implementing ADR in tax disputes.[36]As part of these projects, an HMRC official unrelated to the particular dispute would as an independent mediator and would try and settle disputes. After implementation of the same in several projects, the HMRC has concluded that such projects have largely been a success with respect to individuals and small/medium enterprises and have published the following statistics[37]:



Thus, the average time involved in a dispute was seen to be considerably reduced and in majority of the cases, the dispute involved was seen to have been successfully resolved.

In light of the above, it may be concluded that the UK has successfully created a system by which ADR techniques can be effectively implemented in a tax scenario. From a global perspective, such a modern and foresighted approach provides much for other nations to learn from and emulate so as to effectively reduce the volume of tax disputes.

4. Lessons from the UK: Can India adopt a similar approach?

As far back as in 1986, the Law Commission of India had pointed out that the cumbersome procedure for tax litigation in India may be so owing to it being largely borrowed from the Income-tax Act, 1952 in the UK. From the above, it is clear that although India and the UK have similar approaches to tax dispute resolution in a traditional perspective owing to both systems originating from common law, the UK has continuously evolved its mechanisms and have adapted to a modern world where Court processes are incapable of expeditiously resolving tax disputes. In this context, the modernistic approach adopted by the HMRC appears to be the perfect solution for solving the volume of pending tax disputes in India and the global disillusionment towards the tax litigation process in India.

At a base level, India has several lessons to learn from the UK, starting from the conduct of tax administration. Although both nations have shared constitutional values and although administrative law in India has largely evolved from common law, with focus on the principles of natural justice, there is a sea of difference in the organization and attitude of the Indian and UK tax administration bodies. The HMRC has evolved to a point where it has taken measures to effectively adopt 'co-operative compliance' as defined by the OECD as opposed to an adversarial approach where the revenue authorities look at applying coercive measures to ensure compliance by the taxpayer.[38] Such a co-operative approach generally involves engaging with the taxpayers so as to understand shared interests, including the aversion of major tax risks so as to provide for cost-free resolution of disputes on both sides. Such an approach has generally guaranteed more certainty and is more likely to create a level-playing field between the taxpayers and the revenue authorities.[39] In light of the same, as detailed above, the HMRC has developed compliance risk management plans involving the study of risk involved in a particular case and a behavioural analysis of taxpayers so as to determine the exact approach to be adopted.[40] Thus, a conducive approach developed by the HMRC by which they work towards applying soft skills and providing assurances to low-risk taxpayers have helped ensure greater compliance at this level.

Moreover, the general outlook of the HMRC has been based on providing certainty to taxpayers and to ensure that disputes are minimized so as to ensure collection of legitimate revenues. This includes the constant participative approach adopted by the HMRC by which top level law firms, accountancy firms and multi-national enterprises are actively consulted before important policy decisions are made.[41] Moreover, almost every HMRC policy decision is preceded by a research report or a consultation document that describes in detail the rationale behind the proposed change so as to invite inputs from all quarters.This is in stark variation from the approach adopted by the Indian revenue authorities where all possible avenues by which the demand on the taxpayer may be increased are explored and then adopted at the lower levels so as to ensure sufficient tax collections. Although collection of tax to a sufficient amount is important and ensuring prevention of erosion of the tax base of a country is paramount for a developing economy, such a confrontational approach merely turns taxpayers, and in particular foreign investors, hostile towards the investment and taxation regime of the country in itself. More often than not, this approach becomes counterproductive and does more damage to a country's economy than benefit.[42] Thus, such a surface level solution is not the need of the hour and in light of a constantly dampening economy, more robust measures are called for.

In light of this, it is recommended that a more collaborative approach as adopted by the HMRC is implemented in India by which the revenue authorities engage in discussions with the taxpayers so as to ensure more efficient tax administration. A friendlier approach towards low-risk taxpayers could be a good beginning to implementing such approach. However, the key to a collaborative approach is the implementation of collaborative dispute resolution processes such as mediation. Adopting mediation processes for low-risk tax disputes, as done by the HMRC, might go a long way in reducing the quantum of tax disputes and freeing the large amount locked in dispute,

a part of which could've been as of today claimed by the authorities as part of an amicable settlement.

