2026-27-52-03 CTCJ | June 2026

100 YEARS OF EXCELLENCE

THE CHAMBER OF TAX CONSULTANTS
ESTD.1926

INSPIRE • INNOVATE • IGNITE

THE CHAMBER'S JOURNAL

CENTENARY SPECIAL ISSUE

A Century of Tax Excellance



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From the President

Dear Members,

The centenary year has flown by for me. For an organisation like CTC, the passage of a century feels like the blink of an eye. We had planned for the Centenary year to be a watershed year- filled with numerous special programmes and initiatives. Meticulous planning for the same started a couple of years ago, and these plans have been executed with the same spirit of excellence that defines CTC. As I write for the last time as President of this esteemed organisation, I feel deeply grateful for the privilege of helming this organisation in such a momentous year. It is therefore fitting to reflect briefly on what we set out to achieve and what we accomplished during this Centenary year.

I report with an immense sense of satisfaction that we not only conquered greater heights (record numbers in all RRCs) in activities we did earlier, but we also did it better. We also took a few initiatives that will sustain CTC's growth in the next decade. We began the year with an unusual programme for the commencement of the Centenary year before a jam-packed audience and the blessings of Dr D.Y. Chandrachud (Former CJI) and CA Keki Mistry. This attracted the gracious presence of 28 of our 32 Past Presidents of CTC, whose continued blessings, guidance and involvement without interference keep us going from strength to strength. We also had the unique Shatabdi Summit featuring top professionals like Arijit Basu, CA Ramdeo Aggarwal and CA Niranjan Hiranandani. In the same spirit, we are set to bring down the curtains of this eventful year on 20th of June with a Finale Programme -the Shatabdi Manthan. Here we shall have the presence of a galaxy of luminaries of the profession. I am certain that like the opening of the Centenary celebration and Shatabdi Summit, the Shatabdi Manthan shall make this truly a year to remember.

I am also delighted to inform you that each of the traditional 4 RRCs (that have become a virtual trademark of the Chamber) achieved record registrations. Even more notable was the huge number of nationwide enrolments. This underlines the fact that CTC has indeed found a place in the hearts of professionals across the country. To take this a logical step forward, we have set up proper branches in Delhi, Pune and Vidharbha. More are on the cards, and I can assure you that the team that takes over from me will continue this endeavour with relentless zeal.

But the months of planning that went into the Centenary year planning were not simply to do better at what we inherited, but to explore new pathways and work on innovations to take the Chamber into the next century. I can say that we have been fairly successful in these path-breaking initiatives. Starting with a redesigned logo and an audio-visual capturing the history and spirit of the CTC and its pioneers; our young team also brought out a series of electronic media communiques titled 'Gyan Shorts' which give a concise knowledge capsule through electronic media. We also brought out an excellent Series of 6 Centenary Special Issues, including the present Collector's Edition, which I am sure will be treasured by readers. This, along with PR and other media and tech initiatives, has resulted in positively projecting the Chamber. Along with the technology, we have also added to the brick-and-mortar infrastructure, with a state-of-the-art Learning Centre and refurbished office. In a similar vein, we also had a specific program to deal with issues faced by young professionals entering industry or the profession. The initiatives taken for the student community (whom we see as our future members) and the International Tax specialists who are spearheading the new areas of practice have also been truly remarkable.

I could go on and on, recounting the success stories of the past year. Rather, I must pause

here to acknowledge that all this has been possible because of the wonderful team working with me. My Vice-President, Neha Gada; Hon. Secretaries Mehul & Ankit and the soft-spoken Vitang as Treasurer were my pillars of support who gave me the confidence to take up such ambitious projects and make a success of them. The entire Managing Council as well as the Past Presidents supported me in a manner characteristic of CTC. There was always quiet guidance without interference, and I am deeply thankful to their consistent backing, advice and support.

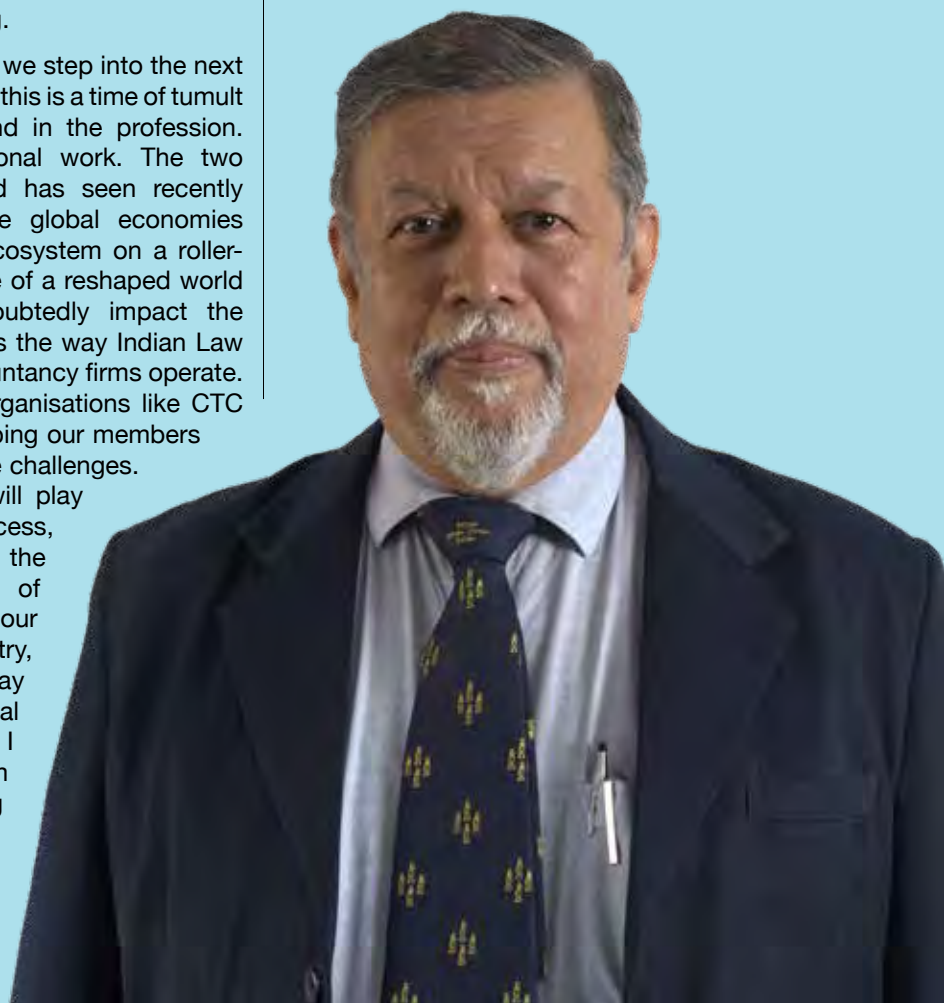
I must also record my appreciation of the generous contributions of members who graciously extended financial support (and gave leads for corporate support) without which such ambitious and high-profile programmes of the Centenary Year would not have been possible. There are many others whom I need to mention, but I am afraid that if I do so, the Editor will have to step in as the list of persons who merit a mention would be too long.

So a few parting words as we step into the next Century of CTC. I note that this is a time of tumult and transition globally and in the profession. AI is reshaping professional work. The two major conflicts the world has seen recently have further buffeted the global economies and taken the financial ecosystem on a roller-coaster ride. The outcome of a reshaped world financial order will undoubtedly impact the Indian economy as well as the way Indian Law firms and Chartered Accountancy firms operate. In this time of change, organisations like CTC will become pivotal in helping our members to successfully meet these challenges. I believe CTC can and will play a crucial role in this process, and I am sure that with the dedicated contributions of stalwarts and support of our members across the country, CTC shall continue to play a major role in professional life in the years to come. I wish the incoming team all success in steering the CTC forward in this direction. Needless to say, my inputs and support shall always be available to CTC and its leadership, whenever required.

When I agreed to take up this responsibility as President, it was out of a deep sense of gratitude to the Chamber, which had shaped me in my early years. Although that debt to CTC was immense, I had hoped that in small measure I would pay back a bit to CTC by serving it and its members. I now realise how wrong I was. The Presidentship of CTC has given me immense learning, experience and the love of hundreds of members. Far from repaying my debt, I find I owe CTC even more. My tenure as President has enriched me mentally and intellectually, and I hope I have done justice to the confidence reposed in me.

Till we meet again.

CA Jayant Gokhale
President



From the Editor's Desk

My Brothers and Sisters,

> ***"Remember to celebrate milestones as you prepare for the road ahead."***
>
> ***- Nelson Mandela***

Life is a journey. It is an aggregation of experiences, some sweet and some not so sweet. The important lesson, however, is to live every moment, to learn from every experience and, more importantly, to celebrate every milestone. As the Chamber is about to complete its 100th year, a milestone that is unmatched by most professional organizations, I feel a sense of pride, a sense of purpose and a sense of responsibility, all at the same time.

Pride, because the Chamber, the institution that has given me this platform to pen my thoughts and musings before you all, is completing this milestone, which no other comparable institution will even reach remotely close to, soon. I will, in all likelihood, not be alive when the Institute of Chartered Accountants of India or the Bombay Chartered Accountants' Society reach this milestone, in 2049. It is therefore a matter of great pride for me that I have been able to not only witness this epic milestone but serve the Chamber in this centenary year.

I feel a sense of purpose because the next phase of the journey has just begun. After completing 100 years, the Chamber will, and so will I, take fresh guard to continue the journey of serving the profession with renewed vigour, a reinforcement of the motto of the Chamber, namely, Gnyanam Param Balam, that we are here to receive and equally to share the all-powerful knowledge that the Chamber has developed and will continue to do throughout its journey. For me, this will mark the end of the second year as the editor of this unique and prestigious Journal and the completion of two-thirds of my three-year term. It is time for me to reinforce the sense of duty, the sense of the purpose of this journal, namely, to come out with issues of top quality, of useful and relevant topics and of content that is not only read but also remembered.

The sense of responsibility is but a logical extension of this purpose; I recognize the contribution of and am indebted to all the previous editors of this Journal who have left a rich legacy and their own indelible imprint on this journal and the editorial thereof. I bow to each one of them in respect, and pledge to continue their legacy, with, of course, a sincere and dedicated attempt to add my own unique perspective to this journey.

I take great pride and delight in sharing

with you that the 50th President of this institution in its 101st year will be a lady, Neha Gada, who will take charge at the next Annual General Meeting to be held on 4th July 2026. This was a milestone that we as the Chamber ought probably not to have delayed this long, but as they say, 'Better late than never." I would like to compliment the President of the Centenary year, my dear friend Jayant, for ably heading the Chamber in the Centenary year and adding his own unique legacy to its history. I welcome Neha and wish her all the very best for her term as President in the 101st year. Actually, I must take a little bit of the credit for Neha coming into the Office Bearers' team, as it was in my tenure as President that she came into this team, and I had at that time told her that it would be my wish and pleasure to see her assuming the position of the President. I feel very happy for and proud of her.

This final edition of the Centenary Year is a 'Collector's Edition', a kaleidoscope of some of the noteworthy articles of the six Centenary Year special edition issues and an addition of some new articles, to create a unique bouquet for all of the readers to treasure. I compliment the Journal Committee for conceptualizing this unique issue led by the Chairman, CA Ameya Kunte. I must at this stage also deeply thank and recognize the invaluable contribution of OakBridge Publishing, our publishers of the centenary special editions, and Shri Shreesh Chandra, who not only brought in different and unique articles from various eminent authors, but also added his own expertise to the design and to other visual and technical aspects of these editions. Thank you so much, Shreesh, and really appreciate your unique touch on these editions.

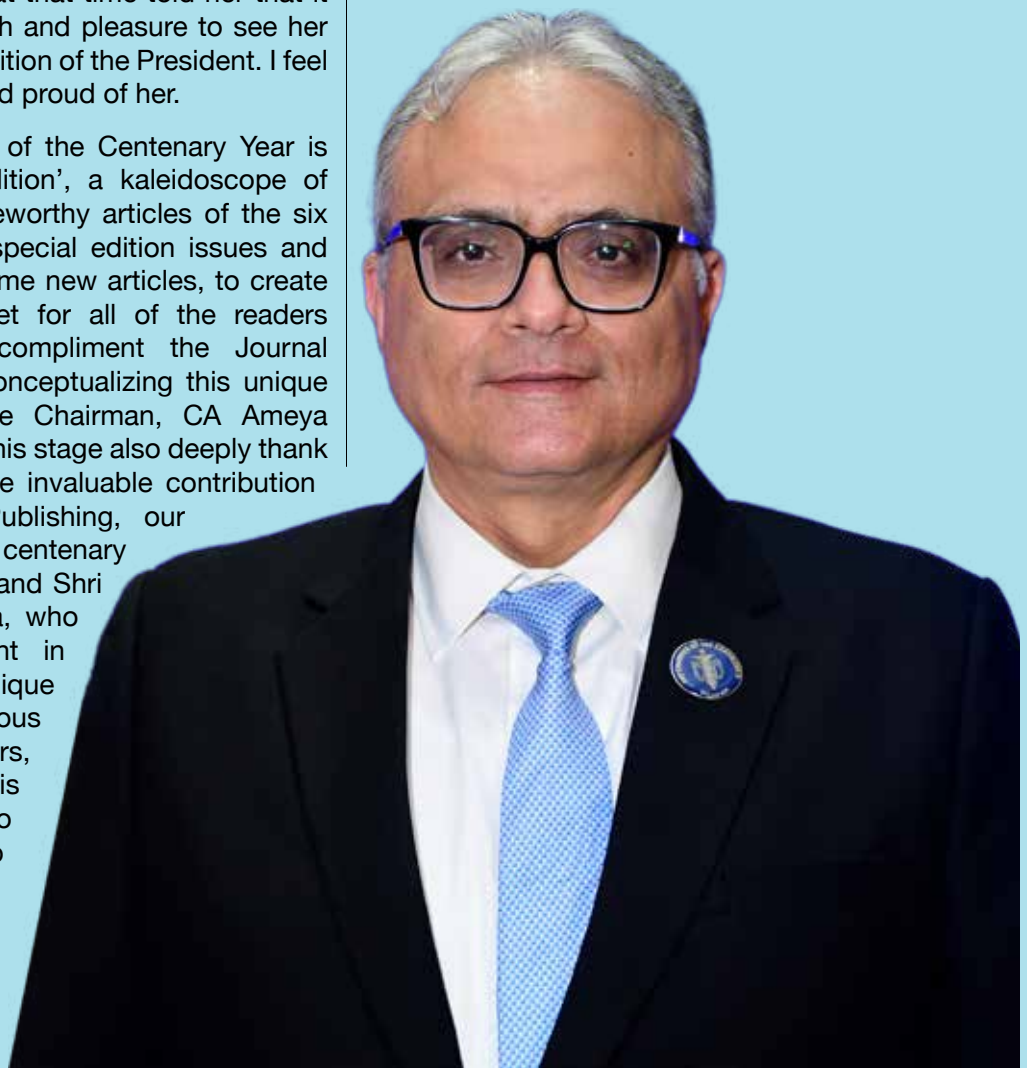
In conclusion, as the Chamber and I both prepare for new innings with renewed vigour, I quote again Swami Vivekananda, who has always been my inspiration. This is an apt reminder for all of us to look inward, as we prepare for the next milestone.

"***You have to grow from the inside out. None can teach you; none can make you spiritual. There is no other teacher but your own soul.***"

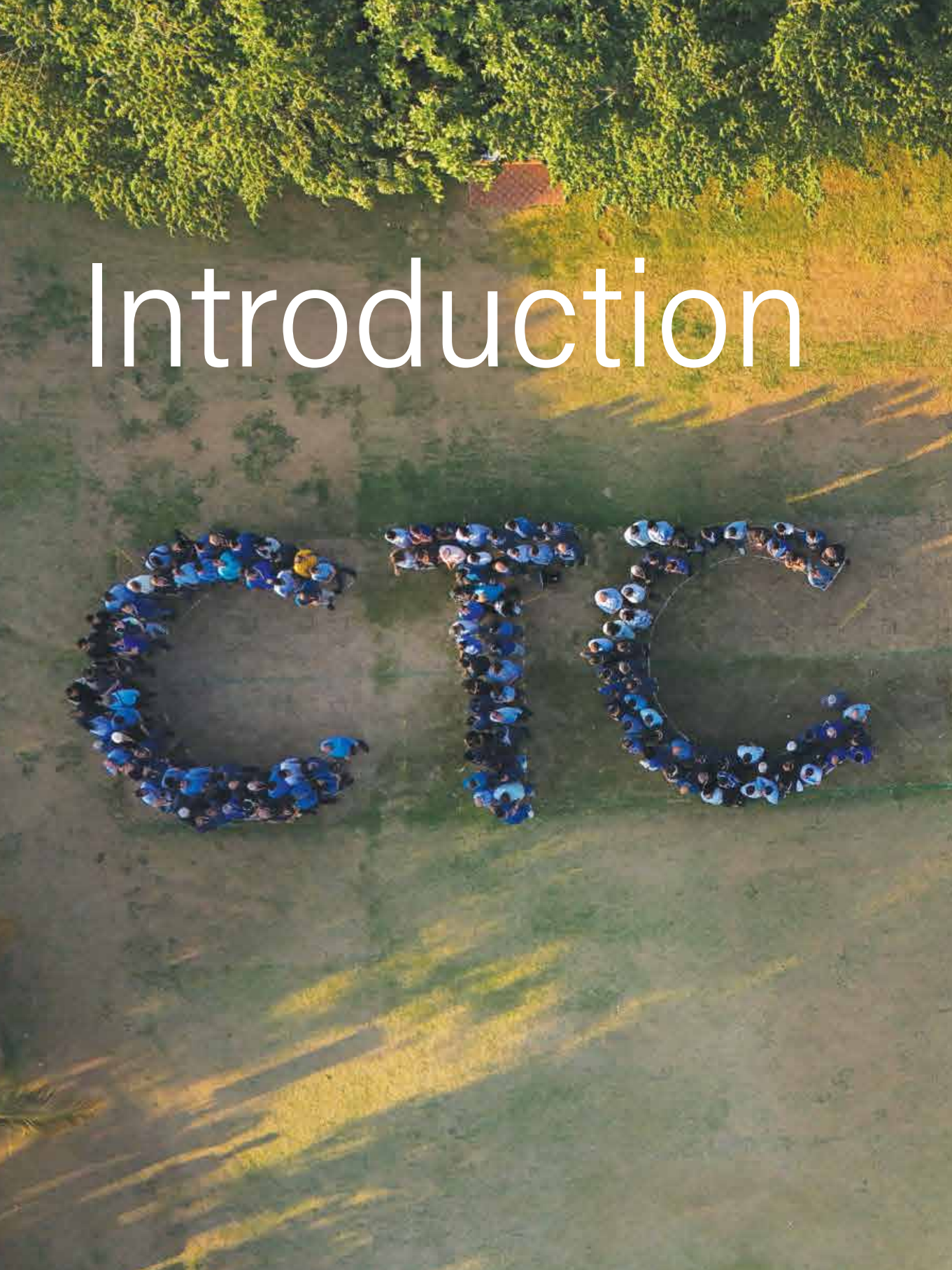
Jai Hind!

Anish M Thacker

Editor



Introduction



100

The Institutional Legacy (1926–2026)

A Century of Knowledge, Courage and Professional Leadership



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*See Disclaimer on page 5

The Beginning of an Enduring Institution

A hundred years is more than a milestone. It is a legacy built patiently across generations. As the Chamber of Tax Consultants completes its Centenary Year and enters the next century, it celebrates not merely the completion of a century but the remarkable journey of an institution that has shaped, influenced and elevated the tax profession in India.

What began as a forum for professional interaction gradually evolved into one of India's most respected institutions in the field of fiscal laws.

Founded in 1926 and formally constituted in 1939, the Chamber was born from a vision that was far ahead of its time. At a period when India was still under colonial rule and organised forums for tax professionals were scarce, its founders recognised the growing importance of taxation in governance, commerce and public life. More importantly, they understood that a profession can truly flourish only when it is supported by institutions dedicated to learning, ethical conduct and collective advancement.

What began as a forum for professional interaction gradually evolved into one of India's most respected institutions in the field of fiscal laws. Through periods of political transformation, economic reform, globalisation and technological disruption, the Chamber has remained steadfast in its commitment to knowledge, professional excellence and public service.

The history of the Chamber is therefore not merely the history of an organisation. It is, in many ways, the story of the evolution of the tax profession in India itself.

Building a Culture of Knowledge

If there is one thread that runs consistently through the Chamber's first hundred years, it is its unwavering faith in the transformative power of knowledge.

Long before continuing professional education became an accepted norm, the Chamber had embraced learning as its central mission. This philosophy found a lasting institutional expression with the establishment of the J. R. Shah Library at Aayakar Bhavan in 1974. More than a repository

of books, the library became a sanctuary for professionals seeking deeper understanding, thoughtful research and intellectual growth.

The Chamber's commitment to scholarship found another enduring expression with the launch of the Income Tax Review in April 1975. What began as a professional publication evolved over the decades into one of the country's most respected journals on taxation. Through its pages, generations of professionals have engaged with emerging legal developments, debated policy issues and gained insights from some of the finest minds in the profession.

The publication's transformation into The Chamber's Journal reflected the broadening horizons of both the profession and the institution. Today, as the Journal completes its Golden Jubilee in 2025, it stands not merely as a publication but as an intellectual chronicle of the evolution of tax laws and other allied laws in India.

The Chamber's educational initiatives expanded far beyond publications. The first All India Conference of Tax Practitioners brought together professionals from across the country on a common platform. The introduction of the Residential Refresher Course created a unique model of immersive learning that combined academic rigour with professional fellowship. Over time, these initiatives expanded into seminars, workshops, study circles, study groups, conferences and specialised educational programmes covering every significant area of tax and allied laws.

Whether through its pioneering International Taxation Study Tour, specialised courses on FEMA and GST, or advanced programmes in emerging areas of practice, the Chamber consistently demonstrated an ability to anticipate the future needs of the profession.

From Professional Forum to National Institution

As India evolved, so did the Chamber.

What began as a predominantly Mumbai-based



organisation gradually expanded its intellectual and geographical footprint. The Chamber's growth was never driven merely by numbers; it was driven by relevance.

The crossing of the thousand-member milestone in 1990 symbolised growing confidence in the institution and its work. The introduction of associate and student memberships broadened participation and ensured that the Chamber remained accessible to professionals at every stage of their careers.

> The first All India Conference of Tax Practitioners brought together professionals from across the country on a common platform.

The establishment of the Delhi Chapter and later the study groups in Pune, Bengaluru and Hyderabad reflected a conscious effort to create a truly pan-India institution while preserving the values and culture that had defined the Chamber since its inception.

The change in name from The Chamber of

Income Tax Consultants to The Chamber of Tax Consultants in 2006 was more than a symbolic decision. It acknowledged the expanding scope of professional practice and the Chamber's growing engagement with indirect taxation, international taxation, transfer pricing, FEMA, corporate laws and other allied disciplines.

The initiation of Pre-Budget Memoranda to the Finance Minister in the mid-1980s established a tradition that continues to this day.

Throughout this expansion, the Chamber remained guided by a singular objective—to create an institution where professionals could learn, collaborate and contribute to the advancement of law and practice.

A Voice That Helped Shape Policy

One of the most significant dimensions of the Chamber's legacy lies in its contribution to public policy and tax administration.

For decades, the Chamber has served as a bridge between taxpayers, professionals and policymakers. Through detailed research, constructive dialogue and carefully considered representations, it has consistently contributed to the development of a fair and effective tax system.

The initiation of Pre-Budget Memoranda to the Finance Minister in the mid-1980s established a tradition that continues to this day. Over the years, the Chamber's representations have addressed practical challenges faced by taxpayers and professionals, while simultaneously advancing broader principles of clarity, certainty and administrative efficiency.

Its engagement with the CBDT, the Ministry of Finance and other regulatory bodies has earned it a reputation as an institution whose views are informed, balanced and constructive.

This credibility was reflected in several milestones. The Income Tax Department's decision to subscribe to the Income Tax Review for all Commissioners of Income Tax in Mumbai signified institutional recognition of the publication's value. The CBDT's acknowledgment of the Chamber's contribution in redrafting the TDS Rules further underscored the respect commanded by the institution.

More recently, the Chamber's contributions to discussions surrounding the new Income Tax Act, 2025 and various regulatory initiatives have reaffirmed its role as a thoughtful participant in the evolution of fiscal policy.

Its influence has never stemmed from authority. It has stemmed from credibility.

Courageous Advocacy and the Defence of Principles

While knowledge and education have always been central to the Chamber's mission, another characteristic has distinguished it from many professional bodies—its willingness to defend principles when circumstances demand it.

The Chamber has never viewed advocacy as confrontation. Instead, it has viewed it as a responsibility.

This spirit became evident in 1992 when it initiated its first Public Interest Litigation challenging the levy of tribunal fees.

This spirit became evident in 1992 when it initiated its first Public Interest Litigation challenging the levy of tribunal fees. That action established an important precedent: professional institutions could and should act in the broader public interest when issues of fairness, legality and access to justice were at stake.

Over the decades, the Chamber has played



a significant role in several landmark legal interventions. It successfully advocated for relief during periods of widespread hardship in tax compliance. It challenged provisions of the Income Computation and Disclosure Standards that exceeded statutory authority, reinforcing the principle that delegated legislation cannot override parliamentary enactments. It defended the independence of appellate authorities by questioning incentive structures capable of influencing quasi-judicial decision-making.

Its interventions concerning faceless appeals and taxpayer rights in the digital era have similarly reflected a commitment to ensuring that technology serves justice rather than replacing it.

These achievements represent more than successful litigation. They demonstrate the Chamber's enduring commitment to the rule of law, constitutional values and procedural fairness.

Knowledge gave the Chamber authority.

Courage gave it influence.

Preserving Values, Honouring Excellence

The Chamber's journey has never been measured solely through educational programmes, publications or legal interventions.

Its true strength lies in the values it has cultivated.

Throughout its history, the Chamber has recognised that institutions endure only when they preserve their culture and honour those who contribute to it. The conferment of Lifetime Service Awards, the publication of the Chamber's history, and the establishment of initiatives dedicated to ethical practices reflect a conscious effort to preserve institutional memory and reinforce professional values.

The Chamber has also consistently recognised excellence beyond its own membership. Its unique initiative honouring high taxpayers demonstrated an appreciation of responsible citizenship and voluntary compliance at a time when such recognition was uncommon.

Throughout its history, the Chamber has recognised that institutions endure only when they preserve their culture and honour those who contribute to it.

Its association with some of the most respected names in the legal and professional world—including Nani Palkhivala, who became its



first Honorary Member—further enriched its intellectual traditions and strengthened its standing within the broader professional community.

Equally important has been the leadership provided by generations of Presidents and office-bearers. Distinguished personalities such as B. C. Joshi, V. H. Patil, Y. P. Trivedi, S. E. Dastur, D. M. Harish, Narayan Varma, S. N. Inamdar, Dr. K. Shivaram and many others helped shape not merely an organisation but a culture of scholarship, integrity and service.

Investing in Future Generations

Perhaps the most meaningful measure of an institution's success is its ability to inspire those who will succeed it.

The Chamber has always understood that its future depends upon the development of future professionals.

This understanding led to the introduction of student membership, essay competitions, moot court programmes, specialised student publications and a variety of mentoring initiatives. These programmes have enabled thousands of students and young professionals to engage with the profession at an early stage and benefit from the collective wisdom of senior practitioners.

The launch of Jignyasa, a quarterly journal dedicated to students, further reinforced the Chamber's commitment to nurturing future leaders.

For nearly a century, knowledge has flowed from one generation to another through the Chamber's activities. In doing so, it has created not merely members, but a community.

Evolving with the Times

One of the defining strengths of the Chamber has been its ability to adapt without compromising its values.

> The introduction of e-journals, mobile versions of publications, digital libraries and audio content reflected a willingness to explore new methods of knowledge dissemination.

As technology transformed professional life, the Chamber embraced change with characteristic foresight. It launched its website at an early stage, developed digital publications, introduced

mobile applications, and expanded its online presence. The introduction of e-journals, mobile versions of publications, digital libraries and audio content reflected a willingness to explore new methods of knowledge dissemination.

For one hundred years, the Chamber has been more than an institution.

It has been a custodian of knowledge, a voice of reason, a forum for learning and a guardian of professional values.

This adaptability was most visible during the COVID-19 pandemic. At a time when physical interaction became impossible, the Chamber successfully transitioned to digital platforms, organising an extraordinary number of webinars and online educational programmes that ensured uninterrupted learning and professional engagement.

The lesson was clear: while methods may change, the mission remains constant.

The Legacy and the Future

As the Chamber enters its second century, it stands at another historic moment.

The future of taxation will be shaped by artificial intelligence, digital commerce, global minimum taxation, data analytics and increasingly sophisticated compliance systems. The profession will continue to evolve in ways that earlier generations could scarcely have imagined.

Yet the values that sustained the Chamber through its first century remain timeless.

A commitment to knowledge.

A respect for ethical conduct.

A belief in professional excellence.

An independence of thought.

A willingness to serve society.

These principles have enabled the Chamber to remain relevant through a century of change.

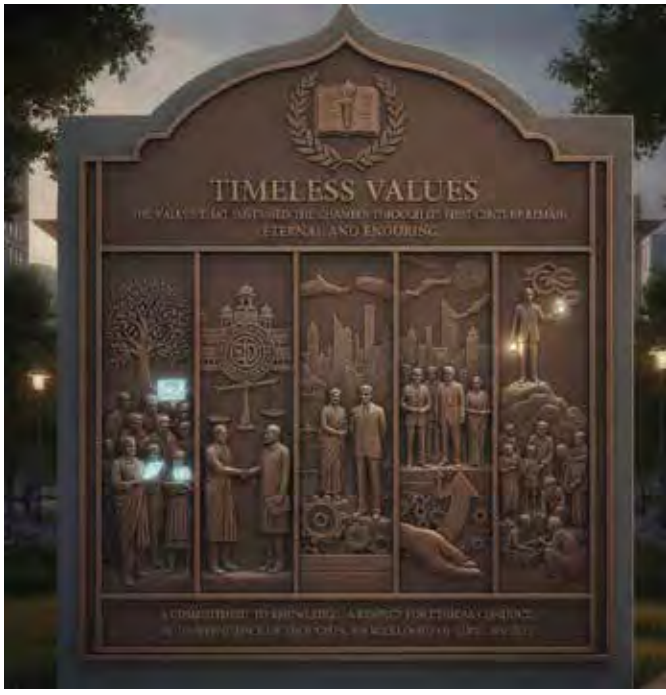
The institutional legacy of the Chamber of Tax Consultants is therefore not defined merely by its longevity. It is defined by its influence on the profession, its contribution to public discourse, its defence of taxpayer rights, its commitment to education and its ability to inspire successive generations.

For one hundred years, the Chamber has been more than an institution.

It has been a custodian of knowledge, a voice of reason, a forum for learning and a guardian of professional values.

That is the legacy it celebrates today.

And that is the legacy upon which it will build its future.



A CENTURY OF EXCELLENCE: THE LEGACY OF THE CHAMBER OF TAX CONSULTANTS (1926–2026)

Celebrating 100 years of shaping India's tax profession: from a colonial-era forum to a national institution championing education, ethics, and legal advocacy.

1926 – 1989: Foundations of Knowledge

1926: The Visionary Beginning

Founded in colonial India to establish a professional forum for emerging tax governance.





1974–1975: Academic Institutionalization

Establishment of the J.R. Shah Library and launch of the Income Tax Review.

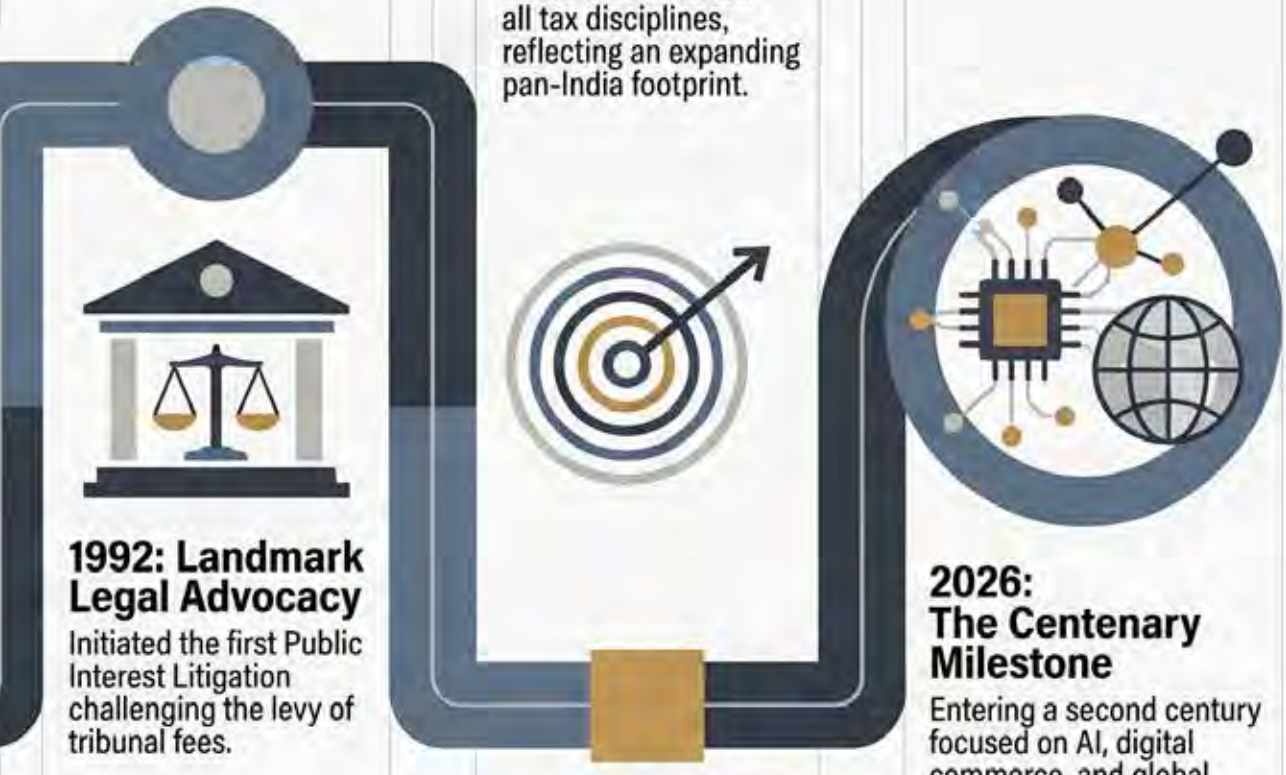
1974-1975: Influencing National Institutional Policy



Mid-1980s: Influencing National Policy

Initiated the tradition of Pre-Budget Memoranda to the Finance Minister.

1990 – 2026: Expansion and Advocacy



1992: Landmark Legal Advocacy

Initiated the first Public Interest Litigation challenging the levy of tribunal fees.

2006: A Modern Identity

Renamed to include all tax disciplines, reflecting an expanding pan-India footprint.

2026: The Centenary Milestone

Entering a second century focused on AI, digital commerce, and global taxation.

Past Presidents



Late Shri Bhogilal C. Shah
1926 onwards



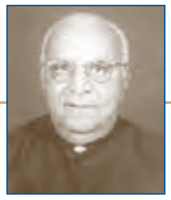
Late Shri C. K. Jobanputra
1969-70



Late Shri C. V. Parikh
1970-71



Late Shri Ganpati S. N. Desai
1971-72



Late Shri Mohanlal B. Vanjara
1972-73



Late Shri Popatlal C. Kshatriya
1973-74



Late Shri B. C. Joshi
1974-76



Late Shri V. H. Patil
1976-78 & 2000-01



Dr. Y. P. Trivedi
1978-80



Shri Sohrab Erach Dastur
1980-82



Late Shri P. U.Thakore
1982-83



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1983-84



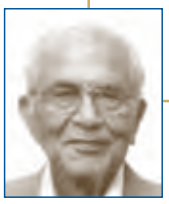
Shri K. K. Ramani
1984-86



Shri P. C. Joshi
1986-87



Late Shri P. S. Masand
1987-88



Late Shri Narayan Varma
1988-90



Dr. K. Shivaram
1990-92



Late Shri N. M. Rohira
1992-93



Late Shri D. R. Raiyani
1993-94



Shri Keshav B. Bhujle
1994-96



Shri Sharad R. Dalal
1996-97



Shri Subhash S. Shetty
1997-98



Shri Pradip Kapasi
1998-99



Shri V. P. Verma
1999-2000



Shri Kishor Vanjara
2001-02



Late Shri S. N. Inamdar
2002-03



Shri Vipin Batavia
2003-04



Shri Ajit N. Rohira
2004-05



Shri Akbarally Merchant
2005-06



Shri Vipul Joshi
2006-07



Shri Bhavesh Vora
2007-08



Shri Mahendra Sanghvi
2008-09



Shri K. Gopal
2009-10



Shri Sujal Shah
2010-11



Shri Parimal Parikh
2011-12



Shri Manoj C. Shah
2012-13



Shri Yatin Desai
2013-14



Shri Paras Savla
2014-15



Shri Avinash Lalwani
2015-16



Shri Hitesh R. Shah
2016-17



Shri Ajay R. Singh
2017-18



Shri Hinesh R. Doshi
2018-19



Shri Vipul K. Choksi
2019-20



Shri Anish M. Thacker
2020-21



Shri Ketan L. Vajani
2021-22



Shri Parag S. Ved
2022-23



Shri Haresh Kenia
2023-24



Shri Vijay Bhatt
2024-25

CTC's Century of Trust: Memories & Milestones



1926 A Group of Visionaries formed CTC



1975 Launch of First issue of Journal - Income Tax Review



1976 Golden Jubilee Conference



1978 First Residential Refresher Course held at Matheran



1982 Memorandum of Association and Rules and Regulations



1990 Release of 1st Member's Directory



1991 High Tax Payers Felicitation



1996 70th Year Celebration

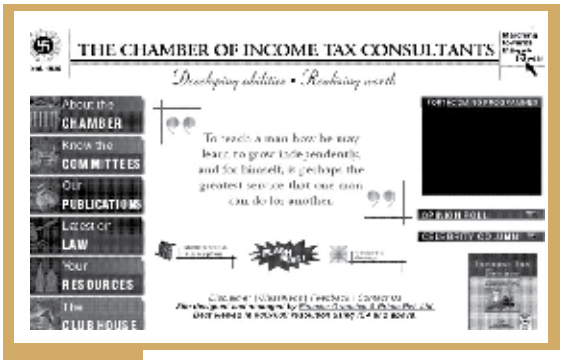

MASTHEAD OF THE FIRST CITC NEWS

THE CHAMBER OF INCOME TAX CONSULTANTS

CITC NEWS

November 1998

1998 Started Monthly Newsletter "CITC News" from September



1999-2000 CTC Website Launch



2001 High Tax Payers Felicitation



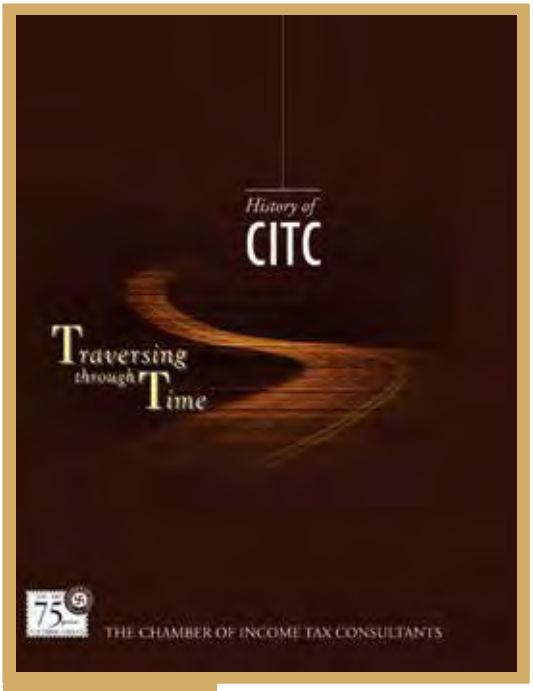
2001-2002 75th Year Celebration



2001 1st TAXCON held on September 29-30, 2001, jointly with BCAS, WIRC of ICAI, AIFTP (WZ), STPAM



2002 Rebuilding of Shri Mulchand Jivraj School at Limbdi



1926 to 2001 History Book of CITC



2002 International Study Group in Malaysia & Thailand



2002

Life time Service Awards presented at 75th A. G. M. held on 5th October, 2002 to Shri Nani Palkhivala (Received by Shri H. P. Ranina), Shri Sanat P. Mehta, (Received by Arati Visanji), Shri Paradyuman N. Shah presented at 75th A. G. M. held on 5th October, 2002



2003-2004 Sahyog Utsav, a Cultural Programme jointly with other sister organisations



2005 Inauguration of New Office at Rewa Chambers



2003-04 Pooja at new office premises at Rewa Chambers



2010 Late Shri D. M. Harish Memorial Lecture



2011-12 Renovated J R Shah Library at Aayakar Bhawan



2015 Suresh Prabhu at CFO Summit by Corporate Members Committee



2016-17 90th Year Celebrations



2016-17 Go Live with Luminaries: Conversation with Shri Y. P. Trivedi and Shri S. E. Dastur at 39th RRC at Lavasa by Shri Arvind Sonde, Advocate



2017 Release of 1st International Tax Journal



2017 Sri Sri Ravi Shankar at 40th RRC in Bengaluru



2017 First Indoor Box Cricket Tournament Winning Cup



2018 2nd Triangular Cricket Tournament Winning Cup



2018 International Study Tour in Mauritius



2020 Box Cricket Tournament Winning team (Girls)BDO India LLP



2022 S/Shri Gyanvatsal Swami at 10th RRC on GST in Daman



2022 1st FEMA RRC in Pune



2024 Students Moot Court Competition



2024 Formation of Indian Flag by delegates at 47th RRC held in Agra



2025 International Tax Committee TP Global Summit



2025 Celebrations of 50 years of The Chamber's Journal



2025 Inauguration of New Office



2025 Office Bearers with Staff at New Office



2025 Launch of New Logo of The Chamber of Tax Consultants at the Inaugural Function of Centenary Year



2025 Fireside Chat with Mr. Keki Mistry - HDFC on Role of Professional in evolving Governance & Economic Environment



2025 Past Presidents with Chief Guest Hon'ble (Dr.) Justice (Retd.) D.Y. Chandrachud, (Former CJI)



2025 Managing Council Members with Chief Guest Hon'ble (Dr.) Justice (Retd.) D.Y. Chandrachud, (Former CJI)

GUJARAT
EARTHQUAKE
RELIEF

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CITC Chairman
Shri V. H. Patil

Presidents during the Project
Shri V. H. Patil
Shri Kishor Vanjara
Shri S. N. Inamdar

Members from Mumbai
Shri Ajit Rohira
Shri Bhavesh Vora
Shri Jayesh Thakur
Shri Mayur Desai
Shri Pravin Veera
Shri Sharad Dalal
Shri Vipin Batavia

LIMBDI & EARTHQUAKE



EARTHQUAKE REHABILITATION PROJECT



The reconstructed Building of the Shri Mulchand Jivraj School.



The Indian Tax Landscape





Tax Laws & Article 21 of the Constitution: The New Road Ahead



Karthik Sundaram

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*See Disclaimer on page 5

Overview

The article discusses the evolving relationship between tax laws and the constitutional right to privacy under Article 21 of the Indian Constitution, particularly following the Supreme Court's judgment in K.S. Puttaswamy v. UOI. It emphasizes that any deprivation of personal liberty must adhere to legal procedures, thereby expanding the scrutiny of tax statutes beyond Articles 14 and 19 to include Article 21. The text highlights historical challenges faced in recognizing the right to privacy, referencing early Constituent Assembly debates and significant Supreme Court cases, including M.P. Sharma and Kharak Singh, which shaped India's privacy jurisprudence. The article further explores how search and seizure powers can infringe on personal dignity and liberty, illustrating the tension between state powers and individual rights. It underscores the Supreme Court's evolving interpretation that the Constitution is a living document, allowing for the adaptation of legal principles to current societal norms. Overall, the recognition of the right to privacy has profound implications on the validity of tax laws and protections against unlawful state actions.

The author would like to also acknowledge the contributions of his colleague, Advocate Athman Khilji to this Article.

Introduction

While the right to personal liberty has long been ingrained in Article 21, the Supreme Court in *K.S. Puttaswamy & Anr v. UOI & Ors*.[1] ("Puttaswamy-I"), has conclusively read into Article 21- the 'right to privacy'. Any deprivation of these rights, even temporarily, can only be in accordance with the 'procedure established by law'.

While the validity of tax statutes historically has only been tested against the fundamental rights guaranteed under Article 14 of the Constitution and Article 19 (in limited circumstances), the recognition of the 'right to privacy' as having an intimate connection to various rights under Part III, leads to a situation wherein the validity of taxing provisions must now be examined against the triumvirate of Article(s) 14, 19 and 21, and in specific - Article 21. The last decade has not only seen an expansion of the contours of Article 14 in the form of Courts routinely now applying the doctrine of 'manifest arbitrariness' as a facet of such Article, but also the expansive interpretation of Article 21, has expanded the scope of tax-related challenges while at the same time narrowing the scope of statutory provisions which limit the rights guaranteed under such Article.

Indian Constitution is viewed and interpreted as a living instrument, one that evolves with time and growing sensibilities.

This article touches upon the evolution of the 'right to privacy' under Article 21, certain aspects of its impact on tax laws, and, its effect on the applicability of the 'Fruits of the poisonous tree doctrine' in India.

Search and Seizure

Search and seizure powers often encroach upon the dignity and personal liberty of individuals,



bringing the State's exercise of such powers into direct tension with the fundamental right guaranteed under Article 21.

Early evidence of India's crossroads with the 'right to privacy' came during the Constituent Assembly Debates during the drafting of the Constitution. While there were proposals to include a (i) guarantee every citizen a right to secrecy of correspondence; and (ii) protection to be secure against unreasonable searches and seizures, these proposals were ultimately dropped on the basis that they would abrogate prosecution and investigation powers under the Code of Criminal Procedure, 1898 and the Indian Evidence Act. Whether or not the rejection of these provisions indicated a conscious decision not to protect individuals from violation of one's privacy was an issue raised before the Supreme Court in Puttaswamy-I. To this, the Supreme Court answered that the non-inclusion of such provisions could not be understood as a rejection of a right to privacy being an integral element of constitutional liberty. The Court further held that the interpretation of the Constitution cannot be

1 *(2017) 10 SCC 1.*

frozen by its original understanding, affirming that the Indian Constitution is viewed and interpreted as a living instrument, one that evolves with time and growing sensibilities.

The Supreme Court's Early Tryst with Privacy

One of the Supreme Court's earliest opportunities to deal with the recognition of the 'right to privacy' in the context of search and seizure was in *M.P. Sharma v. Satish Chandra*[2], where the Court refused to recognize the 'right to privacy' on the basis that the power is an overriding power of the State for the protection of social security, necessarily regulated by law. The Court explicitly recognized that the framers had not subjected such regulation to constitutional limitations via recognition of a fundamental right to privacy, analogous to the Fourth Amendment of the US Constitution. While the Court was aware of the American legal position, it consciously proceeded on the footing that the 'right to privacy' was not a fundamental right, and that the privileges and liberties of an individual should be interpreted accordingly.

The Court explicitly recognized that the framers had not subjected such regulation to constitutional limitations via recognition of a fundamental right to privacy, analogous to the Fourth Amendment of the US Constitution.

Subsequently, while the majority decision in *Kharak Singh v. State of UP*[3] declined to recognize the 'right to privacy' as a fundamental right under Article 21, the minority opinion of *Subba Rao J.* recognized it as such, pointing out that the security of one's privacy against arbitrary police intrusion had no less application to an Indian home than to an American one. These two decisions formed the jurisprudential foundation on the question of privacy.

Thereafter, the Court in *R.M. Malkani v. State of Maharashtra*[4] dealt with the question of admissibility of illegally obtained evidence. The Court held that evidence, even if illegally obtained, is admissible. In the context of Article 21, the Court observed that while the telephonic conversation of an innocent citizen would be protected against wrongful or high-handed interference, such protection did not extend to shielding the guilty against the efforts of the police to vindicate the law and prevent corruption of public servants.

The Court in *Pooran Mal v. The Director of Inspection (Investigation) & Ors*[5] extensively addressed search and seizure powers under tax laws. Significantly, the Supreme Court observed that the power of search and seizure constitutes only a temporary interference with the right to hold premises and articles, and reasonable statutory regulation cannot be held to be unconstitutional.

The doctrine of the "fruits of the poisonous tree" evolved in the United States, under which tainted or illegally obtained evidence was deemed to be inadmissible.

Further, it held that such measures would be objectionable only if unaccompanied by safeguards against undue exercise. Crucially, the Court noted that there was no constitutional bar to the admission of evidence obtained through an illegal search, the only test under the Indian Evidence Act being the test of relevancy.

2 *AIR 1954 SC 300.*
3 *AIR 1963 SC 1295.*
4 *(1973) 1 SCC 471*
5 *(1974) 1 SCC 345.*

The crux of the controversy, therefore, lay in the detachment between the *relevancy* of the evidence and the *legality* of the manner in which such evidence was obtained. It is, at this juncture, that the doctrine of the 'fruits of the poisonous tree' assumes relevance.

Doctrine of the 'Fruits of the Poisonous Tree'

The doctrine of the "fruits of the poisonous tree" evolved in the United States, under which tainted or illegally obtained evidence was deemed to be inadmissible. The Law Commission of India, in its 94th Report[6] released in 1983 on "Evidence obtained illegally or improperly" ("Report"), recognized that the law of evidence in India had been interpreted on a strict legalistic approach with no discretion available to exclude or disregard illegally obtained evidence. The Report classified the differing International approaches into four broad categories:

a. *The Strict Approach:* where the illegality of evidence does not affect admissibility (followed by India at the time);

b. *The Discretionary Approach:* where courts in certain countries have the power to reject such evidence at trial;

c. *The Statutory Bar:* where the statute itself bars admissibility upon violation of a substantive norm of conduct; and

d. *The Constitutional Bar:* where the constitutional guarantee or its judicial interpretation excludes evidence obtained in violation thereof.

The exclusion under the "fruits of the poisonous tree" doctrine in the United States falls within this fourth category, flowing from the reading of a right to privacy into the Fourth and First Amendments to the US Constitution. The Report's final recommendation was to confer upon Indian Courts a discretion to exclude illegally obtained evidence where its admission would bring the



administration of justice into disrepute – a recommendation that underscored the weight the Commission placed on the integrity of the judicial process.

Puttaswamy: The 'Right to Privacy' as a Fundamental Right

The underlying legal basis of the earlier decisions of the Supreme Court – that there existed no fundamental right to privacy – underwent a pivotal change with the decision of the Supreme Court in *Puttaswamy-I*, wherein the Court held that the right to privacy is an integral part of Article 21, and a fundamental right guaranteed under the Constitution.

The Court expressly overruled *M.P. Sharma* and *Kharak Singh* to the extent they had held that the right to privacy is not a fundamental right guaranteed under the Constitution. While doing so, the Court made the following observations on the newly recognized 'right to privacy':

i) Enumeration of certain facets of liberty under Article 19 does not denude Article 21 of its expansive ambit;

6 *94th Report, Law Commission of India, Oct. 28, 1983*

ii) The validity of a law must be tested not on the object of State action but on its effect on guarantees of freedom;

iii) The concept of privacy is founded on the autonomy of the individual;

Right to privacy is an integral part of Article 21, and a fundamental right guaranteed under the Constitution.

iv) Human dignity is the unifying factor that brings human rights into one whole, and privacy ensures the fulfilment of dignity;

v) Privacy constitutes the foundation of all liberty, for it is in privacy that the individual decides how liberty is to be exercised; and

vi) The constitutional right to privacy cannot be negated merely because a statutory right exists.

Critically, the Court formulated a three-prong test to examine situations that warrant State interference with the right to privacy under Article 21: First, there must be a law in existence to justify the encroachment in the nature of a legitimate State aim. Second, the nature and content of the law must fall within the zone of reasonableness mandated by Article 14 and be amenable to testing on the anvil of the doctrine of manifest arbitrariness. Third, the doctrine of proportionality must ensure that the nature and quality of the encroachment is not disproportionate to the purposes of the law.

Shaping the 'Right to Privacy' – Puttaswamy-II

Since the right to privacy under Article 21 can be curtailed only in accordance with the "procedure established by law", the scope of this expression warrants attention. The concurring opinion of *Nariman J.* in *Puttaswamy* emphasized that this requirement encompasses both substantive and procedural due process, a position now settled in Indian constitutional law as applicable to the right to life and personal liberty. In *K.S. Puttaswamy & Anr v. UOI & Ors*[7] ("*Puttaswamy-II*"), where the constitutional validity of the Aadhaar Act was challenged, the Court applied the proportionality test as distilled from the Court's earlier decision in *Modern Dental College v. State of M.P.*[8]. The four parameters require that:

i) a restrictive measure have a legitimate goal;

ii) that it be a suitable means of furthering that goal;

iii) that no less restrictive but equally effective alternative exists; and

iv) that the measure not have a disproportionate impact on the right-holder.