However, cultural and outlook based differences between the tax authorities in India and the UK suggest that the UK system of ADR cannot be *per se* adopted in India. Moreover, the settlement procedures in the UK have faced some issues as well. The infamous settlement made by the HMRC in the Goldman Sachs tax issue has faced heat from the global media owing to the fact that extraneous motives on the part of the HMRC were alleged. Although a UK High Court cleared the settlement of charges, a judge opined that the deal "was not a glorious episode in the history of the Revenue".[43] In light of this, the political pressure behind this incident is said to have increased the backlog of tax cases in the UK.[44]

Moreover, from India's point of view, adopting a mediation process where another revenue official who is independent of the dispute at hand may be counterproductive since an independent mediator who would not have vested interests in the dispute is desirable, particularly considering the historically adversarial attitude of the revenue authorities. Reference may be made to the 12th Report of Law Commission of India released in 1958, where the Law Commission of India had suggested that the presence of the CIT(A) as the first appellate authority above the AO was inappropriate owing to the CIT(A) being directly under the control of the tax department.[45]This was based on the principles of natural justice as accepted in Indian administrative law and more particularly, the maxim of '*Nemoiudex in causasua*' which means that no person should be a judge in his own cause. It was suggested that the CIT(A) could be made independent placed under the control of the ITAT as a solution. Although the CIT(A) has been retained as an adjudicatory body as of date without any change, the attitude of the authorities today incites thought that the proposition needs to be revisited. It is pertinent to note that this deviation was made by India from global practice while creating the AAR since a revenue authority being given the power to adjudicate an advance ruling was seen to defeat its purpose.[46]

Based on this premise, a suggestion which may be put forth is that independent persons of legal or judicial background, as present in the case of the AAR might be desirable as mediators so as to ensure that both parties are sufficiently educated about the legal issues involved in the matter before arriving at a settlement. Thus, as is present in mediation centres or *'LokAdalats'* in India, an expert judicial mind giving guidance in a tax mediation may go a long way towards solving India's overload of tax disputes.

Considering the fact that it may be difficult to change the confrontational approach of the tax authorities, another practicable solution may be to enforce 'baseball arbitration' in India for disputes involving large demands. 'Baseball arbitration' evolve from mandatory arbitration clauses provided in Double Taxation Avoidance Agreements ("**DTAA**") entered into by the United States of America ("**US**") for resolving disputes involving the DTAA where the respective tax authorities cannot negotiate a settlement. In 'baseball arbitration', both competing parties submit their position and one position wins and the other loses. One advantage that has been seen in such an approach is that the authorities have generally modified their extreme stances and make it more reasonable to increase the chances of a favourable decision. Generally, the arbitrators decide on the matter by choosing the side that is closest to the most appropriate answer. Such baseball style arbitrations have proven very successful and the US has successfully concluded several such proceedings with Canada in respect of DTAA disputes.[47]'Baseball arbitration' with an independent arbitrator with an appropriate judicial background may be the most workable solution for transfer pricing disputes or disputes involving determination of the correct method for attribution of profits since the revenue authorities are prone to taking extreme stands in such cases which has led to tax leakage and protracted litigation.

While delivering his speech in relation to Budget 2013-14, present finance minister P. Chidambaram had proposed the set-up of a tax administration reform commission to review the tax system at both legal and policy level so as to improve the efficiency of India's tax administration system.

Accordingly, as announced by the Finance Ministry on August 26, 2013, the Indian Government has set up theTAR Commission for 18 months under the Chairmanship of Dr. Parthasarathy Shome.[48] The Terms of Reference of the TAR Commission include among other things:

- Review of the existing mechanism for, processes involved in and organizational structure of the tax administration in India;
- Review of existing compliance mechanism so as to explore methods to improve taxpayer compliance;
- Review of existing mechanism for tax dispute resolution so as to reduce compliance time and costs.

In light of this, since the TAR Commission is going to be working towards improvement of the tax administration and tax dispute resolution systems in India, the approach adopted by the HMRC in promoting co-operative compliance and in encouraging the use of ADR to improve compliance, reduce costs and resolve pendency needs to be given serious consideration. If implemented with safeguards, co-operative approaches and ADR techniques as used by the HMRC may immensely benefit the Indian system. The HMRC, through its far-sighted approach, has set a great example for the implementation of ADR in tax matters and thus, India indeed has several lessons that it can learn from the UK on this issue.