The legitimate goal must be of sufficient importance to warrant overriding a constitutionally protected right, and the extent of interference must be proportionate to the need. Additionally, the Court articulated the "reasonable expectation of privacy" test, holding that not all matters pertaining to an individual qualify as inherent to the right to privacy; i.e., only those over which a reasonable expectation of privacy exists are protected under Article 21.

the Court articulated the "reasonable expectation of privacy" test, holding that not all matters pertaining to an individual qualify as inherent to the right to privacy;

7 *(2019) 1 SCC 1.*
8 *(2016) 7 SCC 353.*

Conclusion

Post *Puttaswamy-I* & *Puttaswamy-II*, the recognition of privacy as a fundamental right under Article 21 recasts the constitutional landscape governing search and seizure powers in tax legislation. First, the statutory provisions as regards search and seizure, insofar as they limit the 'right to privacy' now guaranteed under Article 21 of the Constitution, must satisfy the test of substantive and procedural due process and, more importantly, the three-fold test set out in Puttaswamy. Such legislation can now be tested both on the doctrine of proportionality as well as the doctrine of manifest arbitrariness. Second, even where the statutory provision is valid, individual acts violative of the law or prescribed procedure can be challenged as being violative of the fundamental right to privacy.

Importantly, the admissibility of illegally obtained evidence sits on a tenuous ground, given that the 'right to privacy' has been recognized as a fundamental right under Article 21. To proceed on the basis that evidence obtained illegally remains admissible simply because no statute expressly bars it, is a proposition that goes against the higher right of privacy guaranteed under Article 21. The Court in *Puttaswamy-I*, has clearly held that the 'right to privacy' can only be restricted as per the procedure established under law, encompassing both substantive and procedural due process. The concurring judgment of *Sanjay Kishan Kaul J*., aids this interpretation by observing that the extent of interference with the 'right to privacy' must be proportionate to the need for such interference. Even if such interference is warranted, there must be procedural guarantees in place to protect against the abuse of such interference.[9] Therefore, the judicial intent is unequivocal insofar as it intends to curb any interference by State and non-State actors with an individual's 'right to privacy' *sans* the authority of law.

The Bombay High Court in *Vinit Kumar v. CBI*[10] and the Madras High Court in *P. Kishore v. Secretary to Government of India*[11] have also endorsed this view, the latter noting that the jurisprudential basis of earlier decisions like *Malkani* stands altered post Puttaswamy and that an unconstitutional order is void under Article 13 with no rights or liabilities flowing from it. The Madras High Court in *SNJ Breweries v. PDIT (Investigation)*[12] had observed that violation of the safeguards relating to search would render the search not only illegal but unconstitutional, the sequitur of which would be that such action is rendered void.

If one views these developments through the lens of the recommendations contained in the 94th Law Commission Report, the practice



across jurisdictions is that evidence obtained in violation of a constitutional guarantee or judicial interpretation of a constitutional guarantee is excluded from use at trial. This is the '*fruits of the poisonous tree*' doctrine as evolved in the USA. Once the 'right to privacy' has been recognized as a fundamental right guaranteed under the Indian Constitution, there is no reason to adopt a different approach and not give full play to the '*fruits of the poisonous tree*' doctrine.

9 *Para 638, Concurring Judgment of Sanjay Kishan Kaul J. in Puttaswamy.*
10 *2019 SCC OnLine Bom 3155.*
11 *2025 SCC OnLine Mad 3053.*
12 *[2024] 468 ITR 37 (Mad) (HC).*

Privacy vs. The Taxman:



The Jurisprudential Shift

From Rejection to Fundamental Right

Early rulings denied a fundamental right to privacy; the Puttaswamy judgment reversed this.





LEGAL ERA: PRE-PUTTASWAMY	LEGAL ERA: POST-PUTTASWAMY
Admissibility: Admissible If relevant	**Admissibility:** Potentially Inadmissible
Basis: Statutory Authority only	**Basis:** Substantive & Procedural Due Process

Expansion of the Constitutional Triumvirate

Tax statutes are now scrutinized under Article 21 alongside Articles 14 and 19.

Search as "Temporary Interference" No More

Previously viewed as minor interference, search and seizure now directly impacts human dignity.

The New Era of Article 21

The New Standard for State Interference

The Three-Prong Legality Test



1. VALID LAW
Requires a valid law

2. LEGITIMATE AIM
Requires a legitimate aim

3. STRICT PROPORTIONALITY
Requires strict proportionality.





CONSTITUTIONAL PROTECTION



Fruits of the Poisonous Tree

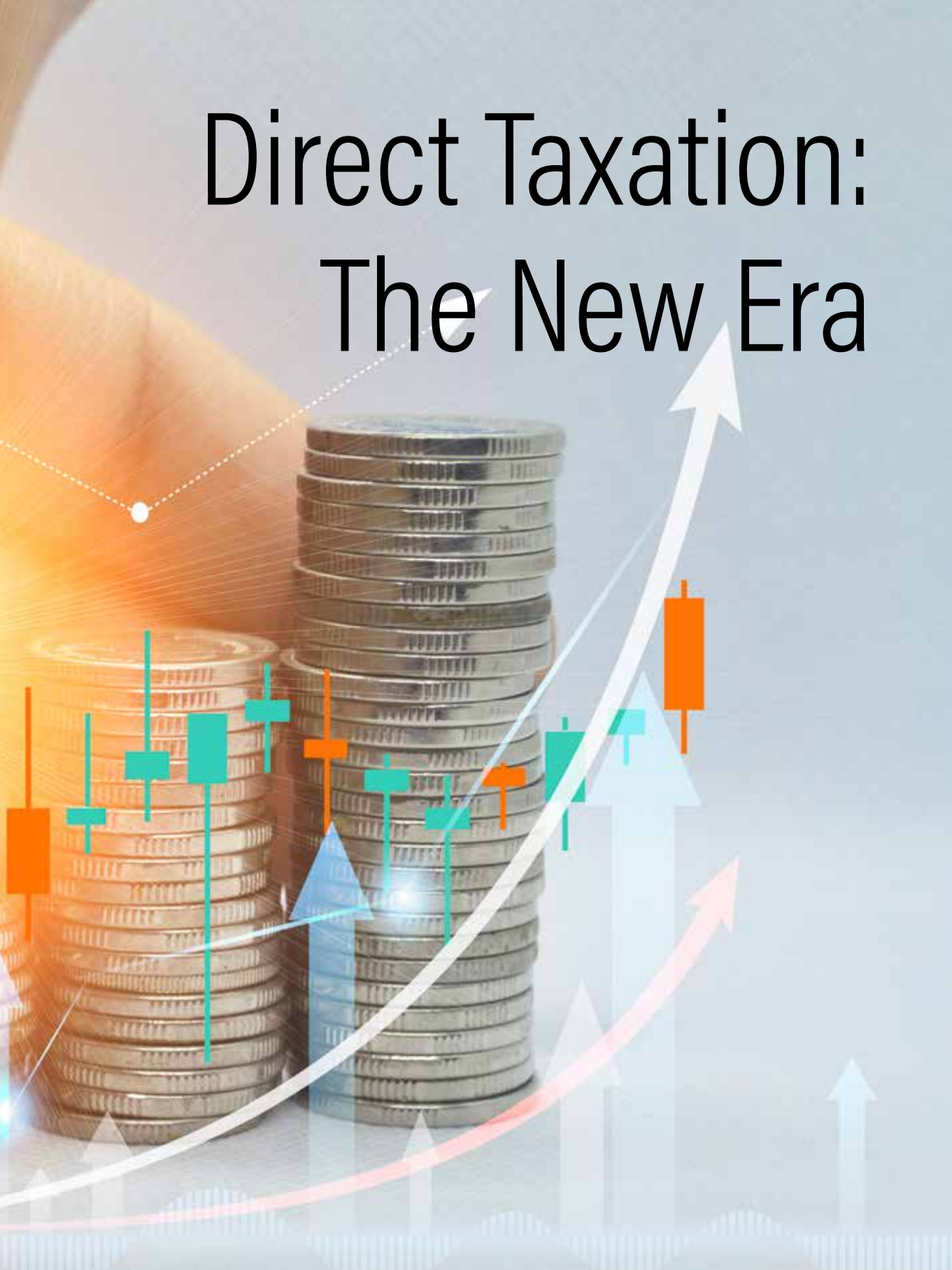
Illegal searches may render resulting evidence void under constitutional protections.

The Proportionality Parameter

Restrictive tax measures must be the least intrusive means to achieve a goal.


229.81
+1.63
289.71
+6.95
181.79
+0.28
13.21
+0.00
337.58
+5.53
133.49
+1.29
114.74
+1.26

Direct Taxation: The New Era



New Income Tax: Blueprinting a Modern Tax Code for a $10 Trillion Economy



P V Srinivasan

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*See Disclaimer on page 5

Overview

The article discusses the need for a modernized Income Tax framework in India as it aspires to transition into a $10 trillion economy. The existing Income-tax Act of 1961 is considered outdated, primarily catering to a $4 trillion economy and lacking sufficient provisions for international collaboration against tax evasion and base erosion. To address these challenges, a shift towards a group taxation regime is proposed, recognizing the significance of multinational enterprises (MNEs) in driving economic growth. Key benefits of this regime include eliminating economic double taxation within corporate groups, simplifying transfer pricing, and reducing reliance on low-tax jurisdictions. By enabling tax consolidation, it aligns with the needs of MNEs structured as integrated businesses rather than distinct entities. The proposed framework also aims to enhance compliance efficiency and reduce administrative costs, while ensuring transparency and accountability in tax administration. Overall, the article underscores that a robust taxation system is essential for fostering a more interconnected and growth-oriented economy.

Introduction

The Income-tax Act 1961 remained in force for almost six and a half decades, a period during which the Indian economy transitioned from a closed economy, regulated by licenses and permits, to a major economy growing from $39.23 billion to $3.92 trillion. Even after the 1991 economic liberalisation, the Act remained designed for unitary taxation, relying on bilateral tax treaties to provide relief for taxation of cross-border transactions. The Income-tax Act 2025, which substituted the 1961 Act, aims at simplification and reduction of litigation, without deviating from the unitary taxation principle. A design, deficient for a $4 trillion economy, will be inadequate for a $10 trillion economy when India is heavily interconnected with other large economies and increasingly relies upon international collaboration to prevent tax evasion and base erosion.

The Income-tax Act 2025, which substituted the 1961 Act, aims at simplification and reduction of litigation, without deviating from the unitary taxation principle.

The changes that the domestic tax legislation may adopt for a $10 trillion economy are stated below –

Group taxation regime[1]

a) The unmissable feature of a large economy is the operation of multinational enterprises (MNEs) headquartered in that economy. The diversified growth of such MNEs results in growth of the economy. Such MNEs operating at global scales grow not only organically but also inorganically through mergers and acquisitions. Proliferation of entities for such MNEs is obvious. India, to manage such a scale, must move to a group taxation regime, despite being designed on a unitary approach, with multiple benefits, some of which are listed herein below –

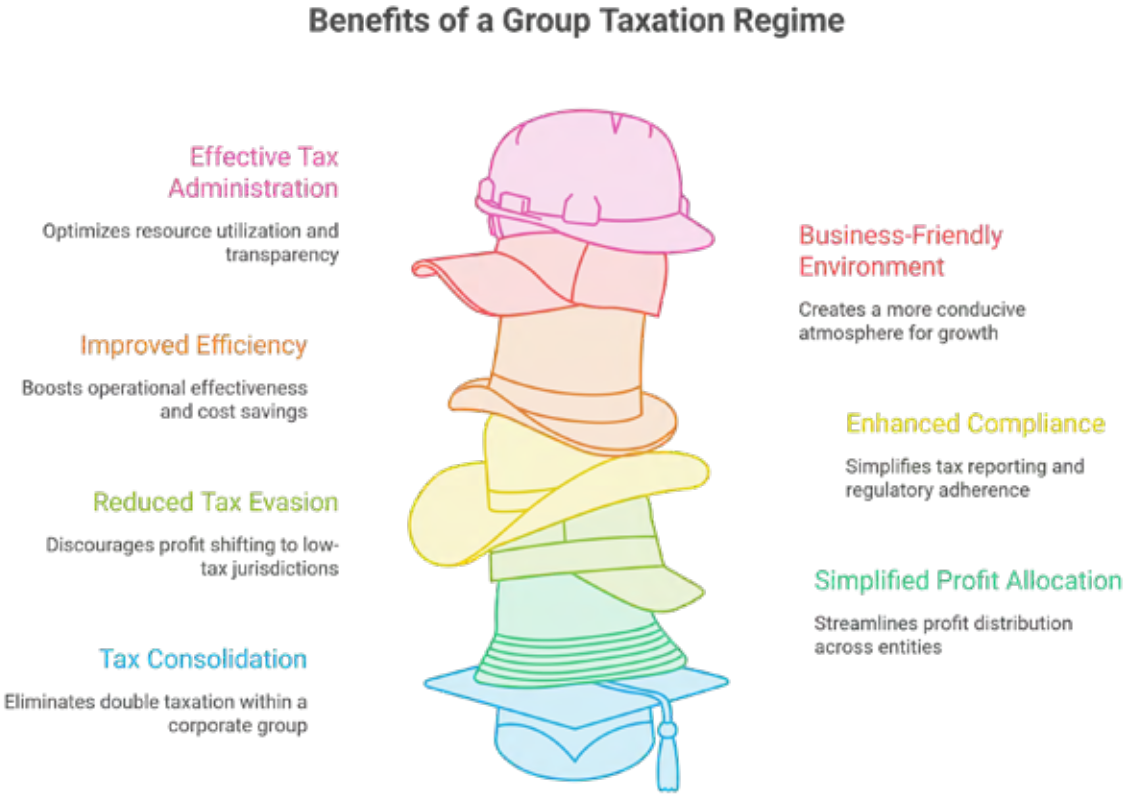
b) In a corporate group, the corporate shareholder is only in legal form, and tax consolidation is a mechanism to eliminate the multiple taxation within the corporate group. Tax consolidation will help in removing the anomaly of economic double taxation of profits and achieve economic allegiance. With all constituent members of the corporate group effectively disregarded for tax purposes, tax consolidation allows no tax deferral.

c) A unitary approach directly tackles the three attributes that have hitherto created fundamental problems for taxation viz., (a) simplify the mechanics of TP or profit allocation; (b) eliminate the need to shift profits to low tax jurisdictions; and (c) reduce the rigor in applying treaty qualifications and attributes of source and residence.

d) A mature framework for the preparation of consolidated financial statements augurs well for the adoption of a unitary taxation approach. With MNEs becoming IFRS compliant, the stage is positively set up to embrace a regime of tax consolidation.

e) The BEPS project considers large MNEs as a single international fiscal group with many constituent entities. Going forward, tax administrations of countries will proceed to re-determine profits/income disregarding the financial statements of constituent entities of an international fiscal group. This approach is consistent with the business outlook of most MNEs, which control and manage their global businesses in business verticals, offering goods or services to customer clusters. Growth and diversification of a business enterprise may result in different structures in different

1 *Tax Consolidation – A Global Perspective on Economic Unity by P V Srinivasan published by OakBridge.*



countries/territories, while geographical boundaries have no denotation for a business enterprise except for meeting compliance requirements related to carrying on business. A business expands and conducts operations via a parent-subsidiary structure created in business interest and as adjudged conducive to the whole business. For such MNEs which control and manage industries as business verticals, the parent-subsidiary structure is mostly only a form, and in substance, it is a single integrated business.

f) The tax consolidation regime will substantially reduce the cost of compliance and significantly improve business efficiency. Australia explicitly set out these objectives for introducing the tax consolidation regime in its tax laws. The eventual adoption of a tax consolidation regime for a worldwide group will render several anti-avoidance provisions otiose and thereby remove complexity and enhance simplicity.

g) A formal tax consolidation regime will also be more business-friendly since statutory amalgamation is time-consuming and engages the judiciary. It will take another prolonged regulatory process to re-organise the businesses again in the future. Certain licenced businesses like financial services require the business to be carried on by separate companies for better regulation. A tax consolidation regime will go a long way in promoting efficiency in conducting diverse businesses.

h) A tax consolidation regime structurally lends itself to proper tax administration. A tax consolidation regime will help in optimal use of administrative resources. India is embarking on a new assessment procedure

to impart greater efficiency, transparency, and accountability. This is sought to be achieved by (a) eliminating interface between the assessing officer and an assessee during proceedings to the extent technologically feasible; (b) optimising utilisation of the resources through economies of scale and functional specialisation; and (c) introducing a team-based assessment with dynamic jurisdiction. Assessing the corporate group as a single taxable unit will be a natural progression to effectively achieve the intended objectives.

Augmenting Forex

India's energy needs are heavily dependent upon the import of petroleum and other products, requiring substantial forex reserves. The balance of payments is adversely impacted by the heavy import bills, in turn affecting the foreign exchange rate and the purchasing power parity. Efforts are underway for indigenous alternate sources of energy, but a $10 trillion economy will have a higher demand for petroleum and other products. Technology imports will also grow exponentially. While a manifold increase in traditional exports of goods and services will augment foreign exchange, the tax policy must encourage remittance of profits of overseas corporations held by Indian companies.

The efficacy of this policy is demonstrated by the US, where a US corporation can claim a 100% Dividends Received Deduction (DRD) for the portion of dividends received from a foreign corporation, meeting specified participation conditions. In the immediate year after the law took effect (2018), corporate remittances surged dramatically, with companies repatriating roughly $777 billion in that single calendar year[2], now sustaining a consistent baseline averaging between $250 billion and $300 billion annually[3].

Combined with domestic law provisions concerning controlled foreign corporations (CFCs), overseas companies controlled by shareholders in India will make higher remittances of dividends to India. Currently, foreign dividend income is subject to double taxation in a case where the foreign subsidiaries distributing the dividend pay taxes in their respective jurisdiction (through withholding tax). This is the case where the recipient parent companies, in turn, distribute dividends to their shareholders. DRD will help in eliminating this additional tax impact, resulting in MNEs being incentivised to repatriate the profits. This, in turn, will strengthen India's forex reserves, stabilise the exchange rate and maintain purchasing power parity.

While the US has the DRD, other major developed economies have an identical mechanism called a Participation Exemption System or a Territorial Holding Company Regime, wherein instead of assessing a standard corporate tax on inbound foreign distributions and later an offsetting credit, these economies exempt foreign-sourced corporate dividends from domestic taxation, either fully or substantially (95%).

Currently, foreign dividend income is subject to double taxation in a case where the foreign subsidiaries distributing the dividend pay taxes in their respective jurisdiction

The above mechanism, if it were to apply to other kinds of foreign earnings, such as profits of a foreign branch, foreign capital gains, royalties and fees for technical services, interest, etc., will have a dramatic effect on augmenting India's forex reserves. It will further propel Overseas Direct Investments.

2 *Eric Morath and Theo Francis, U.S. Companies Brought Home More Profits From Overseas, The Wall Street Journal, 20 June 2019, https://www.wsj.com/articles/u-s-companies-transferred-more-profits-from-overseas-in-2018-than-estimated-11561044921*

3 *Direct Investment by Country and Industry, 2023, Bureau of Economic Analysis, 23 July 2024, https://www.bea.gov/news/2024/direct-investment-country-and-industry-2023*



Single rate of taxation

For entities, there should be a single tax rate that subsumes all surcharges and cesses. Levying a surcharge or a cess on income tax may be a prioritisation for raising revenues by the Union Government, but for the taxpayer, a single rate communicates a better understanding of the impact and lends simplicity.

Unified approach to pricing / valuation

The transfer pricing regime has progressed commendably well in about two and a half decades of its coming into force. Opting for safe harbour rules will bring early certainty for most assessees since the threshold eligibility has been substantially enhanced. Likewise, the Advance Pricing Agreement (APA) program can be showcased as a reliable time-bound measure for early certainty in transfer pricing matters. Other than these two measures, the regular transfer pricing tax assessments result in litigation. In principle, the requirement of open market value for customs duty levy and price paid for acquiring imported goods for transfer pricing provisions serve contrasting revenue objects. However, both hinge on valuation. The case for import of services is no different. For taxpayers having transactions above a threshold value, the Government must create a common framework for valuing goods (including securities) and services for customs, GST, income-tax, and RBI.

Measures to broaden the tax base

The tax return is a mechanism for recognising trends in income and asset distribution. Even persons having exempt income like agricultural income but otherwise below the threshold for mandatory filing of return must be required to file a tax return so that the information collected by the Government is complete. The Government must be as keen to know the agricultural holdings and the income therefrom as other asset classes. This will prevent revenue leakages, enable better revenue mobilisation, aid economic stability, and enable redistribution of wealth. Like large businesses are required to furnish a tax audit report for business income, there should be a report for agricultural income. All these measures will not vitiate the constitutional position of agricultural income falling outside the tax net[4].

The Advance Pricing Agreement (APA) program can be showcased as a reliable time-bound measure for early certainty in transfer pricing matters.

4 *Article 274 of the Constitution of India.*



Limited Inheritance Tax

Quite a few developed countries levy inheritance tax on assets located in their jurisdiction inherited by foreign residents, with a threshold exemption lower than for their citizens/residents. Such a charge falls upon inherited assets in such jurisdictions of Indian residents as well. India can have a counterpart levy of inheritance tax in respect of those assets, with an enablement of tax credit. Structurally, this will contribute to widening the tax base.

Robust Dispute Resolution

The perception of Indian tax administration being litigation-prone has been substantially mitigated with technology-aided administrative reforms. Several landmark policy initiatives have been introduced to bring about early certainty. However, dispute resolution remains a pain point and has rather accentuated in recent years. The accumulation of first-level appeals causes frustration[5]. The first appellate authority should be encouraged to pass several issue-based orders arising out of a single appeal so that at least settled issues can be resolved at that stage itself. The reluctance to accept appellate orders and refrain from pursuing further appeals is also adding significantly to the cost of compliance, apart from enhancing uncertainty. The revenue should be trained to make tax adjustments only in high success probability cases. Further appeals by the revenue against appellate orders should be a centralised activity in a resolute team with no other responsibility other than dispute resolution, as there will be a possibility to assimilate common issues and have a considered position. Instead of several High Courts as jurisdictional appellate forums, a national tax tribunal to decide on substantial questions of law, with benches in leading locations, must be preferred.

Good Faith Implementation of Tax Treaties

Bilateral tax treaties facilitate cross-border trade. However, there are several subjective factors that weigh in for treaty qualification. Acceptance of tax residency based on a certificate issued by a foreign jurisdiction (TRC) has now been done away with[6]. There was no requirement for the



5 *5.5 lakh cases pending - https://dataful.in/datasets/20870/*

6 *AAR (Income Tax) and Others v. Tiger Global International II Holdings in 182 taxmann.com 375 (SC).*



Supreme Court to see the trade impact between negotiating countries while pronouncing the judgment[7] on the MFN[8] clause and settling the matter as to when the Protocol comes into effect, even when the other contracting states had already, in good faith, implemented the Protocol. Consequently, Switzerland, through the Swiss State Secretariat for International Finance (SIF), stated that "*India interprets the MFN provision differently and does not apply it. In order to restore the reciprocity of the agreement, Switzerland will revert to the previous rate of 10% from 1 January 2025. This measure will not affect the free trade agreement between the two countries or Swiss investments in India. On the basis of the Indian Supreme Court ruling, the Swiss competent authority acknowledges that its interpretation of para. 5 of the Protocol to the IN-CH DTA is not shared by the Indian side. In the absence of reciprocity, it therefore waives its unilateral application with effect from 1 January 2025. Accordingly, income accruing on or after 1 January 2025 may be taxed in the source State at the rates provided for in the DTA IN-CH regardless of the application of para. 5 of the Protocol to the DTA IN-CH.*" The tax treaty must be viewed as a bilateral diplomatic arrangement rather than as revenue legislation.

Non-residents availing treaty relief are required to file a tax return in India, even after the full tax liability on the chargeable income is discharged by way of withholding tax in respect of each transaction.

Non-residents availing treaty relief are required

7 *Assessing Officer Circle (International Taxation) v. M/S Nestle SA in 2023 INSC 928.*

8 *Most Favoured Nation.*

to file a tax return in India, even after the full tax liability on the chargeable income is discharged by way of withholding tax in respect of each transaction. These are hurdles in the good faith implementation of a bilateral treaty. Thus, non-residents are treated on a worse footing compared to residents, since the residents have the privilege of paying the tax in instalments as advance tax and the TDS is only a nominal withholding. These factors are a hindrance to free trade and impediments for India to become a $10 trillion economy. India has adopted these measures, which are symptomatic of the unitary method of taxation.

Information Technology Framework

India has employed a very advanced IT framework, beyond what is employed in other developed economies like the US, China, and the UK. While the tax portal handles a large volume of taxpayers, the data adheres to the Pareto principle. Many taxpayer services remain either unresolved or stuck in perpetuity. There is no speedy resolution mechanism for business income taxpayers. The technology is used for assimilation of data, random as well as structured, which in the aggregate forms a significant source of information for the Government. As of now, it is being operated as if it were a tool enabling the taxpayers only to file returns and to respond to communication originating from the tax collector. Further, while it is understandable to have separate portals for direct and indirect taxes because of the flow of transactions and the nature of taxes, the taxpayer is compelled to carry out extensive reconciliations only to demonstrate a common information source. Such an onerous task should be discouraged for India to be seen and perceived as a business-friendly jurisdiction. The deployment of technology is for ease of tax administration and not to add a layer that the taxpayers will have to separately handle. The tax portal must operate as a common tool both for the revenue and for the taxpayer. It must be a tool for administering the provisions of the Act, conferring obligations with rights on the



taxpayer. Tax collection and granting of refunds must be without human intervention. The user experience of taxpayers must be world-class, which currently is not the case.

Conclusion

The 1961 Act, albeit unintentionally, somewhat inherited the features of the 1922 Act of British India. Then the mindset was only to extract revenues from the Indian soil. The only significant noteworthy change has been rate rationalisation

> The tax portal must operate as a common tool both for the revenue and for the taxpayer.

and sectoral exemptions (like source-based deductions), which alone could partially enable an overall growth of the Indian economy. It is utmost necessary that the vision of a $10 trillion economy seeps into the architecture of the Income Tax Act and, more critically, into the tax administration.

Blueprint for a $10 Trillion Economy: Modernizing India's Tax Code

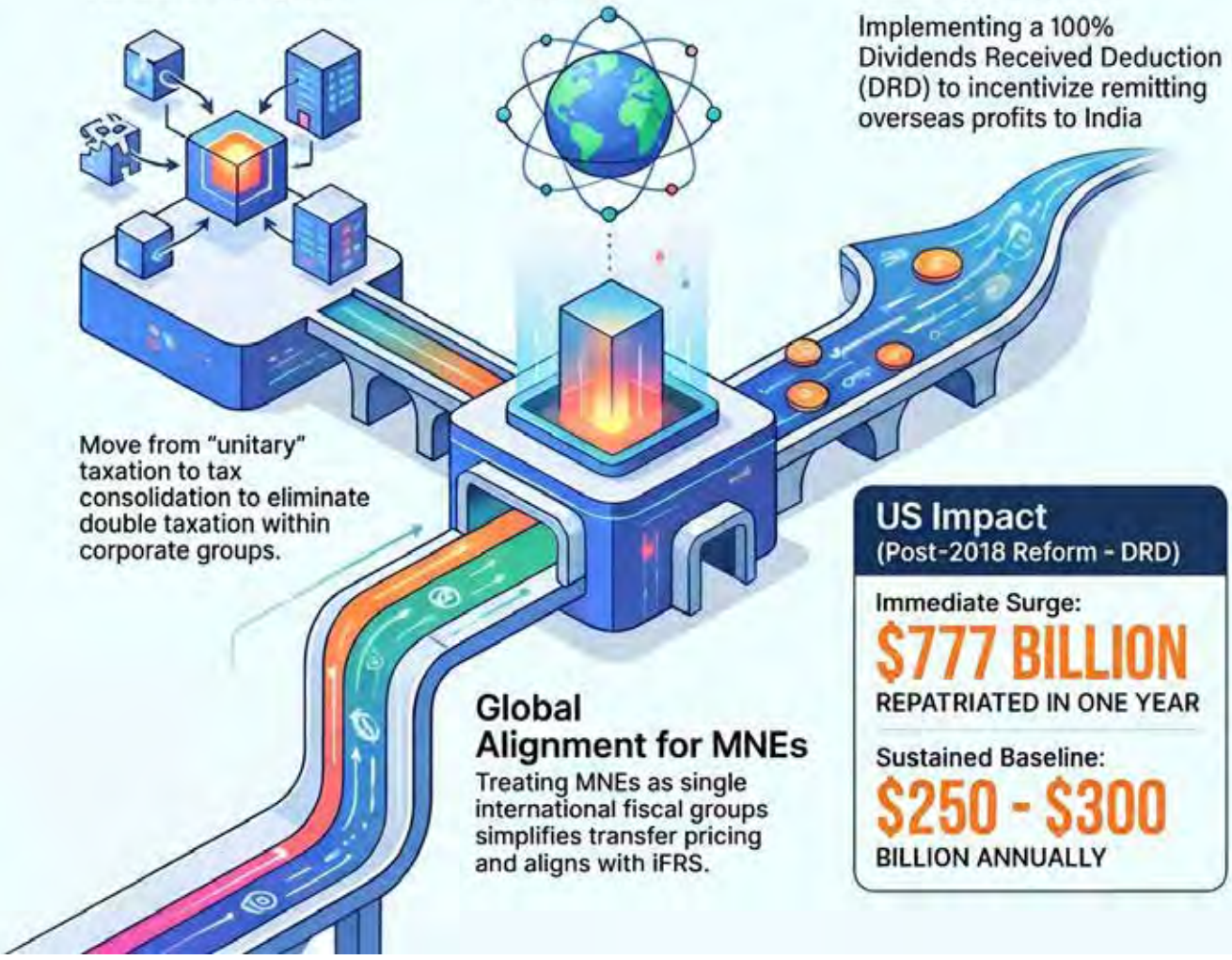
STRATEGIC STRUCTURAL REFORMS

Shift to a Group Taxation Regime

Global Alignment for MNEs

Augmenting Forex via Repatriation

Implementing a 100% Dividends Received Deduction (DRD) to incentivize remitting overseas profits to India



Move from "unitary" taxation to tax consolidation to eliminate double taxation within corporate groups.

Global Alignment for MNEs

Treating MNEs as single international fiscal groups simplifies transfer pricing and aligns with iFRS.

US Impact
(Post-2018 Reform - DRD)

Immediate Surge:
$777 BILLION
REPATRIATED IN ONE YEAR

Sustained Baseline:
$250 - $300
BILLION ANNUALLY



Single Rate of Taxation

Replace complex surcharges and cesses with one transparent tax rate for better predictability.

National Tax Tribunal

Establish a centralized tribunal to resolve legal questions quickly and reduce prolonged litigation.

World-Class IT Framework

Transforming the tax portal into a tool for seamless collection and intervention-free refunds.

The Concept of 'Income' – Then, Now and the Future



CA Pinakin Desai



CA Sneh Machchhar

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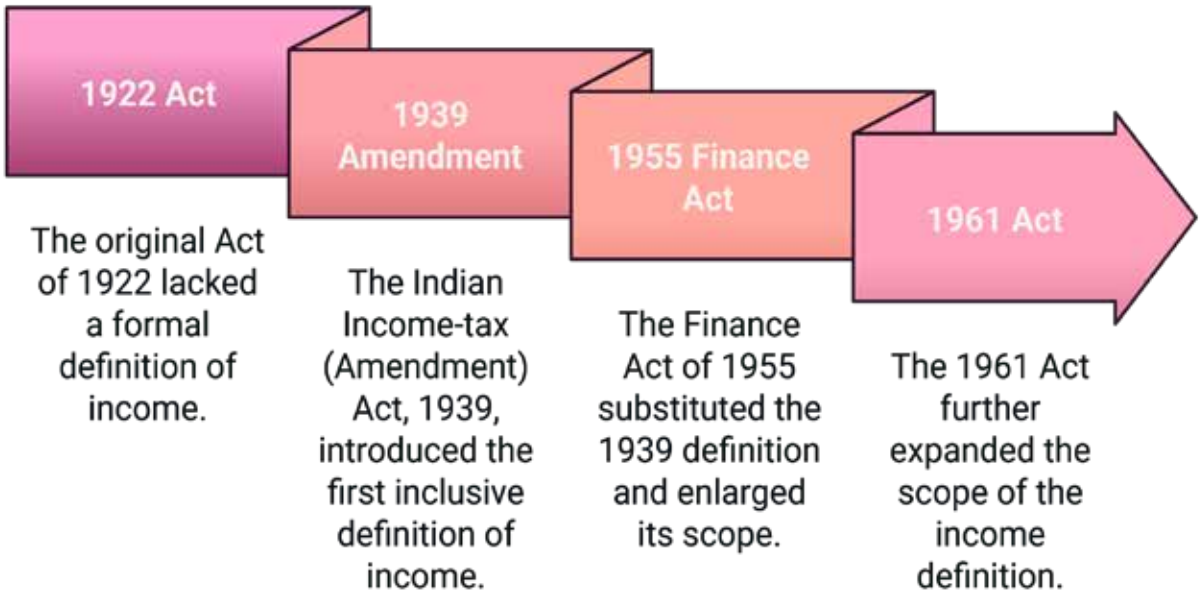
*See Disclaimer on page 5

Overview

The concept of "income" under the Indian Income-tax Act has traversed a remarkable evolution, viz. shift from an undefined term in the 1922 Act to an expansive scope and an artificial construct under the 1961 Act. Initially, Privy Council's Shaw Wallace dictum, defined income as a periodical return from a definite source, likely to flow in with regularity or expected regularity, but excluding windfalls or capital receipts. Legislative interventions, commencing with the inclusive definition in 1939, have progressively broadened this scope overriding many classical principles such as "tax on real income", "no income from self" etc. Capital receipts, once immune from tax, now face taxation in diverse forms such as capital gains, gift receipts, and tax on subsidies, often via deeming fictions that prioritize fiscal policy over economic reality. The rise of notional incomes—such as deemed dividend, custody of employee contributions, and carbon credits—further depart from determination of real income. Introduction of novel fictions of law have redefined timing, place and scope of accrual of income in cross-border and digital transactions. Looking ahead, global frameworks like the OECD's Pillar One and Two signal a future where income taxation may align with digital presence and user nexus. This article takes note of erosion of jurisprudential purity in favour of a legislative edifice driven by desire to broad base source rule, address fiscal expediency and follow international harmonization.

*Assisted by Ms. Shreya Munot.



Legislative History: A Journey From Silence To Statutory Supremacy

The ever-expanding contours of "Income" under the Income-tax Act: From judicially crafted principles to statutory deeming fictions.

1922 Act had no definition of 'income'!!

The concept of "income" has arguably remained one of the most elusive under the Indian Income-tax Act ("ITA"). Ironically, despite being the central subject of taxation, the Act has consistently refrained from assigning a definitive meaning to the term. Section 2(24) merely offers an inclusive definition, expanding the scope rather than setting boundaries.

The rationale is understandable. It was always realized that in the midst of diversity of complex and curious transactions or arrangements in the field of trade, commerce, industry, finance, social or domestic relationships, involving money or money's worth or articles, it would be impossible to exhaustively define the term "income". No legislature has therefore yet attempted to define income, nor have the courts, nor the economists.

> The Indian Income-tax (Amendment) Act, 1939, introduced, for the first time, an inclusive definition of the word 'income' as clause (6C) of section 2 of the 1922 Act.

As we flash back to the year 1922, the annals of history throw up some interesting features. It took some time for the authors to believe that the original Act of 1922 was bereft of formal definition of income. As per Sampath Iyengar[1]:

1 *Commentary on Income Tax Act by Sampath Iyengar (13th Edi-*

"'Income' is a word of elastic import. It has to be construed in the widest possible terms, notwithstanding its inherent limitations. The Indian Income-tax (Amendment) Act, 1939, introduced, for the first time, an inclusive definition of the word 'income' as clause (6C) of section 2 of the 1922 Act. The definition was substituted by the Finance Act, 1955, and its scope enlarged. The 1961 Act enlarged further the scope of this definition. By enacting an inclusive definition of income in this clause, as also in the one given in clause (6C) of section 2 of the 1922 Act, the legislature extended the connotation of the word 'income' so as to include within its ambit certain classes of income which, but for this inclusive definition, would have fallen outside its scope"

Income has been likened pictorially to the fruit of a tree, or the crop of a field. It is essentially the produce of something which is often loosely spoken of as 'capital'.

The first statutory definition of 'income' inserted in 1939[2], though short and concise, marked the legislature's maiden step in this direction:

"(6C) 'income' includes anything included in 'dividend ' as defined in clause (6A) and anything which under Explanation 2 to sub-section (1) of section 7 is a profit received in lieu of salary for the purposes of that sub-section and any sum deemed to be profits under the second proviso to clause (vii) of sub-section (2) of section 10 and the profits of any business of insurance carried on by a mutual insurance company computed in accordance with Rule 9 in the Schedule"

Classical Judicial Exposition: Early Attempts to Define the Undefinable

In the absence of codified clarity, Indian courts performed the task of interpreting "income" with jurisprudential discipline. One of the most oft quoted decision was that of Privy Council in the case of Shaw Wallace[3] which explained the concept of 'income' as under:

"income . . . in this Act connotes a periodical monetary return 'coming in' with some sort of regularity, or expected regularity, from definite sources. The source is not necessarily one which is expected to be continuously productive, but it must be one whose object is the production of a definite return, excluding anything in the nature of a mere windfall. Thus, income has been likened pictorially to the fruit of a tree, or the crop of a field. It is essentially the produce of something which is often loosely spoken of as 'capital'. But capital, though possibly the source in the case of income from securities, is in most cases hardly more than an element in the process of production.

Capital gains became chargeable to tax for the first time via the Income Tax and Excess Profit Tax (Amendment) Act, 1947, which inserted section 12B under the Indian Income Tax Act, 1922.

This dictum was followed in *Gopal Saran Narain Singh vs. CIT,*[4] by Lord Russell of Killowen who, however, added the important amplification:

'Anything which can properly be described as income, is taxable under the Act unless expressly exempted.'

tion, Volume 1, Page 967).

2 *Vide* section 2(d) of Indian Income-tax (Amendment) Act, 1939.

3 *CIT vs. Shaw Wallace* [1932] 2 Comp Cas 276.

4 *Gopal Saran Narain Singh vs. CIT* 3 ITR 237, 242.



The Golden ERA: Foundational Rules Governing Taxation of Income

In the above background, it may be interesting to size up some of the golden rules propounded by the Courts for determining whether a receipt does or does not constitute income. An insight into these traditional rules will, on comparison with the current law, demonstrate the long distance that the legislature has covered so as to expand – more often than not, by the stroke of artifice – concept of income. But, before we come to the mutilated and complex definition of today, may we narrate the norms of determination of income adopted a few decades back[5]:

- A charging provision of law needs to be construed very strictly. It must be clearly brought out that a receipt constitutes an income receipt.
- Capital gains became chargeable to tax for the first time via the Income Tax and Excess Profit Tax (Amendment) Act, 1947, which inserted section 12B under the Indian Income Tax Act, 1922. Indian Finance Act, of 1949, virtually abolished this levy. The levy of capital gains was revived vide Finance (No. 3) Act, 1956 w.e.f. 1 April 1957. Until the year 1957 (barring two years in the middle), a capital receipt was not regarded as a chargeable receipt. There was exposure to tax only if the receipt was of a revenue nature. On the pedestal of this principle, a person paid no tax on a receipt which was in the nature of a gift; or which was an endowment out of personal veneration; or was a subsidy receipt from the Government Authority or otherwise.

In determining income, emphasis has to be on commercial principles.

5 *While some of them may still survive, the outlook is far different today.*

- Tax could be levied on real income and not on hypothetical income. An item of income is one which a man in business would regard as his real income. If a person received any amount against a bank guarantee but the receipt is subject to dispute, it cannot be regarded as real income. Until there is a debt due and there is visibility of being able to recover the same, income could be regarded as hypothetical. A receipt does not become real income merely because it is erroneously accounted for as income.

The fair market value of converted asset, determined in terms of Rule 11UAB, is deemed to be consideration received by him for computing his business income.

- When one talked of dividend income, the reference was assumed to be corporate dividend paid by a company to its shareholders. It was unthinkable that a loan receipt by a shareholder from a company in profit could be visualized as dividend income of the borrower.
- In determining income, emphasis has to be on commercial principles. If a person converted his capital asset into stock-in-trade, the fair value of asset as on the date of introduction of asset as stock-in-trade of business can be regarded as cost of acquisition of asset to the business. At the same time, since no income can arise from self, the difference between fair value and cost of capital asset on date of conversion could not be brought to tax as income of the taxpayer[6].
- Again, since no income can arise from oneself, withdrawal of stock-in-trade by a proprietor of business did not give rise to any income even if the fair value of stock withdrawn was much higher than the cost at which asset was acquired in the business[7].
- The concept of notional taxation was almost unknown. A man could be charged to tax on income which is actually received and not on the basis of income which he could have received. If an asset was sold at a value lower than the fair value, the taxability had to be with reference to the amount actually received. The concept of transfer pricing was wholly absent. Also, if an idle asset like a vacant house property yielded no income, there can be no tax on deemed annual value. If the shares or immovable properties were transferred at less than fair value, taxpayer can be subjected to tax only on consideration received and cannot be taxed on imputed taxation.
- Tax can be on an amount which went into the pocket and not with reference to what saves the pocket. A bargain purchase cannot be regarded as income. An allowance which is in the nature of reimbursement of expenditure does not represent income.
- In a celebrated English decision[8], an employee received a suit from employer. The Court of Appeal held that the taxable benefit was not the original cost of the suit but its second-hand value at the time of receipt. The reasoning was that it became second-hand once acquired by the employee. The court rejected the argument that the benefit should be based on the cost of stitching or the retail price.
- As per judicially coined principle, surplus in the hands of a mutual body where there is identity of contribution and participation could not be classified as income.

6 *CIT vs. Bai Shirinbai K Kooka* [1962] 46 ITR 86 (SC).

7 *Sir Kikabhai Premchand vs. CIT* [1953] 24 ITR 506 (SC).

8 *Wilkins (Inspector of Taxes) vs. Rogerson (1961) Ch 133.*

- The courts did not regard a family arrangement to be giving rise to any income at the stage of inter se allotment of family assets to the family members. Such allotment was interpreted as mutual adjustment and a transfer of asset from current holder of asset to a different allottee.

While the seniors in the profession may relish the memory of these golden principles, the reality will require that we catch up on the evolution and take stock of the current status to comprehend the speed with which the legislature has eliminated or truncated the impact of golden rules.

From "No Income from Self" to Taxing Artificial Gains: An Overriding Shift

"A man cannot trade with himself or make profit out of himself" – now a faded maxim?

In case of *CIT vs. Bai Shirinbai K Kooka* [1962] 46 ITR 86 (SC), the assessee held, by way of investment, shares of different companies. She had purchased these shares at a cost which was much less than market value thereof on 1 April 1945. During the course of proceedings for assessment year 1946-47, the Assessing Officer discovered that the assessee had converted her shares into her stock-in-trade and carried on a trading activity, viz., a business in shares. He therefore computed her income for the assessment year 1946-47 on the basis of profits which she made by the sale of her shares as a trading activity, the profit being calculated on the difference between the excess of sale price over market price at the beginning of the accounting year.

On appeal, the Supreme Court held that the amount assessable to tax is the amount of accretion to business i.e. increase in the value of asset from the date on which such asset was introduced to business.

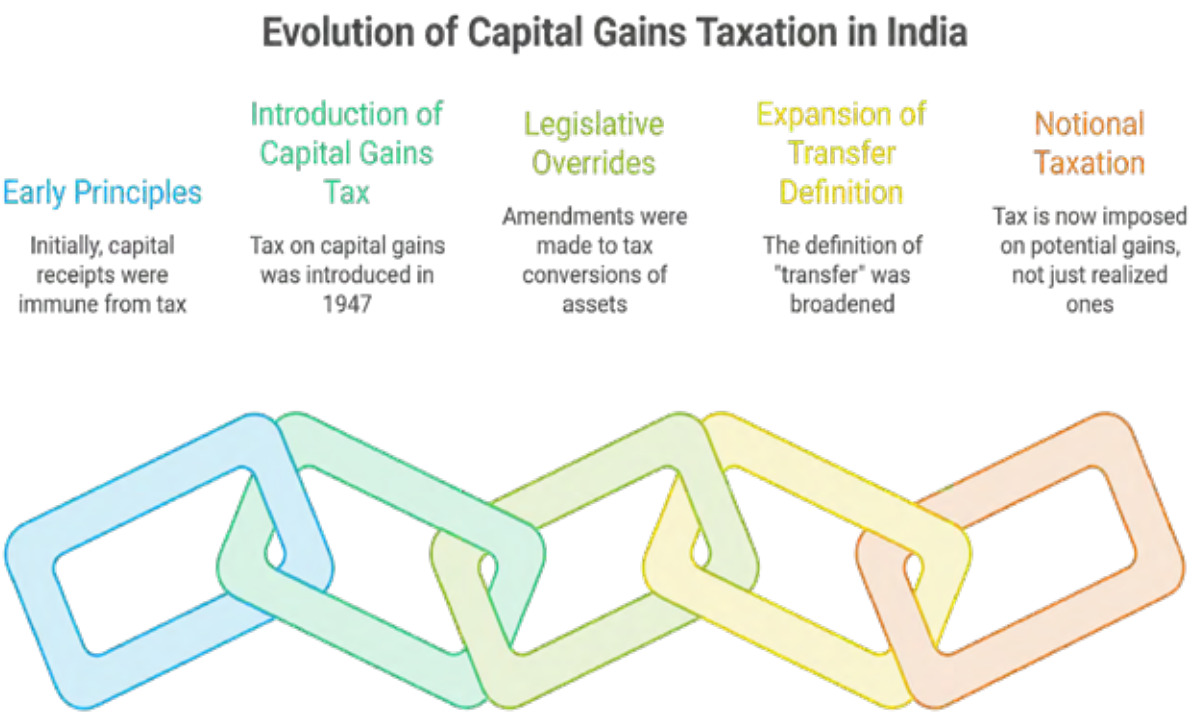
The principle laid down in Kooka's case was subsequently followed by the Supreme Court in *CIT vs. Hantapara Tea Co Ltd* [1973] 89 ITR 258 and *CIT vs. Groz-Beckert Saboo Ltd* [1979] 116 ITR 125.

Legislative override of the ratio of Shirin Kooka's case (supra)

- Section 2(47)(iv)[9] deems conversion or treatment of capital asset into stock-in-trade as 'transfer'; and section 45(2) brings to tax 'the profits or gains arising from' such 'transfer' in the accounting year in which the stock-in-trade is sold or otherwise transferred. For computing capital gains, the fair market value of the asset on the date of such conversion or treatment is deemed to be full value of consideration.
- Vide Finance Act, 2018, section 28(via) is inserted to provide that gains arising on conversion of inventory / stock in trade into capital asset shall be taxable as business income in the year of conversion. A corresponding amendment is made to the definition of 'income' under section 2(24) by insertion of sub-clause (xiia). The fair market value of converted asset, determined in terms of Rule 11UAB, is deemed to be consideration received by him for computing his business income. Further, section 2(42A) has been amended

> Section 45(1) of ITA provides that any profits and gains arising from transfer of capital asset be charged to income-tax under the head 'capital gains' as income of the previous year in which the transfer took place.

9 *Inserted vide the Taxation Laws (Amendment) Act, 1984 with effect from 1 April 1985.*



to provide that the period of holding of such capital asset shall be reckoned from the date of conversion or treatment.

Capital Receipts: From Untouchable Taxation to Universal Taxation

Can you believe capital receipts were once immune from Income-tax?

As mentioned above, until the year 1947, there was no exposure to tax on any receipt which is capital in nature. Taxability was restricted to a revenue receipt. So deep-rooted was the philosophy that capital gains taxation introduced in the year 1947 was reversed in the year 1949. The philosophy eventually lost ground in the year 1957 whereafter there has merely been splendid growth of this form of taxation.

Gradual expansion of definition of 'transfer' of capital asset and scope of chargeability under the head 'capital gains'.

- Section 45(1) of ITA is the principal charging provision for taxing capital gains income. Section 2(24)(vi) of ITA covers any capital gains chargeable under section 45 in the definition of income. Section 45(1) of ITA provides that any profits and gains arising from transfer of capital asset be charged to income-tax under the head 'capital gains' as income of the previous year in which the transfer took place. For trigger of section 45(1) of ITA, it is essential that there must be a 'transfer' of capital asset.
    - Prior to insertion of section 9B and section 45(4), it was judicially well settled that cash / capital asset received by partner on retirement or dissolution of partnership firm neither resulted in transfer of any asset from the perspective of firm[10] nor resulted

10 *CIT vs. Dewas Cine Corporation* [1968] 68 ITR 240 (SC), *Malabar Fisheries Co vs. CIT* [1979] 120 ITR 49 (SC).

in transfer of partnership interest from partners[11].

- Prior to insertion of section 46(2) of ITA, it was judicially well settled that, on liquidation, the asset received by shareholders as liquidation proceeds results in realisation of pre-existing right and not as a result of transfer of capital asset[12].

- Section 48 of ITA provides for mode of computation of capital gains income. Section 48 of ITA requires reduction of expenditure in relation to transfer of capital asset, cost of acquisition and cost of improvement from full value of consideration.
  - Judicially, it is well settled that charging provision and computation provision form an integrated code. In order to create an effective charge for capital gains income, the transaction should stand covered by charging provision as also by computation provision. Where transaction is not covered by computation provision, the transaction falls outside the scope of charging provision itself.
  - Reference may be made to SC ruling in case of *CIT vs. B C Srinivasa Setty* [1981] 128 ITR 294. In this case, SC was concerned with the computation of gains arising from transfer of goodwill of business. In absence of ability to ascertain cost of acquisition of goodwill, SC held that such asset cannot be covered within the fold of section 45 of ITA.
  - Reference may also be made to SC ruling in case of *Sunil Siddharthbhai vs. CIT* [1985] 156 ITR 509. In this case, SC was concerned with determination of full value of consideration accruing or received by partner on contribution of personal asset to firm. In absence of any precise determination of consideration accruing on transfer of capital asset, SC held that case of contribution of capital asset into firm is outside the scope of capital gains chapter.
  - It may also be observed that in the context of capital gains chapter, SC in case of *PNB Finance Ltd vs. CIT* [2008] 307 ITR 75 held that in absence of determination of cost of undertaking, amount received on compulsory acquisition of undertaking cannot fall within the scope of section 45 of ITA.

In above illustrative cases, the charge of capital gains failed either in absence of transfer of capital asset or in absence of ascertainment of cost or in absence of determination of full value of consideration. Legislature has since stepped in and has carried out several amendments in order to overrule these principles / judgements.

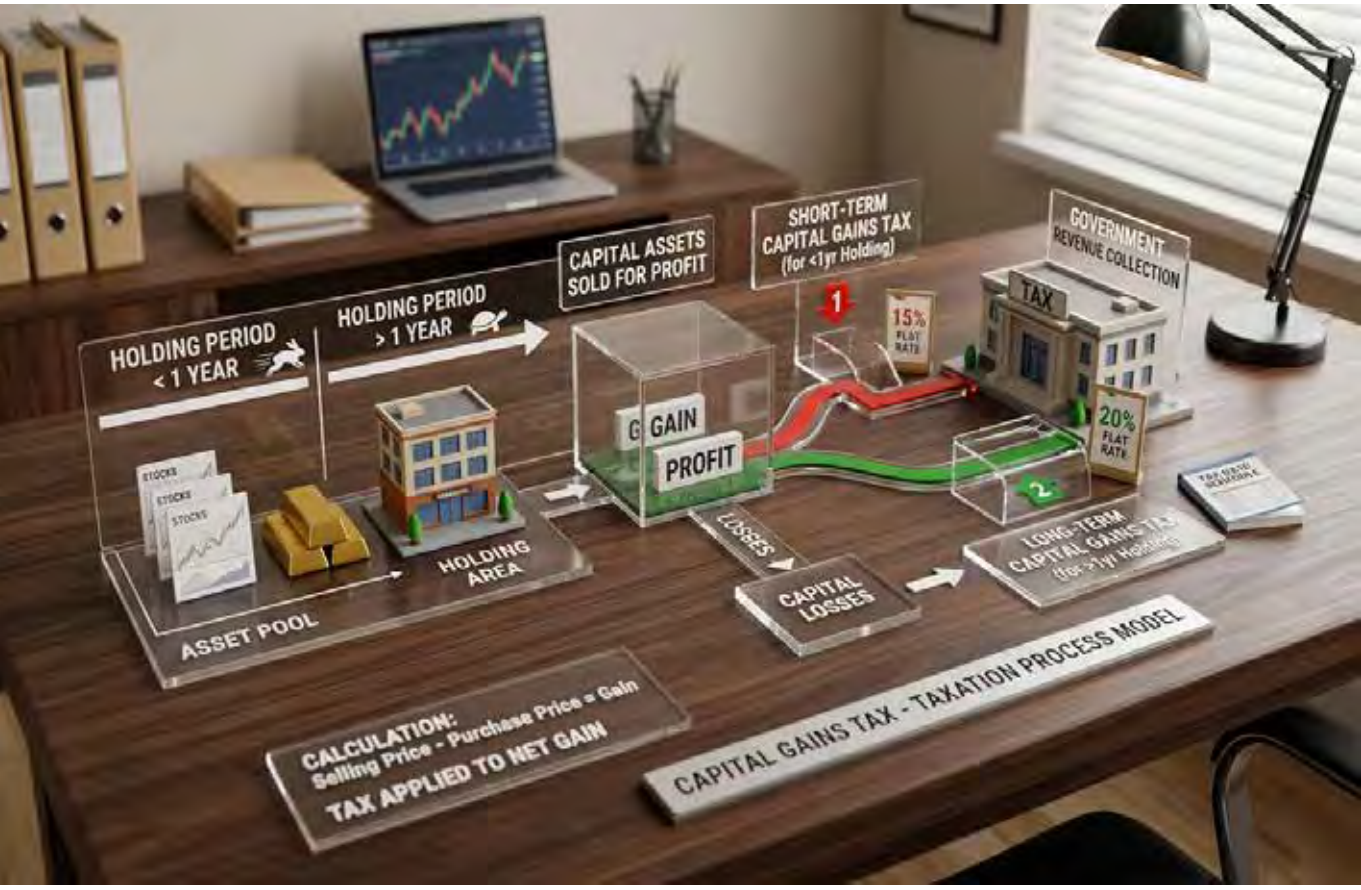
> Capital receipts, though otherwise non-taxable under classical principles, are sought to be characterised as income.