Given that the work done by Dr. Parthasarathy Shome through reports on the Indian GAAR and indirect transfer provisions released by the Commission set up under his chairmanship has been largely well researched, balanced and in line with international tax jurisprudence[49], taxpayers in India may yet see some light at the end of the tunnel owing to the TAR Commission.

5. Conclusion

In essence, the relationship between India and the UK, the world's oldest and largest democracies may provide for more than what meets the eye. While both countries have faced their fair share of problems with respect to tax disputes, India is facing a position where so as to ensure certainty for taxpayers and to encourage investment reaffirming its position as the global economy that it aims to be, it needs to avoid an environment where protracted litigation in tax disputes is a common affair. In this context, although India and UK share a common law based system and share several socio-political cultural attitudes and synergies owing to their colonial past, the system in the UK has been continuously evolving so as to adopt the most modern techniques for resolving disputes in tax matters. In this light, India has several pages to borrow from the UK so as to overcome the hurdle of long drawn out litigation in tax matters for it to fulfil its potential and become the investor-friendly jurisdiction that it strives to become.

1. Section 139 of the ITA.
2. Section 143 or 144 of the ITA.
3. Section 246 of the ITA.
4. Section 253 of the ITA.
5. Section 260A of the ITA.
6. Section 261 of the ITA.
7. FICCI, Dispute Resolution in Tax Matters: A Discussion Paper, March, 2013, available at: http://www.ficci.com/spdocument/20235/dispute-resolution-tax.pdf (Last visited on August 16th, 2013).
8. This amount is more startling when it is considered that it is much higher than the reported average direct tax collection for each financial year which is around ₹ 3-3.5 crores.
9. Ministry of Finance, White Paper on Black Money, May, 2012, available at: http://finmin.nic.in/reports/WhitePaper_BackMoney2012.pdf (Last visited on August 16th, 2013).
10. Law Commission of India, One Hundred and Fifteenth Report on Tax Courts, August 28, 1986, available at: http://lawcommissionofindia.nic.in/101-169/Report115.pdf (Last visited on August 18th, 2013).

11. *DIT (IT) v.* Citibank N.A. [2013] 350 ITR 302/[2012] 210 Taxman 258/25 taxmann.com 297 (SC).
12. *Sandvik Asia Ltd.* v. *CIT* [2006] 280 ITR 643/150 Taxman 591 (SC); *Harshad Shantilal Mehta* v. *Custodian* [1998] 231 ITR 871/99 Taxman 216 (SC).
13. *Paramount Health Services (TPA) (P.) Ltd* v. *Asstt. CIT* [2011] 11 Taxmann.com 285/202 Taxman 288 (Bom.); *KEC International Ltd.* v. *B.R. Balakrishnan* [2001] 251 ITR 158/119 Taxman 974 (Bom.).
14. India Tough on Taxation of Transfers Within MNCs', Business World, Feb 18, 2013, available at http://www.businessworld.in/news/finance/india-tough-on-taxation-of-transfers-within-mncs/778454/page-1.html (last visited on August 24, 2013).
15. T.E. Raja Simhan, 'Nokia suspected of flouting transfer pricing rules too', The Hindu Businessline, Jan 30, 2013, available online at http://www.thehindubusinessline.com/industry-and-economy/info-tech/nokia-suspected-of-flouting-transfer-pricing-rules-too/article4360530.ece (last visited on August 24, 2013).
16. *See also* Mahesh Kumar and Rajesh Simhan, 'FDI Trapped in Transfer Pricing Controversy – A Few Thoughts on Shell's USD 2.7 Billion Tax Dispute' Asia-Pacific Tax Bulletin, 2013 (Vol. 19), No. 4.
17. Sections 245Q to 245V of the ITA.
18. The Economic Times, 'Authority for Advance Rulings Needs Overhaul', September 20, 2012, available at: http://articles.economictimes.indiatimes.com/2012-09-20/news/33977104_1_authority-for-advance-rulings-aar-rulings-letter-rulings (Last visited on August 24th, 2013).
19. Rule 10H of the Income-tax Rules, 1962.
20. The Business Standard, 'Rule 10H on pre-filing consultation: A unique feature of Advance Pricing Agreements', June 16, 2013, available at: http://www.business-standard.com/article/economy-policy/rule-10h-on-pre-filing-consultation-a-unique-feature-of-advance-pricing-agreements-113061600657_1.html (Last visited on August 24th, 2013)
21. Section 11 of the Tribunal Courts and Enforcement Act, 2007.
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