Earliest principles of taxation jettisoned by Legislative action:

- Section 9B has been inserted to provide that any receipt of capital asset or stock in trade by partners from firm, on reconstitution or dissolution of firm, shall be deemed transfer of capital asset or stock in trade by the firm. Further, for computing gains, fair market value of such capital asset or stock in trade is considered as full value of consideration accruing to the firm on transfer of asset.

11 *Sunil Siddharthbhai vs. CIT* [1985] 156 ITR 509 (SC), *Addl. CIT vs. Mohanbhai Pamabhai* [1987] 165 ITR 166 (SC), *Tribuvandas G Patel vs. CIT* [1999] 236 ITR 511 (SC), *CIT vs. R. Lingamullu Raghukumar* [2001] 247 ITR 801 (SC).

12 *CIT vs. Madurai Mills Co. Ltd.* [1973] 89 ITR 45 (SC), *CIT vs. R M Amin* [1977] 106 ITR 368 (SC).



- Section 45(4) has been inserted to provide that any cash or capital asset received by partner from firm on reconstitution results in taxable capital gains.
- Section 46(2) has been inserted to provide for charge of capital gains in the hands of shareholders on liquidation of company. For computing capital gains, cash and fair market value of asset received is considered as full value of consideration.
- Section 55(2)(a) has been inserted to provide that capital asset being goodwill of business or profession, trademark, copyright, any other intangible asset, right to manufacture, produce or process any article or thing, tenancy rights, loom hours, route permit or any other right is considered as Nil. There is, today, no such concept as a no cost asset.
- Section 45(3) has been inserted to provide that on contribution of capital asset by partner to firm, the value recorded for such asset in the books of firm shall be considered as full value of consideration accruing to a partner in lieu of transfer of such asset by the partner.
- Section 50B has been inserted to provide that net worth of the undertaking computed in the prescribed manner shall be deemed to be cost of acquisition of undertaking.
- Apart from above, Legislature has inserted several provisions in the form of sections 50C, 50CA, 50D, 50B(2)(ii) which bring in notional taxation on transfer of capital

asset. Taxpayer is subjected to tax on the consideration which he may never receive. Such notional taxation defies the theory of real income.

Legislative Attempts to Convert an Admitted Capital Receipt Into Income

The Indian tax jurisprudence had long distinguished between capital receipts, which

Carbon credits are not offshoots of business activity, but represent capital receipts, not chargeable to tax.

are not inherently chargeable to tax, and revenue receipts, which form the bedrock of income taxation. However, in recent decades, a conscious and calibrated legislative shift has been witnessed. Capital receipts, though otherwise non-taxable under classical principles, are sought to be characterised as income.

The revival and reinvention of Gift taxation:

The Gift Tax Act, 1958, was India's first attempt to tax gratuitous transfers. It imposed a levy on the donor, not the recipient, with certain exemptions. The Act was eventually abolished in 1998, reaffirming the judicial view that a gift in the hands of the donee is a capital receipt—a windfall beyond the realm of taxation.

However, the landscape changed dramatically in 2004[13], when section 56(2)(v) was inserted into the Income-tax Act, marking the reintroduction of gift taxation—this time on the recipient. Simultaneously, clause (xiii) was inserted into section 2(24) to bring such receipts within the definition of income. The provision was originally narrow in scope—applicable only to individuals and limited to cash gifts. The provision was justified as an anti-abuse measure, aimed at curbing money laundering of unaccounted income under the guise of gifts. Over time, the scope has significantly expanded from cash to immovable property, shares, securities, jewellery, bullion, artworks, etc. and from individuals to all categories of taxpayers. Gift taxation, once dormant, now operates as a far-reaching revenue mobilisation tool.

Farewell to the "Purpose Test" in subsidy taxation:

The characterisation of subsidies was, for decades, governed by judicial principles laid down by the Supreme Court[14]. The settled law was that the purpose for which a subsidy is granted determined its character. If the subsidy was to aid day-to-day operations, it was a revenue receipt whereas if the subsidy was granted in the interest of overall economic development, it bore the character of a capital receipt. The Courts were clear that the form, source, and timing of the subsidy were irrelevant and only the purpose mattered.

However, with the insertion of clause (xviii) in section 2(24), the legislature effectively overruled

Capital receipts, though otherwise non-taxable under classical principles, are sought to be characterised as income.

this jurisprudence. The sub-clause now provides that any subsidy, grant, cash incentive, duty drawback, waiver, concession or reimbursement from the Government or any authority, in cash or kind, shall be treated as income[15].

The purpose test was thus discarded in favour

13 *Vide Finance (No. 2) Act, 2004.*

14 *Sahney Steel & Press Works Ltd. vs. CIT* [1997] 228 ITR 253 (SC), *CIT vs. Ponni Sugars & Chemicals Ltd.* [2008] 306 ITR 392 (SC), *CIT vs. Chaphalkar Brothers Pune* [2018] 400 ITR 279 (SC).

15 *Unless the amount of subsidy or grant has been taken into account for determination of actual cost of depreciable asset under section 43(1) of ITA.*



of blanket inclusion. Further, section 145B(3) now deems such subsidy receipt to be income of the year in which it is received, irrespective of its link to capital or revenue expenditure. This legislative overhaul represents a complete departure from settled jurisprudence, replacing principle-based interpretation with a mechanical deeming fiction.

Taxing of carbon credits:

One of the more recent illustrations of this trend lies in the taxation of carbon credits. These credits (certificates) are issued under the Kyoto protocol to the industries in recognition of reduction of carbon emissions. These are tradable assets, often sold in international markets. Judicial pronouncements[16] consistently held that carbon credits are not offshoots of business activity, but represent capital receipts, not chargeable to tax. Yet, in Finance Act, 2017, the legislature inserted section 115BBG, prescribing a flat rate of tax on income from transfer of carbon credits. Notably, this taxation was enforced without even amending the definition of 'income' under section 2(24)

The Rise of Artificial Income in the Statute

Curious case of deemed dividend:

One of the earliest statutory inventions to expand the meaning of "dividend" in 1939[17]. The amended law provided that certain non-cash or capital distributions by a company should be treated as income in the hands of shareholders. The law covered within its net distribution

16 *CIT vs. My Home Power Ltd* [2014] 365 ITR 82 *(Andhra Pradesh), CIT vs. Subhash Kabini Power Corporation Limited* [2016] 385 ITR 692 *(Karnataka), PCIT vs. L H Sugar Factory (P) Ltd* [2017] 392 ITR 568 *(Allahabad), Ambika Cotton Mills Limited* [2021] 125 taxmann.com 206 (Madras).

17 *Vide section 2(6)(b) of Indian Income-tax (Amendment) Act, 1939.*

of debentures or debenture stock to equity shareholders; distributions made on liquidation of the company; distributions arising from capital reduction.

The definition acquired a further layer of artificiality in 1955, when the legislature provided that any loan advanced by a company in which public are not substantially interested, to a shareholder, would be deemed to be dividend income. A loan, by its very nature, is a repayable liability, and not an accretion to wealth. Yet, in its bid to curb tax avoidance through closely held companies, the legislature deemed such amounts to be dividend income.

Any loan advanced by a company in which public are not substantially interested, to a shareholder, would be deemed to be dividend income.

When the employers' custodial role becomes source of tax:

Under section 2(24)(x) of ITA, any sum received by an employer from employees as contribution towards provident fund, superannuation fund, or any other welfare fund is deemed to be income in the hands of the employer—even though such receipt is custodial in nature and received under an obligation to deposit the same. Section 36(1)(va) allows the employer to claim a deduction of this amount—provided it is deposited into the relevant fund within the prescribed due date under the applicable labour laws. However, even a minor delay—of a few hours or a single day—renders the amount permanently disallowable[18].

This is a textbook case of statutory artificiality—where income is deemed to arise not because of accrual or receipt in economic terms, but due to non-compliance with a compliance timeline

Income Reimagined: Jurisdictional Stretch

While the expansion of the definition of "income" has been a subject of extensive legislative and judicial development, a subtler but equally profound transformation lies in the alteration of the time, place, and person to whom income is attributed. This metamorphosis is driven not by the emergence of new income streams, but by statutory fictions that seek to modify the incidence of tax in artificial ways.

These provisions, operating under the guise of administrative convenience or anti-abuse intent, have resulted in significant deviations from commercial realities. Consider the following illustrations:

- **Timing Distortion**: Under section 45(1), capital gains is deemed to accrue in the year of transfer, even if part (or all) of the consideration is contingent, deferred, or uncertain. Statutory fiction disregards the fact that no income may have, in substance, arisen during that year.

What lies ahead in the evolution of income taxation remains uncertain—but what is certain is that the journey is far from over.

- **Geographical fiction**: The definition of "India" under the Income-tax Act was extended to cover 200 nautical miles by way of amendment to section 2(25A) of ITA[19] pursuant to the Territorial Waters, Continental Shelf, Exclusive Economic Zone and Other Maritime Zones Act, 1976, thereby subjecting income earned in erstwhile international waters to Indian taxation.

18 Checkmate Services (P.) Ltd. vs. CIT [2022] 448 ITR 518 (SC).

19 Vide Finance Act, 2007 w.r.e.f. 25 August 1976.



- **Attribution to another person**: The clubbing provisions (sections 60 to 64 of ITA) permit attribution of income to a person other than the one who has earned it—thereby taxing a person who may have had no control or dominion over such income.
- **Artificial situs of accrual**: Explanation 5 to section 9(1)(i) deems capital gains earned by a non-resident from the transfer of shares in a foreign company to accrue in India if such shares derive substantial value from Indian assets. This is so even if the entire transaction takes place outside India, and the legal situs of the asset is foreign.
- **Taxation of remote presence**: The scope of business connection contained in section 9(1)(i) of ITA has been significantly expanded to cover transactions or engagement by a non-resident with persons in India. This impacts non-resident who has no physical presence in India. Non-resident is made to pay tax on income though arising outside India but having presence of users / customers in India.

These examples reveal the manner in which legislative fictions are no longer confined to defining income, but are now instrumental in re-characterising the jurisdiction, timing, and ownership of income itself. Such provisions have far-reaching implications not only on cross-border transactions but also on the constitutional notion of territorial nexus and accrual.

A Glimpse into the Direct Taxes Code, 2010 – An Indicator of Future?

The Direct Taxes Code, 2010 (DTC), though never enacted, offered a revealing insight into the evolving legislative mindset on income taxation.

Section 33(1)(i) of the DTC proposed that "any accrual or receipt from, or in connection with, business" would be treated as income—shifting the tax base from "profits and gains" to mere receipts. This formulation risked bringing within the tax fold capital receipts, non-revenue inflows, or transactions devoid of profit, purely on account of their business nexus. Further, section 33(2)(xx) proposed that advances or security deposits received for the long-term leasing or transfer of business assets would be taxed as income. This marked a radical departure from settled principles, where such sums—being refundable and not reflective of gain—were never treated as income.

> Income today is no longer what accrues, arises, or is received in the ordinary course of commercial or personal activity.

Though the DTC was ultimately shelved, its provisions signalled a clear trend - a movement from taxing income to taxing inflows.

The Road Ahead: Recalibrating Taxation in a Borderless, Digital Future

As the global economy becomes increasingly digitized, intangible, and cross-jurisdictional, the traditional tenets of income taxation face unprecedented challenges. The very notion of "income" is poised for further transformation—not merely through statutory expansions, but through multilateral consensus, data-

driven enforcement, and emerging tax policy paradigms.

Initiatives like the OECD's Pillar One and Pillar Two framework, Unified Approach for taxing the digital economy, and India's own Significant Economic Presence (SEP) provisions are early harbingers of a new world order—one where nexus is no longer physical, presence is defined by user base, and income is attributed by algorithm.

What lies ahead in the evolution of income taxation remains uncertain—but what is certain is that the journey is far from over.

Epilogue to Income's Evolution: From What is Earned to What is Deemed

The odyssey of defining and taxing "income" in India has moved from a jurisprudential search for real income to a legislative architecture driven by policy imperatives, regulatory convenience, and fiscal priorities. What began as a judicial exercise in identifying recurring, source-based, and realised economic gain has now evolved into a statutory framework with deeming fictions often challenging economic reality.

This evolution is not merely terminological - it is foundational. Income today is no longer what accrues, arises, or is received in the ordinary course of commercial or personal activity. Instead, it is often what the statute declares it to be income - even if that declaration rests on fictional events, constructed transactions, or artificial situs.

While many of these measures have been justified on grounds of plugging tax leakages, curbing abuse, or harmonizing with international tax standards, they come at the cost of erosion of the classical principles of tax law, particularly those which had ensured certainty, neutrality, equity, and simplicity.



The Evolution of 'Income': From Real Gains to Statutory Fictions



The concept of "income" has evolved from an undefined term based on regularity and "real" gains into a vast legisiative edifice. Modern laws use "deeming fictions" to tax capital receipts, notional gains, and digital presence, often prioritising fiscal policy over economic reality.

1922–1960: The Era of Jurisprudential Purity

The 'Fruit and Tree' Analogy

Courts viewed income as a periodic return from a definite source, excluding windfalls.



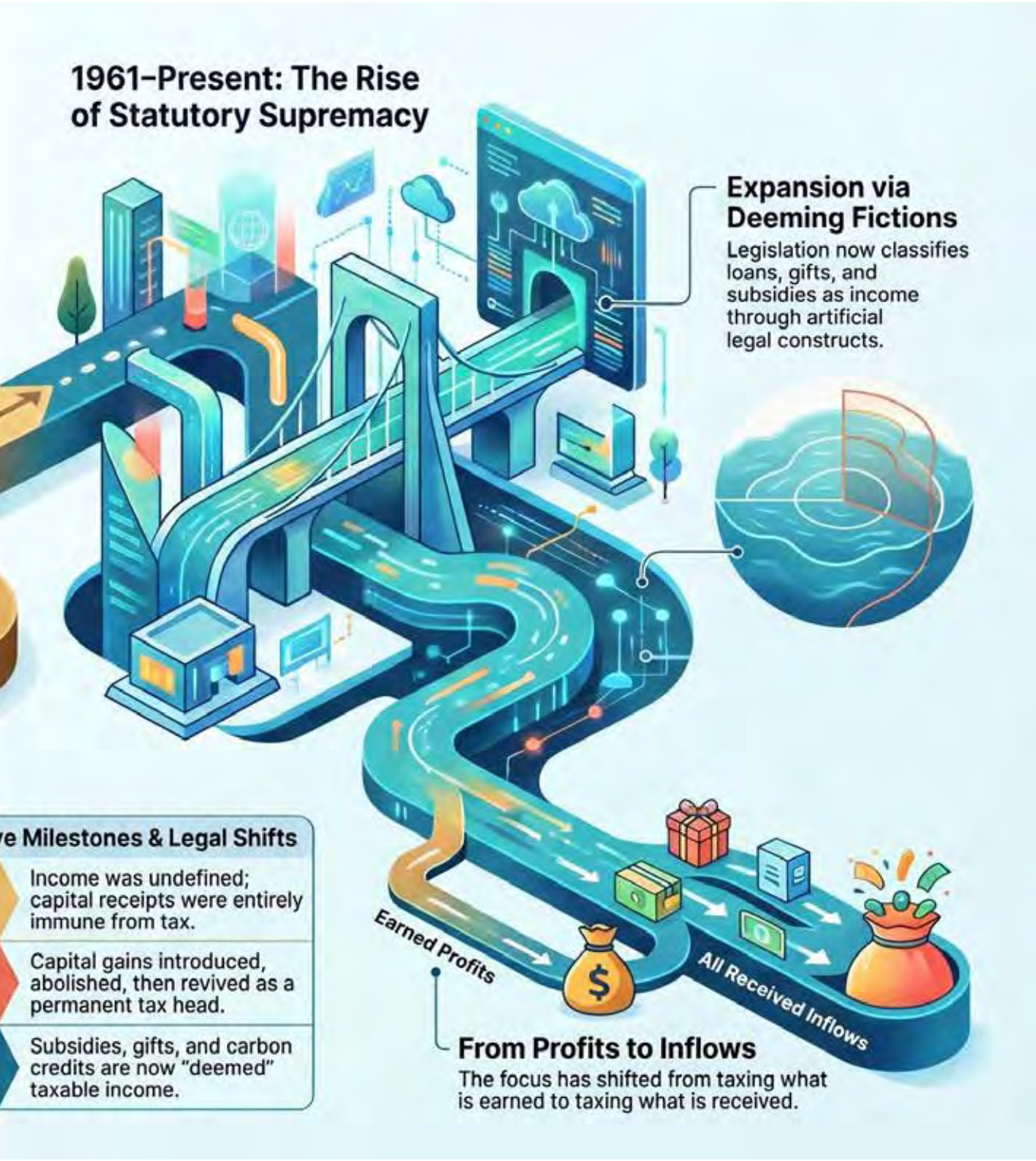
The Silence of the 1922 Act

The original Act contained no formal definition, relying entirely on judicial discipline.



The "Real Income" Principle

Tax was levied only on actual commercial profits, never on hypothetical or self-generated gains.


1961–Present: The Rise of Statutory Supremacy
Expansion via Deeming Fictions
Legislation now classifies loans, gifts, and subsidies as income through artificial legal constructs.
ve Milestones & Legal Shifts
Income was undefined; capital receipts were entirely immune from tax.
Capital gains introduced, abolished, then revived as a permanent tax head.
Subsidies, gifts, and carbon credits are now "deemed" taxable income.
Earned Profits
All Received Inflows
From Profits to Inflows
The focus has shifted from taxing what is earned to taxing what is received.

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The Future of Direct Taxes in a Digitalized Economy

Overview

The fast-moving developments in technology witnessed over the last decade or so have not only impacted business models and markets but have also led to a surge in global mobility and the geographical spread of businesses. Global tax policy has been engaged intensively with finding solutions to the tax challenges of this digitalized and globalized economy. The much heralded 2-Pillar solution agreed in October 2021, however, may be able to only partially resolve these challenges due to recent geo-political developments that have placed the multilateral reform process under considerable strain. Major direct tax issues such as the characterization of income flows in digitalized business models, the need to redefine the concept of nexus to account for the new ways of doing business, and fresh analysis of the place of accrual of income from digital services, remain to be addressed in a way that would ensure the fair and equitable taxation of cross-border incomes. Formulation of tax policy has become increasingly political, and global attention has shifted to the United Nations where an inter-governmental committee is now trying to achieve more effective and inclusive international tax cooperation, including an agreement on new ways of taxing income from services in a digitalized economy. Meanwhile, businesses are faced with increasing compliance requirements along with tax uncertainty and rising tax disputes



Akhilesh Ranjan

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Background

The last decade and a half saw far-reaching global developments in international tax policy and administration. The financial melt-down of 2008 had triggered a new resolve amongst nations, both developed and developing, to delineate, preserve and protect their tax bases and optimize tax revenues. Countries came together in unprecedented multilateral agreements that not only ushered in a new era of cooperation and tax transparency but also put in place strong mechanisms for checking tax evasion as well as tax avoidance. The Multilateral Convention on Mutual Administrative Assistance in tax matters sponsored by the Organisation for Economic Cooperation and Development (OECD) together with a large number of bilateral agreements on exchange of information equipped tax administrations with the means to track, verify and assess the financial dealings of taxpayers across the world. The Base Erosion and Profit Shifting (BEPS) project of 2012-15 introduced Country-by-Country reports by multinational enterprises (MNEs) and their exchange amongst tax administrations. The Multilateral Instrument designed under the project to speedily amend bilateral tax treaties by incorporating anti-abuse provisions such as the Principle Purpose Test (PPT) has since been ratified by 89 countries. Simultaneously, countries began enacting a host of specific as well as general anti-avoidance laws in their domestic tax legislation.

Countries came together in unprecedented multilateral agreements that not only ushered in a new era of cooperation and tax transparency but also put in place strong mechanisms for checking tax evasion as well as tax avoidance.

While these initiatives certainly augmented the capacities and capabilities of countries in their quest for domestic resource mobilization, they did not address the problem of profit-shifting to low-tax jurisdictions. More importantly, they failed to address the tax challenges of the digitalized economy.

The Digital Disruption

The BEPS Action 1 report did recognize the altered nature of global value chains and the emergence of new business models such as multi-sided platforms in the new digitalized economy, but stopped short of making specific recommendations on the tax challenges posed by these momentous changes and merely ended with the hope that the other BEPS measures that were being taken would resolve at least some of these issues and questions.

The OECD and the Inclusive Framework (IF) continued to work on the tax challenges of the digitalized economy and produced the Interim Report of February, 2018, a seminal document that comprehensively examined the effects of digitalization and how the ways of doing business had changed. The report noted that an enormous amount of data is now being continuously generated through the interaction between users and connected devices, and this data is being collected and processed in different ways by governments and businesses

An enormous amount of data is now being continuously generated through the interaction between users and connected devices, and this data is being collected and processed in different ways by governments and businesses alike.



alike. Rapid advances in digital technology allow manipulation of information at high speed and low costs. The low marginal costs of maintenance and distribution of digital goods and services, combined with the global reach of the internet have allowed digitalized businesses to quickly achieve economies of scale. Traditional markets have given way to digital markets where the consumption of a specific good or service is a function of the number of other end-users consuming the same good or service (direct network effects, e.g. social media and online gaming), or where a specific group of end-users may benefit from interaction with another group of end-users (indirect network effects which entail multi-sided markets, e.g. users of social networks interacting with advertisers on an online platform).

New business models have emerged where businesses and customers or users or clients interact through different types of interfaces, such as those in multi-sided platforms where suppliers are able to interact with users and customers across different sides of the platform. The traditional concept of value chain where value creation begins with raw materials and proceeds sequentially through steps in a linear production process, is no longer considered adequate. Value creation in the new business models of the digitalized economy has become much more complex. Studies cited in the report speak of 'value networks', which create value by using a mediating technology to create a relationship between suppliers, users and customers (as in multi-sided platforms), and 'value shops' that create value by marshalling resources in the form of hardware, software and specialized knowledge to resolve customer demands (as in single-sided models like cloud computing and medical diagnostics).

The development of new technologies and digital products has also permeated global financial markets. An entirely new type of asset referred to as crypto asset has been created by cryptography and distributed ledger technology and is rapidly growing in use and value. Since crypto assets are created by technology, they can be stored, recorded and transferred in a decentralized manner without having to go through financial intermediaries. In fact, they have created their own set of intermediaries in the form of crypto exchanges and wallet providers that facilitate

purchase, sale and exchange of crypto assets as well as their storage. These exchanges and wallet providers are subject to very limited regulatory oversight, that too in only a few jurisdictions, and transactions in these assets are far from transparent. These characteristics of the new 'virtual digital assets' pose substantial risks not only to regulators and enforcement agencies, but also to tax administrations because of the ease with which they can be used to conceal income and wealth, particularly through the use of offshore intermediaries.

Value creation in the new business models of the digitalized economy has become much more complex.

Response to Digitalization

All these features of the new economy prompted a shift in the global tax dialogue from analyzing the tax challenges of a 'digital economy', which would refer to a separately identifiable and ring-fenced economy, to the challenges of a 'digitalized economy', which refers to the global economy as transformed by digitalization.

Substantial work has been done in developing transparency in regard to crypto assets and the functioning of crypto exchanges. The OECD has worked with G 20 countries to develop a Crypto Assets Reporting Framework (CARF) which extends the existing framework for automatic exchange of financial account information (AEOI) to the recording and exchanging of information relating to crypto assets and exchanges. The Global Forum has already made significant progress in implementing CARF, with more than 60 countries having already committed to join the framework. India has not made a formal commitment as yet but remains engaged in the process and has enacted the enabling legislation (new section 285BAA of the Income-tax Act) required for implementing it.

On the policy-related challenges, the 2-Pillar solution agreed to by the Inclusive Framework in October 2021 under the G20/OECD sponsored process was widely expected to provide solutions to various issues thrown up by the digitalization of the economy. The Pillar 1 framework sought to allocate a portion of 'excess' profits earned by highly profitable MNEs to the markets in which they operate, in proportion to the revenues derived from those jurisdictions and 'unconstrained by physical presence'. Pillar 2 was aimed at effectively reducing harmful tax competition and profit-shifting by ensuring that MNEs pay a minimum amount of tax on their consolidated profits regardless of where they operate.

During the last four years or so the Inclusive Framework and the OECD have made intensive efforts to flesh out the framework agreed upon in October 2021 and deliver the instruments and the documentation required to implement that agreement. On Pillar 1, a draft multilateral convention (that would be necessary for its implementation) has been drafted. On Pillar 2, comprehensive and voluminous guidance has been issued, and model rules (Global Anti-Base Erosion or GloBE rules) have been drafted for implementing countries to follow while incorporating them in their domestic legislation. More than fifty countries (including members of

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the European Union) have already enacted or are in the process of enacting the implementing legislation. A Multilateral Instrument to give effect to the subject-to-tax-rule (STTR) is also open for signature by countries.

However, recent geo-political events have cast a shadow on how, and if at all, the 2-Pillar solution is going to work. The US has officially declared that it does not consider itself bound by whatever is agreed upon in the Inclusive Framework. The digital services taxes (DSTs) which had been introduced or were proposed to be introduced by several countries, and which were anticipated to be one of the principal reasons for the US to consider agreeing to Pillar 1, have been or are being removed through a combination of threatened retaliatory taxes and crippling import tariffs in the US. India, for instance, abolished its Equalization Levy even before commencing negotiations with the US for a bilateral trade agreement. Further, there are no indications that the US Senate would even be willing to consider approving and ratifying the proposed multilateral convention.

Pillar 2, of course, is being implemented. But several countries that are committed to implementing the GloBE rules are still circumspect about the undertaxed profits rule (UTPR), owing to its controversial design. Most importantly, the US views the UTPR as an extra-territorial tax that it will certainly not accept and also insists on retaining its global intangibles low taxed income (GILTI) tax in preference to the income inclusion rule (IIR) of the GloBE rules. Much is being made of the recent agreement reached during the last week of June 2025 among the G7 group of advanced economies (including the US), which proposes a 'side-by-side' solution where existing US taxes like the GILTI can co-exist with the IIR and the UTPR of Pillar2. Consequently, the US Congress has deleted the proposed retaliatory section 899 tax from the 'One Big Beautiful Bill' that has just been enacted and has re-branded the GILTI as 'net CFC tested income'. However, the G7 proposal is yet to be agreed upon by the other 140-odd countries of the Inclusive



Framework. Even if the OECD manages (as it has done in the past) to achieve 'consensus' in the Inclusive Framework on the G7 agreement, such consensus is likely to entail substantial changes including a broadening of the compliance safe harbours and/or a re-defining of qualifying tax credits, that would enable the GloBE rules to live 'side-by-side' with US laws. This, however, would be very likely to compromise the integrity and effectiveness of the global minimum tax.

Unresolved Challenges

This brings us back to the questions and issues that need to be resolved to find globally acceptable answers to the tax challenges of the digitalized economy:

(a) **Issues of characterization**: The contribution of intangible assets and intellectual property (IP) in value creation is all the more pronounced in the case of digitalized businesses. Indeed, the intense use of IP assets such as software rights and algorithms that support multi-sided platforms as well as several crucial functions is central to many of these new models. This raises the issue of characterization of several income flows running through modern businesses, whether they are manufacturing or distribution businesses or any other businesses rendering different types of services.

The majority of income flows in digitalized businesses can broadly be classified as remuneration for services provided using digital technology. Under the current international tax rules it is extremely difficult to subject such income to source-based



taxation in the country where the payments arise. The OECD Model Convention requires the physical presence tests of permanent establishments or fixed bases to be satisfied for source taxation to be permissible. The UN Model Convention does include a separate Article 12A (and now Article 12AA) on fees for services defined more broadly, allowing for taxation in the source country. But it has not been possible for source jurisdictions to incorporate such a provision in their treaties, particularly with OECD member countries, without including stringent conditions requiring actual transfer or making available of technology. Similarly, source countries are unable to tax payments for the use of licensed software as royalties, as confirmed recently by the Indian Supreme Court.

(b) **Issues of nexus**: It is now well-accepted that digitalization has significantly altered and accelerated the spread of global value chains in which MNEs integrate their worldwide operations. Businesses can locate different stages of their production processes in different jurisdictions and at the same time access a much larger number of customers around the world than what they were able to do earlier. Using remote technology, many digitalized businesses are now heavily involved in the economic life of a jurisdiction without any physical presence therein.

It is also well-accepted that user participation and user data have become important drivers of value creation in most new-age business models that depend on network effects, user-generated content and the collection and exploitation of data. Considering the avowed objective of the BEPS project to ensure taxation where economic activity occurs and where value is created, it should be globally acceptable that such involvement in a country's economy can create an economic nexus strong enough to bestow tax jurisdiction on that country in respect of income arising from the relevant activity.

India was perhaps the first country to formally incorporate (in 2018) the concept of 'significant economic presence' in its domestic tax law as a factor giving rise to a business connection, income arising from which would be deemed to accrue or arise in India and would therefore be taxable in India. Since then, several countries around the globe have included this alternate tax nexus in their domestic law. However, the existing tax treaties and model conventions still do not recognize the existence of such an alternate nexus, despite the hiccups of Pillar1.

(c) **Taxing rights for income from services**: Closely allied to the issue of nexus is the question on the place of accrual of income from services, particularly in digitalized business models. Traditionally, income from services has been considered as accruing in the place where they are performed, and a source jurisdiction that

utilizes the services can tax such income only if the services are performed by personnel present in that jurisdiction. But in the context of digitalized businesses, the same services that would otherwise have required physical performance can now be performed remotely and, in several cases, without human intervention. This leads to a distortion of the level playing field with regard to taxation of income from digital and other services.

(d) **Efficacy of gross basis of taxation**: While taxation of income on net basis is the established norm, taxation on gross basis in certain circumstances represents a legitimate and convenient manner of taxation. Broadly speaking, taxation of income on gross basis can be considered feasible where the marginal costs associated with the earning of the income are not significant, even though substantial costs may have gone into establishing the asset that is giving rise to the income. A number of automated digital services referred to in Article 12B of the UN Model Convention could be taken as fulfilling these criteria. However, it would be difficult to tax most other types of service incomes on gross basis and could result in over-taxation as well as difficulties in getting credit in the base jurisdiction. Yet, most developing countries are in favour of taxing all income from cross-border services on gross basis, for reasons of ease of implementation and collection of taxes.

(e) **Complexity in compliance**: The rapid increase in the scale and geographical spread of operations in digitalized businesses has forced MNEs to revamp their accounting and record-keeping systems to be able to better manage their businesses, as also to comply with the ever-increasing requirements introduced by tax administrations worldwide. The number of data points that these systems must now incorporate has gone up exponentially with various new filing requirements like country-by-country reporting (CBCRs) and the globe information returns under Pillar 2. Tax administrations and MNEs must now make substantial investments in tax technology and the use of new technological models based on artificial intelligence.

The Indian Position

India has been taking a consistent stand with regard to all these issues concerning taxation in the digitalized economy. Right from the days of discussions on Action 1 of the BEPS project, India has maintained that the prevailing rules of nexus, which are based on physical presence in a jurisdiction, must be modified and supplemented with an alternate nexus based on the level of economic activity in a jurisdiction even in the absence of physical presence. India further believes that the arm's length standard of transfer pricing may not be

> The digitalized economy has fundamentally challenged existing international tax rules, raising complex issues around income characterization, nexus, taxing rights, gross taxation, and compliance burdens, which require globally coordinated solutions.

adequate in correctly attributing income to such alternate nexus, as it is extremely difficult to apply the standard to transactions in digitalized businesses which often involve unique and hard-to-value intangibles.

As noted earlier in this article, the BEPS Action 1 report did recognize the broader tax challenges of the digital economy and also suggested mechanisms like excise taxes and equalization

levies that countries could adopt to deal with these challenges, as long as such measures were not in conflict with their tax treaties. Considering these suggestions, India enacted the Equalization Levy in 2016 providing for a charge on gross revenues from digital advertising services remitted overseas to internet companies. The Equalization Levy was not enacted as an income-tax and therefore was not inconsistent with India's tax treaties. Besides collecting revenue, the measure also aimed to resolve the issue of characterization of such income by introducing a specific exemption from corporate tax to any income arising from the revenue stream which was subject to Equalization Levy.

India has been taking a consistent stand with regard to all these issues concerning taxation in the digitalized economy.

At the same time, India made it known that it would still prefer a more well-rounded solution that would be consistent with income-tax principles and with tax treaties by incorporating the provisions relating to significant economic presence in the primary source rule in the Income-tax Act. An exercise was launched to draft new rules for attribution of profits to permanent establishments, which would also apply to significant economic presence. The draft rules placed in public domain for discussion enumerated the factors that should be taken into account, viz. quantum of revenue, strength of employees, assets utilized and number of users (where applicable), in determining the attributable profits. However, these draft rules could not be finalized in view of the ongoing discussions in the Inclusive Framework under Pillar1, in which India was an active participant.

The Pillar 1 formulation by which only a portion of excess profits of large and highly profitable companies would be re-allocated to market jurisdictions may not have come up to India's expectations. Considering the thresholds incorporated, the formulation would apply to only a hundred odd biggest companies and did not directly address the tax challenges posed by highly digitalized companies. Notwithstanding these perceived shortcomings, India welcomed the agreement reached in October 2021, primarily because it recognized the existence of a taxing nexus even in the absence of any physical presence, and accepted the proposition that markets also create value that should be taken into account by rules for allocation of income. These ideas were entirely in line with the principles that India had propounded over the years.

The Framework Convention along with Protocols on two critical issues, viz. the taxation of cross-border services in a digitalized and globalized world, and the prevention and resolution of tax disputes are proposed to be drafted and opened for signature in 2027.

Prospects for the Future

Now that the possibility of a multilateral convention under Pillar 1 becoming a reality has become increasingly remote, global attention has shifted to the United Nations (UN), where an inter-governmental negotiating committee (INC/Tax) is in the process of drafting a Framework Convention for international tax cooperation in a more effective and inclusive manner. India has supported this initiative right from the time the initial resolutions were moved in the relevant committees of the General Assembly in 2022 and is part of the decision-making bureau of the inter-governmental committee. The Framework Convention for cooperation in international



taxation is envisaged to be an umbrella document containing high-level political commitments concerning its general objectives, procedural rules and governance structure. The more specific rules establishing concrete obligations will be developed on an ongoing basis in the form of protocols, which would themselves be akin to multilateral tax treaties. The Framework Convention along with Protocols on two critical issues, viz. the taxation of cross-border services in a digitalized and globalized world, and the prevention and resolution of tax disputes are proposed to be drafted and opened for signature in 2027.

It is the negotiation of Protocol 1 on taxation of cross-border services that is garnering the maximum attention worldwide. Going by the issues note brought out on 27 June 2025 the INC/Tax will be examining the scope of the work and nature of services to be addressed, the extent and manner in which taxing rights can be shared by source States and the manner of taxation itself, i.e. gross basis or net basis. The Protocol can potentially provide an effective solution to the tax challenges of a digitalized economy. However, the INC/Tax will have to navigate the discussions very carefully in order to get a substantial majority of countries to agree to the terms of the Framework Convention and the Protocols. The US is currently not a party to the discussions, and a large number of countries, particularly the OECD member countries are insisting that decisions in the committee must be taken by consensus, and not just by majority. The INC/Tax, however, has decided to follow the rule of majority, even while declaring its sincere intention to make all possible efforts for achieving consensus.

Hopefully, a greater degree of commonality and shared interests will develop as the discussions progress and countries will realise that this is indeed an opportunity to find an implementable and durable solution to the tax challenges of the digitalized economy that they should not allow to go waste.

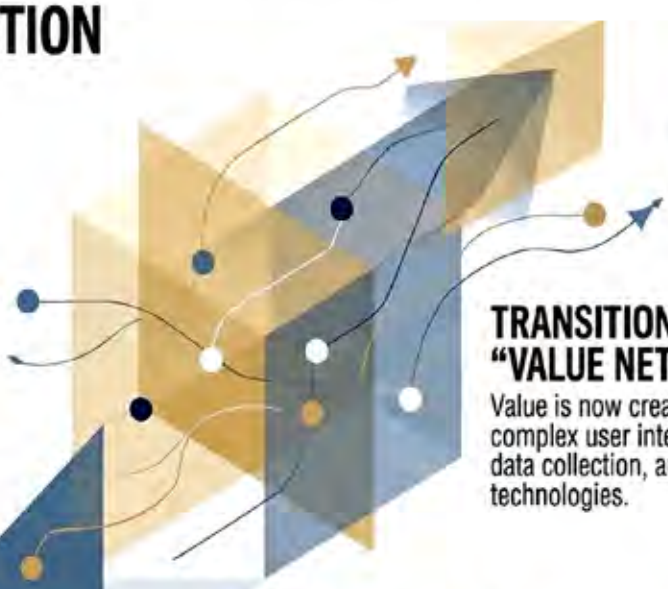
Till such time as countries can agree to collaborate and develop mechanisms that ensure fair and equitable taxation of income within countries and from cross-border flows, the international tax architecture will continue to represent a fragmented and distortionary system in which every country looks only at its own interests and businesses are left to navigate their way through increasing tax uncertainty, higher compliance burdens and rising tax disputes.

THE DIGITAL TAX FRONTIER:
NAVIGATING THE NEW GLOBAL ORDER

Traditional tax rules based on physical presence are failing in a digitalized world. Global focus is shifting toward an inclusive United Nations framework for taxing cross-border digital services as OECD initiatives struggle.

THE DIGITAL DISRUPTION





TRANSITION TO "VALUE NETWORKS"

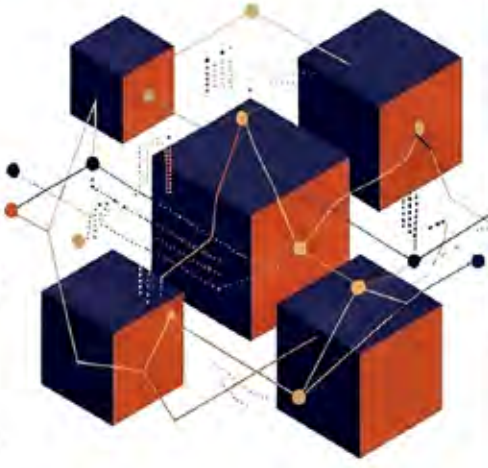
Value is now created through complex user interaction, data collection, and mediating technologies.

THE DEATH OF PHYSICAL NEXUS

Businesses engage deeply in local economies remotely, rendering traditional physical presence tests obsolete.

THE RISE OF CRYPTO ASSETS

Decentralized assets allow income to be stored and transferred without traditional financial intermediaries.



THE EVOLVING GLOBAL RESPONSE

REFORM TRACK	LEADING BODY	PRIMARY OBJECTIVE
2-Pillar Solution	OECD / G30	Minimum global tax (15%) and profit realiocation for MNEs.
Framework Convention	United Nations	Inclusive international cooperation for taxing digital services.

STAGNATION OF THE 2-PILLAR SOLUTION

Geopolitical tensions and US policy shifts have placed the OECD's multilateral reform under strain.

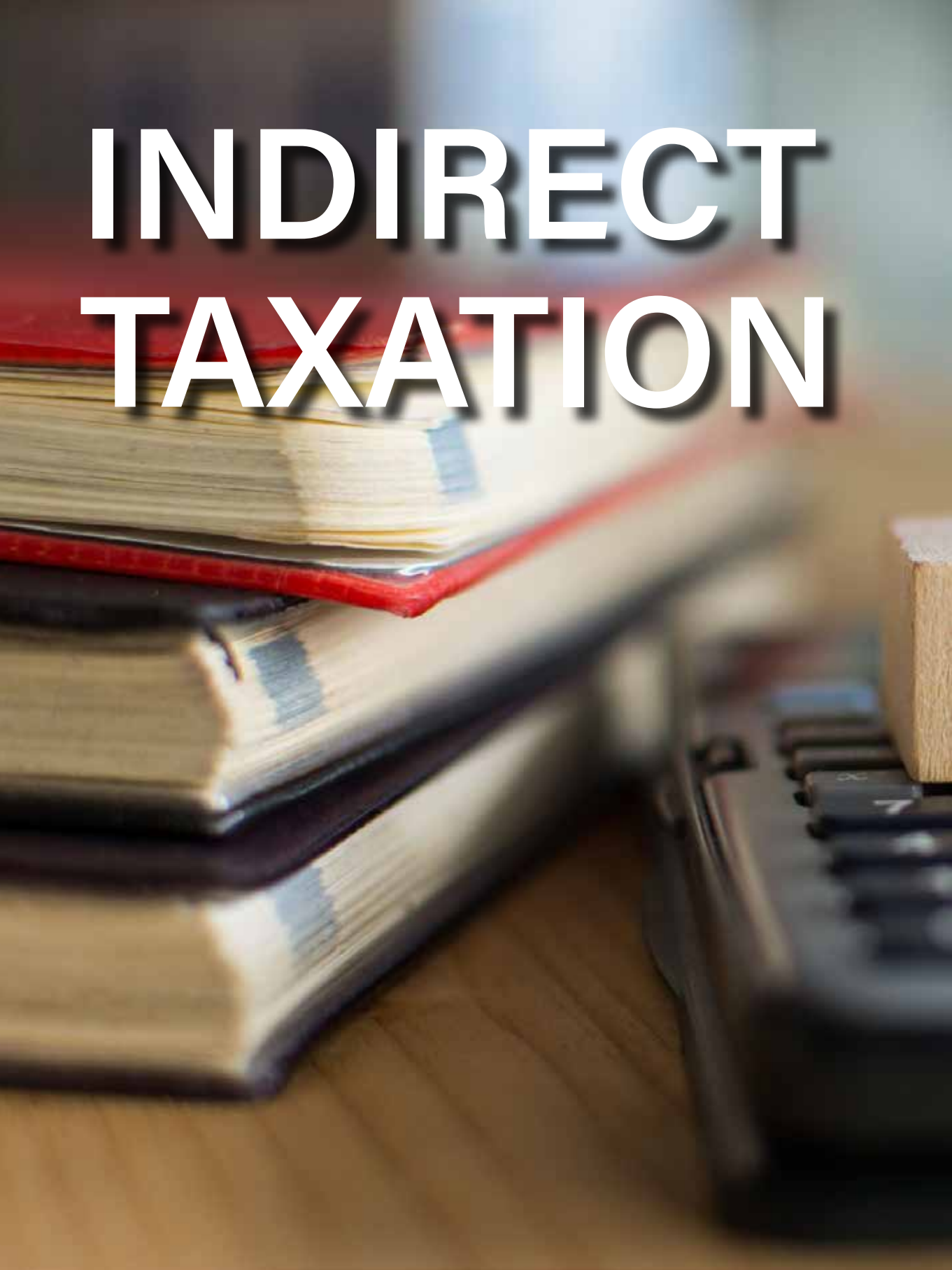


INDIA'S PROACTIVE STANCE

India pioneered the "Significant Economic Presence" concept and Equalization Levy to tax digital revenue.

2027: THE UN FRAMEWORK HORIZON

Protocols on cross-border services and dispute resolution are scheduled for signature by 2027.


INDIRECT
TAXATION


GST

GST 2.0 and Beyond



K Vaitheeswaran

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Overview

On 01.07.2017, India's taxation system underwent a metamorphosis with the introduction of GST. Eight years later, with much fanfare, GST 2.0 was implemented through a slew of notifications, effective from 22.09.2025, introducing significant changes through rate reductions, structural simplifications, and facilitation of dispute resolution. This Article provides a bird's-eye view of the effect of GST 2.0 on various stakeholders and examines the reforms anticipated under GST 3.0, which is likely to unfold in the next few years. GST 3.0 may usher in further reforms and may tackle the complex issue of taxing petroleum, mines, and minerals; foray into alcohol; eliminate the concept of blocked credits, and probably bring in stamp duty and registration within the fold of GST. There are other reforms linked to ease of doing business that need not await GST 3.0.

Introduction

India's indirect taxation journey has been nothing short of transformative. While there is a lot of attention given to GST 2.0 and criticism thrown for having higher rates prior to 2.0, one cannot forget the business and tax reform that was ushered in from 01.07.2017.

Why GST?

Prior to 01.07.2017, there were a plethora of indirect taxes. The Central Government had levied the following taxes:

- Excise Duty
- Countervailing Duty
- Customs Duty
- Duty of 4% under Section 3(5) of the Customs Tariff
- Service Tax
- Primary education cess
- Secondary education cess



- Products specific cess (automobile / tractor / jute / sugar / tea / tobacco / paper / rubber / iron ore / cement)
- Research and Development cess
- National Contingent Calamity Duty
- Clean Energy Cess
- Swachh Bharath Cess
- Krishi Kalyan Cess
- Infrastructure Cess on motor vehicles

The State Governments levied/collected the following taxes:

- VAT
- Purchase tax
- CST by originating State
- Entry tax
- Octroi by Municipality
- Entertainment tax
- Luxury tax
- Stamp duty and Registration fee

GST, as a reform, was suggested, debated, discarded, introduced, reintroduced, and finally saw the light of day. GST was needed to mitigate the following issues

- Multiple rates
- Different rates in different States
- Different definitions
- Multiple forms
- Cascading effect
- Deviations
- Excise vs. VAT
- VAT vs. Service Tax
- VAT vs. CST
- Excise vs. Service Tax
- Overlapping of Taxes

The political and media narrative in some parts of the country, as well as the warriors on social media, is that the old rates were lower, and GST rates from inception were high, and even after



2.0, some rates are still high. This is because of the fact that only VAT was seen in the invoice. The price had already factored in the other indirect taxes, and hence none of them were visible as line items, making people believe that VAT was the only indirect tax. In fact, the indirect tax incidence was around 30% to 36% and when GST was introduced, most of the products were in the range of 5/12/18% while some goods were at 28%, still lower than the effective incidence of the pre-GST regime.

Why GST 2.0?

The tax reform was well-intended, and all the stakeholders, namely the industry, the Government, and the consumer, gained. However, frequent changes in law, tinkering of the rules, multiple notifications, technology-related challenges, adverse effects of AAR Rulings, and classification disputes made this law extremely complicated in a short span of time, and the chorus rose for reforms.

On 22nd September 2025, a slew of notifications came into force, and what is interesting is that GST 2.0 became a marketing tool and advertising gimmick by itself. Most retailers announced price cuts and called it a GST saving mela. Newspapers were flooded with advertisements indicating price reductions.

The GST Council got the confidence to implement significant changes by way of rate reduction due to robust GST collections, intention of the Government to drive growth through consumption, and the confidence that, despite rate reductions, the growth would take care of the potential revenue losses.

2 Slabs and More

The USP of GST 2.0 is the elimination of multiple slabs of rate of tax rate and that there are only two slabs. It is true to some extent, and more than 99% items fall under the exempt or 5% or 18% category. But these are not the only slabs. There is a 3% slab for Jewellery and coins; 0.25% slab for diamonds; 28% for pan masala, tobacco, cigarettes with compensation cess; 40% for cars not falling under the 18% category. Interestingly, 12%, as a slab, cannot be seen in notification No. 9/2025 – CTR, which is the new rate of tax notification for goods but through a separate notification, there is a 12% levy on fly ash bricks, fly ash aggregates, fly ash blocks, bricks of fossil meals or similar siliceous earths, building bricks earthen or roofing tiles.

GST 2.0 has settled many classification disputes. It has solved the parotta parody; arrested the auto components vs. other goods issue; solved the popcorn puzzle, and more.

It is interesting to note that despite GST 2.0's rate reductions, structural simplifications, and facilitation of dispute resolution, petroleum products and alcohol still remain outside the purview of the levy of goods and services tax.

Highs and Lows of Taxing Alcohol

'Alcohol Consumption is injurious to health' is a phrase that rings a bell to every citizen of India, thanks to the movies that made this infamous statutory warning a part of the film. Some States have implemented prohibition and made a case to say that the health of their revenue is pretty robust despite not taxing alcohol. There are other States which derive Own Tax Revenue (OTR) by levying VAT on alcohol, and this revenue is so

significant that there is no interest in the State in pooling this item into GST. However, the social pitfalls on account of the consumption of alcohol keep the debate on prohibition alive, and it is also a matter of politics.

Some States have not been happy with GST, and despite the robust collections, these States come up with data to demonstrate that the revenues in the VAT regime were better.

GST is the perfect example of fiscal federalism, and 8 years since its inception, the recommendations of the GST Council have been completely followed by the Centre and the States.

GST, as a reform, was suggested, debated, discarded, introduced, reintroduced, and finally saw the light of day.

Article 246 of the Constitution is designed in such a manner that the power of levying tax, which is the measure of raising revenue, is distributed between the Centre and the States. This is achieved through specific subjects identified in the Lists in the Seventh Schedule to the Constitution of India.

The State List of the Seventh Schedule bestows upon the States the autonomy over the manufacture, sale, and taxation of Alcoholic liquor. This power of the States flows from Entry No.8 and Entry No. 51 of the State List of the Seventh Schedule

8. *Intoxicating liquors, that is to say, the production, manufacture, possession, transport, purchase and sale of intoxicating liquors.*

51. *Duties of excise on the following goods manufactured or produced in the State and countervailing duties at the same or lower rates on similar goods manufactured or produced elsewhere in India: —*

    (a) alcoholic liquors for human consumption;

    (b) opium, Indian hemp and other narcotic drugs and narcotics, but not including medicinal and toilet preparations containing alcohol or any substance included in sub-paragraph (b) of this entry.

Further, Entry 54 of the State List was amended by the 101st Constitutional amendment, granting the States the power to levy taxes on the sale of alcoholic liquor for human consumption and a few other items, such as petroleum and crude even after GST.

However, GST 3.0 cannot include alcohol for human consumption unless and until the Constitution is amended. This is because of the fact that the 101st Constitution (Amendment) Act has defined the broad contours of GST. Article 366(12A) introduced by the Amendment Act defines 'Goods and Services Tax' *to mean tax on supply of goods, or services or both except taxes on the supply of the alcoholic liquor for human consumption*'. Therefore, the exception is carved out in stone. Removal of this exception would require another Constitutional Amendment Act.

The tax reform was well-intended, and all the stakeholders, namely the industry, the Government, and the consumer, gained.

The reasons for the exclusion are obvious. It is well established that the State controls the manufacture, production, transport, and sale of alcoholic liquor, and each of these elements is viewed as a source of revenue. While a few States auction out the retail and wholesale licenses of liquor, some states hold their own monopoly. Karnataka has recently amended

a spate of laws in the context of auctioning of liquor licenses for various categories, such as retail sales, bars, and restaurants etc. The State is expected to make up to Rs. 500 crores through the auctioning of approximately 579 licenses[1]. Maharashtra also licenses out the wholesale and retail sale of alcoholic liquor and has recently lifted the ban on the serving and consumption of alcoholic liquor near dam backwaters. However, States like Tamil Nadu have a monopoly over the State's wholesale and retail license of liquor through TASMAC.[2]

GST 2.0 has settled many classification disputes.

While the licensing yields a huge amount of revenue, State taxes such as excise duty, VAT, and other state-specific surcharges also contribute towards the State's treasury.

The Centre and the State Governments cannot find an easy path for any changes in this segment. Apart from the fact that a Constitutional Amendment would be required, taxing alcohol would also mean giving up on prohibition. This is completely political, and one cannot easily visualize a simple tweak or change in law. If alcohol for human consumption has to be taxed under GST, the following would be required:

(i) Constitutional amendment;

(ii) Acceptance of alcohol in society as akin to any other product;

(iii) Availability across the country in all segments of consumption and not confined to only bars;

(iv) Prohibition becoming irrelevant. This is also a challenge since Article 47 (Directive Principles of State Policy) provides that the State shall endeavor to bring about the prohibition of consumption, except for medicinal purposes, of intoxicating drinks and drugs which are injurious to health.

Taxing Petroleum Products

It has been more than eight years since the 2017 rollout, and yet, petroleum and GST remain far apart from each other. However, unlike alcohol, the scenario is much simpler. Article 279(5) provides that the GST Council shall recommend the date on which the Goods and Services Tax be levied on petroleum crude, high-speed diesel, motor spirit (commonly known as Petrol), natural gas, and aviation turbine fuel. Therefore, there is no Constitutional bar, and a decision can trigger a change.

GST 3.0 could be implemented, say 3 to 5 years from now, and is likely to see the inclusion of petroleum products within the ambit of GST. The biggest challenge in this is the VAT revenue that is collected by the States and the excise and other surcharges levied by the Centre. Section 9(1) of the CGST Act, 2017, and the SGST Act currently provide for a maximum rate of GST of 40% (CGST + SGST). If petroleum products have to enter GST, this rate would be insufficient in the context of the existing revenues collected by the

While the licensing yields a huge amount of revenue, State taxes such as excise duty, VAT, and other state-specific surcharges also contribute towards the State's treasury.

Centre and State. Therefore, the GST Council would probably decide on increasing the ceiling limit for the rate of tax to enable a special high rate on such products.

One of the main reasons for the need to bring petroleum products into GST is to eliminate the cascading effect of taxes. The exclusion of fuel goes against the very principle of an anti-cascading mechanism, as businesses are required to pay VAT on fuel and cannot claim ITC



on the same. In industries such as aviation and logistics, disallowance of credit adversely affects the input cost, and consumers face the burden of rising prices.

There is one more angle to this issue. While excise duty and VAT is being levied on these products and tax credit cannot be claimed in GST, the main cost in transportation of goods by road or rail or sea, or air is fuel. Therefore, when GST is levied on the service charges for transportation, there is an indirect levy of GST on the fuel component. For example, air freight attracts GST at 18%. The ATF component in air freight is about 30% to 45% and the prices fluctuate based on global cues. The air freight rates are high based on the fuel rate as well as the ED / CVD / BCD / VAT, which do not qualify for ITC. On this, when GST at 18% is levied, the Government is in fact collecting GST on ATF. The same is the story for transportation of goods by road or sea, or rail. While the rate of tax is not as high as 18%, even the general ITC is restricted through notifications, thereby driving the cascading effect of tax. In fact, the right way till petroleum is brought into GST is to give an abatement towards petroleum while taxing freight segments. This becomes critical since it is a settled position of law that what cannot be done directly cannot be done indirectly.

In Australia, 'fuel tax', which is the excise duty payable on fuel manufactured and purchased in Australia, is eligible for fuel tax credits to recover the amount of tax paid by businesses on fuel. New Zealand charges GST and excise duties on most fuels while allowing businesses to claim credits for tax paid on fuel, subject to certain exceptions. Singapore allows businesses to claim input tax credits on GST charged for fuel used in business activities.

The argument that States may lose out on revenue if petroleum products enter GST may not be completely true since an appropriate rate can ensure revenues. However, it is imperative that petroleum products walk into GST at the earliest since the current regime is already fiscally

unequal, as different States charge different rates of VAT. As these rates are continuously being revised, it creates a situation of price volatility. The levy of GST would ensure fiscal stability, and amendments to Section 9(1) by way of an increase in the ceiling rate would address the issue of loss of revenue while bringing uniformity in the rate. ITC would anyway not be available for non-business use.

Input Tax Credit and Ease of Doing Business

Ease of doing business should be implemented and should travel beyond policy documents, mission statements, and sermons. The first and easiest way of achieving this would be to get rid of the obsession in GST administration that each and every input tax credit should be verified based on invoices. Invoice level verification is not done as a rule by other countries and is done only if there are serious violations. Driving the recipient of goods or services to constantly spend all his working hours before the portal; waste countless hours on reconciliation; reply to multiple notices that question every ITC claimed is not ease of doing business. Further, saddling huge taxes and penalties on the recipient for supplier truants without taking action on the supplier is not fair.

> One of the main reasons for the need to bring petroleum products into GST is to eliminate the cascading effect of taxes.

A good GST law should not deal with multiple returns, portal challenges, advisories from GSTIN, matching of credit, verification of credit, monthly notices, notices by different authorities on the same issue, multiple audits, mechanical orders, etc.

In this context, GST 3.0 need not wait for three years, and the following changes can be implemented immediately:

(i) Amend Section 16(2) of the CGST Act, 2017 whereby ITC can be claimed based on invoices without the requirement of supplier uploads and payment of tax by the supplier. This methodology of duty credit worked quite well in the MODVAT and Cenvat Credit regimes and the VAT regime.

(ii) There should not be any time limit for the availment of credit.

(iii) Payment to the supplier is a commercial call between the transacting parties, and the law cannot stipulate a time frame.

(iv) Section 17(5) of the CGST Act, 2017, in its entirety should be deleted.

(v) Lower rate of tax without ITC as a concept must be done away with.

Trust is the key. Countries that have implemented VAT and GST, even without technology, have followed a much simpler system with fewer complications, fewer technicalities, and still garner revenue.

While it is true that certain parties mind the system and indulged in a fake invoice racket, the same is not confined only to India. The EU also has the same problem, and it is called carousel trading. However, EU VAT has not made ITC complicated for its assessee because of this malaise.

> GST must give in since States levy taxes on the entire royalty as well as the contribution to funds.

Mines and Minerals

GST is sought to be levied on the royalty paid by the licensee to the State on the ground that royalty constitutes consideration, and the issue stands settled by the 9-member Bench of the Supreme Court[3]. However, the Tax Department, as well as



some of the Courts, have not considered one key aspect. The Supreme Court also said that the States have the exclusive power to levy tax on lands which comprise of mines and quarries under Entry 49 of List II. There is a clear difference between exclusive power under Article 246, read with Entry 49, List II, as against simultaneous levy by the State and the Centre under Article 246A. GST must give in since States levy taxes on the entire royalty as well as the contribution to funds.

Stamp Duty and Registration

This would require constitutional amendments. The law itself is quite interesting. The Parliament has the power to make laws and prescribe rates for stamp duty on commercial documents set out in Entry 91 of the Union List. Through Entry 63, the State has the power to make laws and prescribe rates for documents other than those specified in the Union List. Under Entry 44 of the Concurrent List, both the Parliament and the State have the power to legislate on matters related to stamp duty on items therein. A calibrated approach would be required to bring in appropriate amendments.

When this is effectively done, the real estate sector would be within GST, and immovable property transactions would also be within the ambit of GST.

What Lies Beyond GST?

The fact that the 101st Constitution Amendment brought about a significant tax reform in indirect taxes shows that taxes are evolving, and the future may see new forms and systems of taxation. While there is no solid basis to predict what the future holds, some possibilities are listed below:

(i) Entry 97, Union List, Constitution of India is still available as a residual entry and can be used for new levies;

(ii) States already have the power to tax agricultural income. However, very few States exercised the power and even in such cases, they confined the levy to plantation and other crops. Given the changing nature of society, the States are likely to exercise their power and levy taxes on agriculture. Currently, agricultural produce is outside the ambit of GST, and changes in the policy with reference to taxing agriculture will also reflect itself in changes in GST.

GST 2.0 and Beyond

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GST 2.0 and Beyond – Powering India's Progress

International Taxation





Reimagining International Taxation



Dr Parthasarathi Shome

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Overview

The international taxation landscape faces significant challenges, particularly in achieving consensus on neutral tax structures across jurisdictions and addressing the complexities of emerging tax laws. This article highlights two key domestic issues in India: the taxation of "indirect transfers" and the General Anti-Avoidance Rule (GAAR). In the case of indirect transfers, a notable controversy arose when Vodafone acquired assets in India from Hutchison Essar. The Indian tax authorities initially sought taxation on this offshore transaction, but Vodafone contested this and eventually won in the Supreme Court, which ruled that Indian tax authorities lacked jurisdiction for such taxes. In response, the government enacted legislation in 2012 to tax indirect transfers retrospectively, leading to widespread criticism. The current government announced in 2021 it would not enforce retrospective taxation and would only apply the law to transactions after May 28, 2012. Additionally, GAAR addresses tax avoidance, defined as legally reducing tax burdens while potentially contravening the law's intent. Different countries enforce varying degrees of strictness with GAAR, which creates tension between taxpayers and tax authorities.

Introduction

The international taxation community comprising chartered accountants, lawyers, economists, and administrators find themselves today at a crossroads of great challenges. This reflects, first, difficulty in arriving at a consensus on the basis of which tax structures can be designed in a neutral way across jurisdictions. Second, the subject matter has assumed such complexity in recent years that there is divergence in the basis of emerging tax laws across nations. The issues being encountered can be analysed by distinguishing (i) those that arise in the domestic context, yet have strong international ramifications, from (ii) those that are first consulted upon and consolidated internationally that are subsequently taken up by individual nations for consideration and incorporation into domestic law. These will be dealt with selectively.

International taxation issues that arose domestically

Among several issues, here we pick two that have strongly attracted Indian discussions in recent years.

Taxation of 'Indirect Transfers'

A Multinational Enterprise (MNE) owns assets in India. It is headquartered (HQ) abroad. It sells its India-based assets to another MNE with HQ abroad. There is no transaction that takes place between them in India. This is called an "indirect transfer" of assets between MNEs, given that the transfer does not involve any transaction in India even though the transfer is of India-based assets.

A controversy arose in India regarding the taxability of indirect transfers and whether the revenue should come to the Indian exchequer or to the exchequer where the foreign entity is tax resident. In 2007, for its India-centric operations, Vodafone acquired India-based assets worth USD 11 billion from Hutchison Essar, both MNEs being headquartered abroad. Therefore, it was an offshore transaction or indirect transfer. At the time of completion of the transaction, the Indian tax authorities informed Vodafone to apply tax deduction at source (TDS) on Hutchison. Vodafone declined, citing that no Indian tax law required it to do so.



Vodafone litigated the matter in Bombay High Court, arguing that the income tax department had no authority to tax the transaction because it was confined to two foreign entities. Vodafone lost the case in December 2008 but won in the Supreme Court in January 2012 with a landmark judgment that agreed that the Indian tax authorities lacked jurisdiction to tax an offshore transaction. Immediately, the Indian tax authorities changed the law through the Finance Act 2012 to make indirect transfers taxable and imposed a penalty on Vodafone retrospectively.

There was worldwide hue and cry at the government's action. The government reacted by constituting an independent expert committee to look into the matter on September 1, 2012. (The same committee had worked on GAAR from July). The committee's October 31 report did not express any adverse view on taxing indirect transfers as such. But it opposed taxing it retrospectively. That would create an environment of 'impossibility to perform' by any functioning enterprise.

'Risk' is to be differentiated from 'uncertainty'. Given a tax law, risk can be modelled by an entrepreneur reflecting his attitude towards risk. But a tax law passed retrospectively would lead to the creation of uncertainty in business operations.

Here 'risk' is to be differentiated from 'uncertainty'. Given a tax law, risk can be modelled by an entrepreneur reflecting his attitude towards risk—averse, neutral, or preference—reflecting which he can make business decisions. But a tax law passed retrospectively would lead to the creation of uncertainty in business operations since ongoing business operations would be subject to unanticipated taxes on previous years' income and profits (whose accounts might already have been closed). That would subject the business to a situation of 'impossibility to perform'.

The expert report was widely acclaimed, though the then-existing government did not conclude on the matter. The subsequent/current government publicly announced in 2021 that they would not enforce tax law retrospectively, and ensured that they would apply it to transactions occurring on or after May 28, 2012, when the law was originally announced. Tax demands from earlier were cancelled or nullified, and the government agreed to refund taxes previously collected under retrospective provisions. While this was a positive step forward, in effect, they desisted from abolishing the law, giving the tax administration space to continue to litigate, for example, against M&A arrangements that occurred after May 28, 2012.

General Anti-Avoidance Rule (GAAR)

Attitude towards payment of tax may be divided into three categories: (i) 'efficiency' or minimisation of the tax burden by utilising the tax law legally, (ii) 'evasion' which uses illegal means, and (iii) 'avoidance' that minimises the tax burden by interpreting the tax law contrary to the intention of the law while adhering to the word of the law. It is this third category that causes disagreements between taxpayer and tax administrator and leads to scrutiny and litigation. The subordinate law—or rule—to address this challenge is usually enshrined in a country's GAAR rules. Its strictness and stringency differ by country. GAAR enables wider scrutiny of intra-group MNE structures that are considered unacceptable by the tax administration.

Attitude towards payment of tax may be divided into three categories: efficiency, evasion, and avoidance

Advanced economies have had GAAR in the new millennium, and emerging economies were close to follow. GAAR was introduced in India as a tax instrument in 2012. The draft law attracted widespread domestic and international protest, calling attention to the fact that the law appeared to combine the strictest aspects of various country laws and consolidated under one law. GAAR was then put in abeyance, modified subject to the recommendations of an expert committee formed in July 2012, and finally introduced from

April 1, 2017. It became applicable with effect from Assessment Year 2018-19. Any income arising from investments made before April 1, 2017 is exempt from GAAR scrutiny.

The expert committee made several recommendations to ensure taxpayer protection so that GAAR did not become a 'tax collection instrument'. For example, an Approval Panel, to consider and sign off on every GAAR case, was recommended to include an independent expert—external to the tax administration—as a Panel member. It was to ensure that the tax administration did not assume a 'presumption of purpose' that a taxpayer's objective was to obtain a tax benefit. Another element of taxpayer protection was that GAAR may be invoked only in cases in which the total tax benefit to all parties in the arrangement exceeded Rs 30 million.

In general, the volume of anti-avoidance and transfer pricing litigation is far higher in India than, for example, in the UK, Australia or South Africa.

The current Indian GAAR is the outcome of the acceptance of major recommendations made by the expert committee. Accordingly, GAAR is applied if an arrangement is viewed as obtaining a tax benefit as its main or sole purpose (the primary or main purpose test). In addition, the arrangement must be characterized by any one of the following 'tainted elements': (i) arm's length misalignment, for example, through non-market related transactions that are not normally employed for bonafide business purposes, (ii) lacks commercial substance as a whole or in part such as through round-trip financing, an accommodating party, or masking the true location of assets or residence, (iii) was not bona fide, that is, entered into in a manner not ordinarily employed for genuine business purposes, thus (iv) directly or indirectly abused the provisions of Indian tax law.

The nature of GAAR is such that litigation is likely to continue. In general, the volume of anti-avoidance and transfer pricing litigation is far higher in India than, for example, in the UK, Australia or South Africa. In the most recent case of January 2026, a US investment firm, Tiger Global International II. Holdings was asked by the Supreme Court to pay capital gains tax in India on its 2018 exit from e-commerce firm Flipkart. Tiger Global's Mauritius-based corporate structure was found to be an impermissible tax avoidance arrangement and denied tax treaty benefits.

In a tilt in favour of the Revenue, the Supreme Court's judgement cited the GAAR expert committee report that a particular 'investment' may be covered through grandfathering, but not the entire 'arrangement' (page 90). This is because grandfathering an entire arrangement would make possible all future investments under the same grandfathered arrangement to be excluded from GAAR. And that could not have been the intention of the grandfathering clause. It is likely that GAAR cases will remain firmly on the horizon.



International Taxation Issues Spearheaded Abroad

The most prominent example in this category is the Organisation of Economic Cooperation and Development (OECD)'s Base Erosion and Profit Shifting (BEPS) project that began with the endorsement of the Group of 20 (G20) nations. BEPS has attempted to bring countries on a common platform and understanding on methods to tax MNEs appropriately.

It was also realized that a common platform was needed from which MNE tax behaviour could be examined, controlled and corrected.

Base Erosion and Profit Shifting (BEPS)

BEPS refers to the phenomenon of MNEs that operate across the globe distributing disproportionately high portions of their profits to low-tax jurisdictions. This minimised their global revenue contributions when summed across jurisdictions. The practice was perceived as 'tax efficiency' from an MNE point of view and was generally acceptable. Over the years and, in particular during the 2008 global financial crisis, however, the G20 country authorities began to criticize the low revenue contributions by MNEs since they had become minuscule compared to their global pre-tax incomes.

A view emerged that international action was needed to curb this phenomenon. It was also realized that a common platform was needed from which MNE tax behaviour could be examined, controlled and corrected. Only that could improve revenue productivity of national exchequers. Accordingly, 15 Action Plans were developed and placed for discussion in September 2013.

BEPS Actions

Fifteen Actions in 13 final reports were issued in October 2015. Different OECD model conventions were consolidated under BEPS Actions, including inappropriate treaty benefits and prevention of treaty abuse, artificial avoidance of permanent establishment (PE) status, controlled foreign company (CFC) rules, limitation of interest deduction, preferential tax regimes including joint ventures, disputes, and exchange of information on tax rulings, among others. Essentially, it was a step forward whereby common and repeated concerns in international tax experience were brought under one cover and one proposed treatment across countries.

Actions 8, 9 and 10 continued existing work on transfer pricing (TP) rules. Action 13 was on TP documentation. Action 1 focused on challenges in digital economy taxation. Actions 2—7 addressed non-TP aspects of BEPS. Action 11 examined data collection needed to provide evidence of the impact of BEPS. Action 12 proposed systems of disclosure of tax avoidance schemes, utilizing experience from the UK and others. Action 14 was on dispute resolution mechanisms under tax treaties, and was a recognition of cross-border

MNEs operating in multiple jurisdictions had to consolidate information to meet the tax compliance requirements of each jurisdiction.

disputes resulting from BEPS changes. Action 15 was concerned with the overall implementation of BEPS actions as a consolidated multilateral instrument (MLI). For India, the MLI represents a major commitment to the implementation of its international taxation conventions.

Since 2018, jurisdictions began to implement mandatory disclosure rules, including aggressive tax planning. In early 2019, a corporate tax statistics (CTS) database was launched for

assembling data to analyse BEPS practices. MNEs operating in multiple jurisdictions had to consolidate information to meet the tax compliance requirements of each jurisdiction. They comprised a 'local file' containing detailed information on inter-company transactions in each country; a 'master file' for all MNE group members, providing a high-level overview of the MNE's global business operations; and a CbC report containing the MNE group's global allocation of income and taxes paid. By mid-2020, the OECD also reported that 94 countries had begun to update their treaty standards and practices.

Pillar One and Pillar Two—Appearance of fissures

However, fissures began to appear in the context of taxation of the digital economy. In May 2019, the OECD issued a Programme of Work (POW) to develop a consensus on digital economy taxation based on two Pillars. Pillar One focuses on the allocation of taxing rights among countries, reflecting appropriate profit allocation and nexus rules. The United States finds that it counters its own revenue interests. Pillar Two recommends a minimum tax on the digital economy to be introduced by all jurisdictions. While it took a long time, eventually the previous US administration agreed to Pillar Two in principle.

The OECD proposed taxation methods in an Action Report defining a permanent 'virtual' establishment (PVE), and why profits from an MNE attributable to the PVE should be taxed by the 'source' jurisdiction where the income is generated. For this, a 'significant digital presence' of an MNE would be essential in the source country—for example, the maintenance and carrying on of business through a website—that would enable the taxation of profits from the supply of digital goods and services.

However, the US has been persistent in its opposition to Pillar One since it would allocate taxing rights according to the 'source principle' while it perceives those rights should be allocated reflecting the 'residence principle'. Essentially, residence implies where the capital resides, while source implies wherever the income is generated.

Digital levies and US action

The primary obstacle to digital taxation was the US, which opposed application of the 'source principle' since the HQs of most digital services MNEs were 'resident', i.e., located, in the US, such as Google, Facebook, Amazon and Apple. Application of the source principle would slice their profits and distribute them to the various points on the supply chain across countries, whether they be India, China, Vietnam or European economies. With the current US administration, discussion and debate over a consensus-based solution are essentially stalled.

In this scenario, several advanced and emerging economies alike introduced unilateral digital taxes that the US opposed through its Trade Representative Office (USTR). The easiest method for taxing digital income was through a withholding tax (WHT) on payments made by residents of a country for digital goods or services provided by a foreign e-commerce provider. This





would bring PEs with no physical presence into the domestic tax base. In 2019, the USTR found that France's 3% Digital Services Tax (DST) was unreasonable, unfair, and discriminatory towards US commerce. It argued that, since the DST was applied on revenue rather than on income, it was inconsistent with accepted principles of international tax policy. To retaliate, the US proposed a 100% tariff on French cheese and wine.

India was among the first to introduce digital taxation as a 6% 'Equalisation Levy' on online advertisements in 2016. Other countries were Austria, Brazil, the Czech Republic, the EU, France, Indonesia, Italy, Spain, Turkey and the UK. In January 2021, the USTR found that India, Italy and Turkey discriminated against US tech firms. Subsequent negotiations with the US to recalibrate or remove digital taxes have been ongoing. In essence, the OECD or UN's proposals are discussed and shelved for ongoing or future consideration. It reflects the frustration associated with international taxation where country interests—even among advanced economies—are in conflict.

Taxation of Robots / Artificial Intelligence (AI)

By and large, the contemporary scientific community thinks that organisms, for example, humans, are algorithms. In turn, if algorithms comprise computers, then humans could generate super-computers in their own image. Eventually, such computers are likely to think for themselves and even overtake humans. That, in its core, is AI. Such a world based purely on data views humans as replaceable in productive activities. That 'data religion' has been termed 'dataism'.

The long-term beneficial ramifications of AI to human society seem clear. The question nevertheless arises whether AI will be employment-replacing or employment-complementary and, in particular, how the relative effects will be between white-collar and blue-collar workers. Also, how should

India was among the first to introduce digital taxation as a 6% 'Equalisation Levy' on online advertisements in 2016.

robots be considered with respect to capital? If robots affect the prevalent demand for different factors of production and, therefore, their returns, should tax policies be used to mitigate any adverse impact of such changes?

After due consideration of administrative feasibility as well as the enthusiasm with which policymakers currently view this sector, to bring robots under the form of any income taxation seems impractical.

Can, or should, robots be portrayed as a taxable person—either individual or juridical? Should they come under the purview of income or consumption tax, or both? After due consideration of administrative feasibility as well as the enthusiasm with which policymakers currently view this sector, to bring robots under the form of any income taxation seems impractical. However, it is possible to bring it under the umbrella of excise taxation. And this should be addressed as early as possible.

There may be some argument in favour of earmarking the revenue from a robot tax for distribution purposes such as for minimum income support and retraining of displaced labour. Since robots are likely to replace low-skilled jobs in particular, therefore, its revenue should be earmarked to alleviate the adversarial distributional ramifications of robots or AI. While earmarking may not be desirable in every tax-to-expenditure link, it could be sensible in the context of the taxation of AI due to the obvious capital-labour link in robots replacing labour.

Concluding Remarks

A discussion of prevailing international taxation issues reveals the advancements made in developing a common multilateral platform such as BEPS. Nevertheless, it should be recognized that several emerging issues continue to suffer from a lack of consensus where unilateral interests overwhelm group interests. In the case of international taxation arising directly from India's experience, matters such as GAAR, despite the introduction of subordinate law, continue to be litigated. Retrospective taxation that arose in cases of indirect transfers is currently in abeyance but the law enabling retrospective taxation needs to be abolished.

References

Government of India, 2012. Report of the Expert Committee on General Anti-Avoidance Rules (GAAR), New Delhi, August.

Government of India, 2012. Report submitted by the Expert Committee on Taxation of Indirect Transfers, New Delhi. October.

Shome, Parthasarathi. 2018. "Contours and Conflicts in Tax Design: Principles and International Practice", London School of Economics (LSE) Legal Studies Working Paper No. 11/2018, 20 June, 2018. Available at SSRN: https://ssrn.com/abstract=3199902

2019. "Tax Avoidance: Cross Country Experience and an Indian Case Study". London School of Economics (LSE) Legal Studies Working Paper No. 6/2019, February. Available at SSRN: https://ssrn.com/abstract=3337909 or http://dx.doi.org/10.2139/ssrn.3337909

2021. Taxation History, Theory, Law and Administration. Springer Texts in Business and Economics. Cham: Springer. 2021, Switzerland.

Link: https://doi.org/10.1007/978-3-030-68214-9 - 2021

2022. Taxation of Robots, Governance Brief, Asian Development Bank, 4th August 2022, Manila, Philippines:

Link: https://www.adb.org/publications/taxation-robots

2025. "U.S. Tariff Revolt — Emergence and Effects", Tax Notes International, Tax Analysts Council of Eminent Persons, 2 June 2025, Washington D.C.

Supreme Court Judgement 2026. The Authority for Advance Rulings (Income Tax) and Others versus Tiger Global International II Holdings - with Civil Appeal No. 264 OF 2026 [Arising out of SLP (C) No. 5987 OF 2025], Civil Appellate Jurisdiction, 15 January 2026, India, Rf. Page 90.

The Global
Navigating Domestic Disp

India's Domestic Tax Battlegrounds



2012: Retrospective Tax

2021: Prospective-Only
Shift from retrospective to prospective application on indirect transfers.



GAAR & The "Tainted Element" Test

Introduced in 2017, GAAR targets arrangements lacking commercial substance or abusing tax law provisions.

The Jurisdictional Conflict

Domestic courts and tax authorities frequently clash over taxing offshore transactions involving India-based assets.



Tax Shift:
utes and Digital Frontiers

The Global Quest for Consensus



BEPS: A 15-Point Global Framework

The OECD/G20 initiative aims to prevent MNEs from shifting profits to low-tax jurisdictions.

Residence (HQs)

Source (Income Location)

Pillar One: Source vs. Residence

Friction persists as the US favors "Residence" while other nations push for "Source" taxation.

Planning Spectrum

Avoidance (Contested)

Minimizing burden by interpreting law contrary to intent

Evasion (Illegal)

Using illegal means to reduce tax burden



Taxing the Future: AI & Robots

Proposals suggest excise taxes on robots to fund retraining for workers displaced by AI automation.

Tax Treaties and Extra-Territorial Taxation – A Constitutional Perspective



Ajay Vohra



Chandan Karmhe

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Overview

India's approach to extraterritorial legislation is anchored in a constitutional architecture balancing sovereignty, legality, and international responsibility. Article 245 entered the Constitution without protracted debate; over decades, however, the Supreme Court has read into it a discipline restricting a statute's reach beyond India's borders to cases where a "real and not illusory" connection exists. The said insistence on nexus is more than a technical threshold; it reaffirms India's respect for other nations' sovereignty and the dignity of its legislative process. The dualist structure, rooted in Article 253 and articulated by the apex Court in cases including Nestle, ensures international treaties do not bypass Parliament's democratic mandate: a constitutional firewall protecting domestic rights while allowing India to engage with the world in line with principles of international comity. This ethos finds reflection in India's judiciary's approach to Tax Residency Certificates, where courts refuse to let mere suspicion erode the mutual trust underpinning treaty-based cooperation. As new tides such as the OECD's UTPR wash against India's shores, fresh constitutional challenges may arise, demanding a balance between protecting sovereignty and honoring international commitments. India's Constitution, the article argues, will find such a balance, for it "is not merely a document in black and white," but "a living document that evolves with the nation."

Introduction

"There are few kings in Europe," wrote the French Ambassador to London[1], "richer than the Directors of the English East India Company." Granted a royal charter by Queen Elizabeth I in 1600 to trade in India's commodities, the East India Company's power gradually deepened. One hundred and sixty-five years hence, seizing the waning authority of Emperor Shah Alam II, the Company coaxed the young Shah into issuing a 'Diwani'[2]: a decree transferring the power to collect taxes from imperial officials to the Company. With such a stroke, an ordinary English enterprise, which did not even have a two-room office in London, donned the robes of an empire. And India, a giant that once commanded 27% of the world's economy in 1700, was reduced to its mere shadow by the time the sun finally set on the Raj.[3]

"At the stroke of the midnight hour," after nearly two centuries of struggle and sacrifice, India stepped out "from the old into the new."[4] On August 15, 1947, a free nation was born. Its Constitution, however, was still in the works. It was only two years, three months, and eleven days later, with the adoption of its Constitution — calligraphed by Prem Bihari Narain and illustrated by artist Nandalal Bose — on November 26, 1949, that "the soul of a nation, long suppressed," found its "utterance".[5] The Constitution of India came into effect on January 26, 1950, and stood as the longest written constitution in the world, encompassing 395 Articles, 22 Parts, and 8 Schedules, spanning nearly 145,000 words. One such Article is Article 245.

The Constitution of India came into effect on January 26, 1950, and stood as the longest written constitution in the world, encompassing 395 Articles, 22 Parts, and 8 Schedules, spanning nearly 145,000 words.

It is interesting to note that Article 245, which lays down the "Extent of laws made by Parliament and by the Legislatures of States," evoked no substantive debate in the Constituent Assembly.[6] Draft Article 216 (later enacted as Article 245 of the Constitution of India), was taken up on 13th June 1949 and adopted [7] on the same day.

Since then, the story has been somewhat different.

Extra-Territoriality

The issue of "extra-territorial operation" came before the Supreme Court as early as 1955, in the Bengal Immunity[8] case. The Apex Court, whilst tracing the pre-independence legislative history of the aforesaid Article, held that the words must be understood in their strict sense as having reference to the laws of a State for their nationals in respect of acts done outside the State. Stepping forward, the Supreme Court in Tata Iron & Steel Co.[9] observed, and reaffirmed

1 *Comte De Chatelet, the French Ambassador to the Royal Court in London.*

2 *Emperor Shah Alam II granted the Diwani (the right to collect revenue) of Bengal, Bihar, and Orissa to the East India Company through the Treaty of Allahabad on August 12, 1765.*

3 *See, Economic Historian Angus Maddison's Contours of the world economy, 1–2030 AD.*

4 *"Tryst with Destiny" speech to the Indian Constituent Assembly in the Parliament House, on the eve of India's Independence.*

5 *Ibid.*

6 *The Constituent Assembly, after the partition of India, had 299 members. It held 11 sessions. The final session was on January 24, 1950.*

7 *245. Extent of laws made by Parliament and by the Legislatures of States. — (1) Subject to the provisions of this Constitution, Parliament may make laws for the whole or any part of the territory of India, and the Legislature of a State may make laws for the whole or any part of the State. (2) No law made by Parliament shall be deemed to be invalid on the ground that it would have extra-territorial operation.*

8 *The Bengal Immunity Company Ltd. v. The State of Bihar 1955 (2) SCR 603. The Court traced the history of Article 245(2) and observed that it is the successor to Section 65(1), sub-clauses (b), (c), (d), and (e) of the Government of India Act, 1915, and Section 99(2) of the Government of India Act, 1935.*

9 *The Tata Iron & Steel Co. Ltd. v. The State of Bihar 1958 SCR*

in Shrikant Bhalchandra,[10] that the sufficiency of the territorial connection involves a consideration of two elements, namely, (a) the connection must be real and not illusory. and (b) the liability sought to be imposed must be pertinent to that connection. "It is inconceivable," the Apex Court in Electronics Corporation[11] observed that "a law should be made by Parliament in India which has no relationship with anything in India."

At this moment, it is important to recall that India's commitment to internationalism was not an afterthought, but an idea woven into the very fabric of its struggle for freedom. "In these days of rapid intercommunication and a growing consciousness of the oneness of all mankind," wrote Mahatma Gandhi in 1933[12], "we must recognize that our nationalism must not be inconsistent with progressive internationalism." Seventy-eight years later, a similar sentiment was echoed by the Supreme Court of India in GVK Industries[13], "India's emergence as a free nation, through a non-violent struggle," reminded the Supreme Court, "presaged the emergence of a moral voice… To make laws "for another territory"

It is important to recall that India's commitment to internationalism was not an afterthought, but an idea woven into the very fabric of its struggle for freedom.

is to denigrate the principle of self-determination with respect to those people, and a denigration of the dignity of all human beings, including our own." Parliament, the highest court of the land, held, may legislate on extra-territorial aspects only if they have, or are expected to have, a real and not illusory connection with India. Parliament cannot legislate "for" territories outside India, but may enact laws with extra-territorial operation related to India or its inhabitants. Consistent with the said spirit, Courts have also frowned upon the Revenue's insistence on deducting tax at source ("TDS") bereft of a true territorial nexus with India. "The interpretation placed by the department," rebuked the Supreme Court in GE India Technology[14], while discouraging attempts to deduct tax at source for income not chargeable in India, "would result in a situation where, although the income has no territorial nexus with India or is not chargeable to tax in India, the Government would nonetheless collect tax." The principle so articulated found a clear echo in the pronouncement of the apex Court in the case of Engineering Analysis.[15]

Monism-Dualism

Broadly speaking, international law is concerned with the regulation of relationships between sovereign states, while municipal (or domestic) law governs the conduct of individuals among themselves and in relation to the state within a national legal system. According to the monist perspective, the said two spheres of law are not separate but form a unified legal framework. In a purely monist state, international law is automatically incorporated into the domestic legal order without the need for further legislative action. Legal philosopher Hans Kelsen, supporting the view, argued that all legal authority ultimately derives from a foundational norm of international law, which he termed the 'Grundnorm'. From such a standpoint, international law holds primacy over domestic law, rendering any conflicting national legislation invalid and affirming the direct applicability of international legal principles within a state's internal legal structure. Under a monist system, as seen in countries like the USA, France, and

1355.

10 Shrikant Bhalchandra Karulkar v. State of Gujarat (1994) 5 SCC 459.

11 Electronics Corporation of India Ltd v. CIT 1989 SCR (2) 994.

12 'Parnakutt', Poona, September 14, 1933: The Collected Works of Mahatma Gandhi.

13 GVK Industries Ltd. v. ITO [2015] 371 ITR 453 (SC).

14 GE India Technology Cen. (P.) Ltd. v. Commissioner of Income-tax CA NOS. 7541-7778 OF 2010.

15 Engineering Analysis Centre of Excellence (P.) Ltd .v. CIT [2021] 432 ITR 471(SC).



the Netherlands,[16] treaties become part of the domestic legal order and are enforceable without the need for additional legislative measures.

On the other hand, the theory of dualism, developed and supported by scholars such as German jurist Heinrich Triepel and Italian scholar Dionisio Anzilotti, asserts that international law and municipal law are fundamentally separate legal systems. Each operates independently, with distinct sources, purposes, and subjects. Dualist theorists argue that international law does not automatically apply within a state's domestic legal framework. A treaty has no effect on municipal law until an Act of Parliament is passed to give effect to it.[17]

The dichotomy between monist and dualist approaches in international law was aptly captured by the Supreme Court in Maganbhai Ishwarbhai Patel[18]. Considering the constitutional framework on treaties, "In some jurisdictions," observed the Supreme Court, "the treaty or the compromise read with the Award acquires full effect automatically in the Municipal Law, the other body of Municipal Law notwithstanding. Such treaties and awards are 'self-executing'. Legislation may nevertheless be passed in aid of implementation, but it is usually not necessary. The Constitution of India did not include any clear direction about treaties such as is to be found in the United States of America and the French Constitutions." In the dualist imagination, a treaty lives not one, but two lives, each unfolding in a world of its own. By day, it moves through the corridors of international law, shaped by the formalities and disciplines of global order. By night, it retreats into the domestic sphere, where it ought to submit to the will of national constitutions and local legal traditions. The said striking duality is beautifully captured by Duncan B. Hollis in his seminal paper[19] as under:

> "The treaty lives a double life. By day, it is a creature of international law, which sets forth extensive substantive and procedural rules

16 *Victor Buckman, International Law.*
17 *Peter Malanczuk's, Akehurst's Modern Introduction to International Law, 1997 Edition.*
18 *Maganbhai Ishwarbhai Patel v. Union of India (1970) 3 SCC 400.*
19 *Duncan Hollis: Executive Federalism: Forging New Federalist Constraints on the Treaty Power" Legal Studies Research Paper Series.*



by which the treaty must operate. By night, however, the treaty leads a more domestic life. In its domestic incarnation, the treaty is a creature of national law, deriving its force from the constitutional order of the nation state that concluded it."

In the Indian legal framework, the State is a creature of the Constitution[20]. Article 73 of the Constitution of India outlines the extent of executive power of the Union Government, while Article 253 empowers the Parliament to enact laws necessary for implementing international treaties, including tax treaties. Section 90 of the Income Tax Act, 1961 ('the Act'), provides the legislative sanction for the Central Government to enter into agreements with foreign countries for the avoidance of double taxation.

In India, unlike some other countries, the stipulations of a treaty are not, by virtue of its execution (i.e., signing the treaty alone), bestowed with the force of law. If a treaty either requires alteration of or addition to existing law, or affects the rights of the subjects, or are treaties on the basis of which obligations between the treaty-making state and its subjects have to be made enforceable in municipal courts, or which, involves raising or expending of money or conferring new powers on the government recognizable by the municipal courts, a legislation will be necessary.[21]

In *Nestle SA*[22], the Supreme Court undertook an analysis of constitutional principles, statutory provisions, and judicial interpretation to articulate the legal framework governing the enforceability of international treaties within the Indian legal system. Drawing upon the relevant Articles of the Constitution, key provisions of the Act, and established jurisprudence, the Apex Court outlined the legal position in the following terms:

(i) The terms of a treaty ratified by the Union do not ipso facto acquire enforceability;

(ii) The Union has exclusive executive power to enter into international treaties and conventions under Article 73 and Parliament, holds the exclusive power to legislate upon such conventions or treaties.

(iii) Parliament can refuse to perform or give effect to such treaties. In such event, though such treaties bind the Union, vis a vis the other contracting state(s), leaving the Union in default.

(iv) The application of such treaties is binding upon the Union. Yet, they "are not by their own force binding upon Indian nationals".

(v) Law making by Parliament in respect of such treaties is required if the treaty or agreement restricts or affects the rights of citizens or others or modifies the law of India.

(vi) If citizens' rights or others' rights are not unaffected, or the laws of India are not modified, no legislative measure is necessary to give effect to treaties.

20 *S.R. Bommai v. Union of India (1994) 3 SCC 1.*

21 *State of Gujarat v. Vora Fiddali Badruddin Mithibarwala 1964 (6) SCR 461.*

22 *Assessing Officer (International Taxation) v. Nestle SA [2023] 458 ITR 756 (SC).*

(vii) In the event of any ambiguity in the provision or law, which brings into force the treaty or obligation, the court is entitled to look into the international instrument, to clear the ambiguity or seek clarity.

Broadly speaking, international law is concerned with the regulation of relationships between sovereign states, while municipal (or domestic) law governs the conduct of individuals among themselves and in relation to the state within a national legal system.

The Supreme Court firmly positioned India within the dualist tradition, holding that the mere act of entering into a treaty or protocol does not render it automatically enforceable in Indian courts or tribunals. The Court clarified that the provisions of such treaties do not, by themselves, confer enforceable rights upon individuals or entities until appropriate notifications are issued under Section 90(1) of the Act. The view elucidated by the Apex Court reflects the essence of dualist thought, wherein international law must be expressly incorporated into domestic legislation to have legal effect within the national legal system.

Recently, the Mumbai Bench of the Income Tax Appellate Tribunal, in Sky High[23], following the principles laid down in Nestle, reaffirmed that the domestic enforceability of treaty-based instruments, including modifications brought about through the Multilateral Instrument ('MLI'), is subject to a strict statutory threshold under Indian law. The Tribunal underscored that even when a DTAA and the MLI are both duly signed, ratified, and individually notified, any modification to an existing tax treaty arising from such instruments cannot be enforced unless the specific impact of the modification has itself been separately notified under Section 90(1) of the Act. Echoing the Apex Court's reasoning in Nestle, the Tribunal held that treaty benefits and alterations do not flow automatically by virtue of external developments or multilateral arrangements, and absent a deliberate and express act of domestic incorporation through notification, such provisions cannot be treated as binding in municipal law.

TRC

Another repeated controversy, which has received significant and repeated judicial intervention, is whether a Tax Residency Certificate ('TRC') alone is sufficient to claim benefits under a tax treaty. The issue has long been a subject of close scrutiny by Indian tax authorities, frequently leading to protracted litigation. The most authoritative judicial pronouncement on this issue came from the Supreme Court in the landmark case of Azadi Bachao Andolan[24]. The

In India, unlike some other countries, the stipulations of a treaty are not, by virtue of its execution (i.e., signing the treaty alone), bestowed with the force of law.

Court unequivocally held that tax authorities are bound to grant treaty relief so long as the taxpayer is a resident of the treaty partner country, as certified by the Revenue Authorities of that jurisdiction. According to the Court, this was the sole requirement for claiming treaty benefits: neither domestic law nor the treaty itself

23 *Sky High Appeal XLIII Leasing Company Ltd v. ACIT [2025] 177 taxmann.com 579 (Mum. Trib.).*

24 *Azadi Bachao Andolan v. Union of India [2003] 263 ITR 706 (SC).*



provided any scope for the Indian tax authorities to exercise discretion in denying such relief. In arriving at this conclusion, the Court affirmed the validity of CBDT Circular No. 789 dated 13.04.2000, which clarified that a person holding a valid TRC issued by the Mauritian Tax Authority would be entitled to avail the benefits under the India–Mauritius Double Taxation Treaty.

The aforesaid view was followed by the Punjab and Haryana High Court in Serco BPO[25], wherein the High Court unambiguously held that once a certificate of residence is duly issued by the authorities of the treaty partner, Indian tax officials are bound to accept it without casting doubt on its validity. Circular No. 789, issued under Section 119 of the Act, embodies not just administrative instruction but also the sovereign trust and mutual respect shared between the two contracting states. To disregard such a certificate, the High Court eloquently observed, would constitute an erosion of the faith and trust reposed by the Contracting States in each other.

The Delhi High Court, in Blackstone[26], frowned upon the attempt of the tax authorities in seeking to question TRC, which, according to the Court, was wholly contrary to the Government of India's repeated assurances to foreign investors by way of CBDT Circulars as well as press releases and legislative amendments, and also the decision of the Supreme Court in Azadi Bachao Andolan. The said judgment has been stayed by the Supreme Court.

In a similar vein, in Tiger Global[27], the Delhi High Court held that the issuance of a TRC by the competent authority must be regarded as sacrosanct, and due weightage must be accorded to it, as it certifies that the TRC holder is a bona fide entity with beneficial ownership domiciled in a Contracting State and pursuing a legitimate business purpose in that State. The High Court observed that the Indian tax authorities are not justified in doubting the presumption of validity attached to the TRC, as doing so would inevitably erode the faith and trust reposed by Contracting States in each other. The Court further observed that treaties are entered into by Contracting States in the exercise of their sovereign powers. Having elucidated so, the High Court held that such reciprocal arrangements cannot be subjected to doubts regarding their validity. The Court also pointed out that Section 90 of the Act itself reflects the legislative intent to accord primacy to treaty enactments. The Supreme Court has heard the appeal filed at the instance of the Revenue against the Delhi High

25 *Serco BPO (P.) Ltd. v. Authority for Advance Rulings [2015] 379 ITR 256 (P&H).*

26 *Blackstone Capital Partners (Singapore) VI FDI Three Pte. Ltd. v. ACIT [2023] 452 ITR 111 (Del).*

27 *Tiger Global International III Holdings v. Authority for Advance Rulings (Income-tax) [2024] 468 ITR 405 (Del).*

Court decision in Tiger Global; the judgment is awaited.

UTPR

The Undertaxed Profits Rule ('UTPR'), part of the OECD's[28] Pillar Two framework is designed to ensure that large multinational enterprises ('MNEs') with annual revenues over €750 million pay at least a 15% effective tax rate in every country they operate. Alongside the Income Inclusion Rule ('IIR'), the UTPR targets profit shifting to low-tax jurisdictions. Generally speaking, if a subsidiary of an MNE pays less than 15% tax in a country and that income isn't taxed under the parent company's IIR, other countries where the MNE operates can step in and collect extra tax to make up the difference.

However, the implementation of the UTPR raises significant legal concerns as to whether it constitutes an impermissible exercise of extraterritorial taxation, due to the absence of a proximate nexus between the foreign income subject to the UTPR and the sovereign taxing authority of the jurisdiction seeking to impose the tax. International law limits the scope of state jurisdiction to protect foundational principles of sovereignty and territorial integrity, preventing unilateral extensions of taxing rights that could destabilize the international legal order. Judicial affirmation of this principle is evident in the Apex Court's ruling in the GVK case, which emphasized the necessity of a genuine connection between the taxpayer and the taxing state. Operationalizing the UTPR also exposes jurisdictions to significant international litigation risks, particularly under investment protection treaties. India's experience with retroactive tax legislation, most notably in the costly arbitral claims in Cairn and Vodafone[29], highlights the potential fallout from aggressive tax measures implemented without adequate adherence to treaty obligations. It is fitting to recall that the doctrine of economic allegiance, long revered as a pillar of international tax law, anchors a jurisdiction's taxing rights in the taxpayer's genuine economic ties to that territory.

Conclusion

India's approach to extraterritorial legislation is anchored in a constitutional architecture that aligns sovereignty, legality, and international responsibility in measured balance. Article 245 entered the Constitution without protracted debate. The Supreme Court has, however, over decades, read into it a quiet discipline, one that restricts a statute's reach beyond India's borders to situations where a "real and not illusory" connection exists. The insistence on nexus is more than a technical threshold; it is a reaffirmation of India's respect for the sovereignty of other nations and for the dignity of its own legislative process. The dualist structure, rooted in Article 253 and explained and adopted by the Apex Court in Nestle, ensures that international treaties do not bypass the democratic mandate of Parliament: a constitutional firewall that protects domestic rights while allowing India to engage with the world, consistent with the principles of international comity. This spirit has found resonance in the Indian judiciary's approach to the TRC issue, where the courts have refused to let mere suspicion erode the mutual trust that underpins treaty-based cooperation. As new tides, such as the OECD's UTPR approach, awash against India's shores, fresh constitutional challenges may arise, demanding a careful balance between protecting sovereignty and honoring international commitments. And, so it will, for India's Constitution, "is not merely a document in black and white," as Justice P.N. Bhagwati observed, but "a living document that evolves with the nation."

28 *The Organisation for Economic Co-operation and Development, abbreviated as OECD, based in Paris (France), is an international organisation of 38 countries, established in 1961. Pillar Two advocates a global minimum corporate income tax rate of 15 percent for MNEs with a "significant economic footprint." The OECD aims to achieve the said aim through the Qualified Domestic Minimum Top-Up Tax ("QDMTT"), the Income Inclusion Rule ("IIR"), and the Undertaxed Profits Rule ("UTPR").*

29 *Vodafone International Holdings BV v. Government of India [I], PCA Case No. 2016–35; Cairn Energy PLC and Cairn UK Holdings Limited (CUHL) v. Government of India, PCA Case No. 2016-7, Award, 21 December 2020.*

Sovereignty & Synergy: India's Constitu

Extra-Territoriality and the Nexus Rule

Article 245: The "Real and Not Illusory" Test



Parliamentary Legislation Requires Substantive Connection

Parliament may only legislate extraterritorially if a real, substantive connection exists with India.



Protection of Global Sovereignty

Strict nexus requirements prevent india from denigrating the self-determination and dignity of other nations.



The Rejection of "TDS" Without Nexus

Courts prohibit tax deduction at source for income having no territorial link to India.

Legal Perspectives on International Law in Domestic Orders

Perspective	Legal Application
Monism	International law is automatically incorporated into domestic legal orders.
Dualism	Treaties require an Act of Parliament to have effect in municipal law.

utional Framework for Global Taxation

Tax Treaties and the Dualist Doctrine

The Requirement of Domestic Incorporation



Treaty | **Parliamentary Act (Article 253)** | **Indian Law (Enforceable)**

Under Article 253, treaties are not law until Parliament passes specific implementing legislation.



TRCs as Sacrosanct Instruments

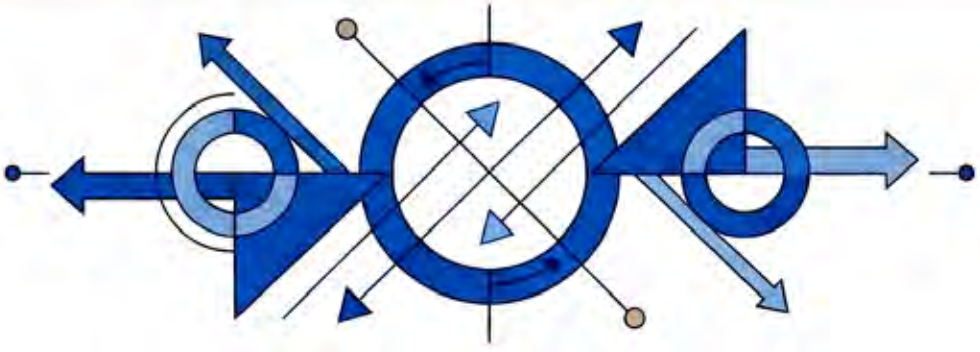


Tax Residency Certificates are accepted by courts as conclusive proof of residency to maintain international trust.



The UTPR and Future Sovereignty Risks

Emerging OECD rules challenge the constitutional need for a proximate nexus between income and state.



Technology & Emerging Frontiers





Advisory 2.0: How AI is Reshaping Tax Consulting



Bianca Kuijper

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Overview

In "Advisory 2.0: How AI is Reshaping Tax Consulting", Bianca Kuijper, Orbitax's Chief Operating Officer, explores how AI is transforming tax advisory. She contrasts the traditional model driven by information asymmetry, labor-intensive research, and lengthy memos with today's AI-powered approach, where tools can streamline data gathering, monitor global tax developments, and generate actionable insights in real time.

Kuijper emphasizes that AI does not replace human advisors but amplifies their capabilities, enabling them to focus on judgment, strategy, and client relationships. By combining curated data, generative and agentic AI, and automated compliance processes, advisors can move from reactive reporting to proactive, strategic guidance.

Trust, insight, and collaboration are now the defining currency of advisory work. In an AI-driven landscape, the most successful tax professionals will use technology to strengthen client relationships, turn compliance into strategy, and offer actionable, forward-thinking insight. Ultimately, the future of tax advisory is collaborative, data-informed, and human-centered, with technology enhancing the value that advisors bring to their clients.



Introduction

Twenty years ago, when I first walked into the international tax practice at Ernst & Young in Amsterdam with a fresh master's degree, the advisory model was simple: clients came with questions, we researched the answers, and delivered expertise wrapped in billable hours and meticulously crafted memos.

Today, as Chief Operating Officer at Orbitax, I am witnessing the most fundamental shift in tax advisory since the introduction of digital research databases. Unlike my early days, the reliance on AI-powered tools is not just changing how we find answers; it is redefining the entire value proposition of tax consulting. The question tax advisors now face is not just about finding answers, but about using technology to transform those answers into actionable insights that empower their clients to make strategic decisions, while responding to the ever-increasing demand for efficiency. It's a thrilling and unsettling evolution all at once, because as machines learn to do what we once did, we are prompted to ask a deeper question: Where do we, as humans, fit?

In this article, I reference XatBot (Orbitax's AI assistant) as an example of how AI is reshaping the way we access, interpret, and apply tax knowledge, while challenging traditional notions of what "expertise" means in advisory work. More than the tool itself, it highlights the new possibilities emerging: a collaborative future where human advisors and intelligent systems work together to deliver deeper insight, faster decisions, and greater strategic value for clients.

The End of Information Asymmetry

Let me paint you a picture from my advisory days. As a junior tax advisor for multinational clients, I was tasked with monitoring global tax law changes that could impact our clients. My daily routine involved scanning international tax

alerts, manually cross referencing them with the fact patterns of clients assigned to me, and flagging potential implications. The process was methodically executed. I researched local regulations, analyzed complex tax treaties, reviewed rate tables, consulted our internal planning databases, and then synthesized everything into a comprehensive memo. Monitoring tax laws easily took up six hours a day, and depending on the complexity, a memo could take several days to complete.



The traditional advisory model relied on information asymmetry. Clients needed us because accessing comprehensive tax knowledge required specialized training, expensive databases, and years of experience to know where to look. Yet, the real challenge was not time, but value. Clients often hesitated to incur additional fees for routine updates. This created a paradox, where staying well-informed became financially challenging. This traditional approach was not just labor-intensive but also vulnerable to human error and constrained by individual capacity.

Fast-forward to today: AI can perform that same analysis in seconds, monitoring global tax law changes across jurisdictions, drawing from multiple trusted databases, synthesizing withholding tax implications, compliance obligations, and local law requirements, and even producing draft memos or organizational charts instantly. The result is not just faster; it is broader, more consistent, and in many ways more insightful than what I could achieve manually. This is truly remarkable, and this shift forces us to rethink what expertise really means in an era where technology can replicate, and often exceed, our analytical capabilities.

A Vision Rooted in Expertise

More than two decades ago, two international tax partners at KPMG in Silicon Valley, Gratian Joseph and the late Donald Chung, saw how much time and expertise were consumed by repetitive, manual processes. Both believed that technology could help tax professionals move beyond routine tasks to focus on higher-value thinking. Don, in particular, envisioned a digital tax assistant that could combine the depth of technical knowledge with the efficiency of automation. He even gave it a fitting name: XatBot, an anagram of "tax."

> Artificial intelligence, when applied with care and expertise, becomes a catalyst for human collaboration and judgment rather than a substitute for it.

From its inception, the Orbitax platform has been developed by professionals who understand the nuances of international tax practice. Rather than relying on generic algorithms or external data sources, it is built on comprehensive, curated

databases of global tax rules, maintained by experts who live and breathe international taxation. This professional foundation ensures that the technology reflects real-world tax logic and supports practitioners in applying their expertise with greater accuracy and efficiency.

Artificial intelligence, when applied with care and expertise, becomes a catalyst for human collaboration and judgment rather than a substitute for it. As technology increasingly takes on the analytical groundwork, the role of the tax professional grows more strategic, centered on interpretation, connection and planning. This, ultimately, was Don Chung's vision: a future where technology amplifies human capability, allowing professionals to focus on what only humans can do: exercising judgment and building personal connections and trust.

Building Trust on a Foundation of Reliable Data

The strength of any intelligent system depends on the quality of the knowledge that supports it. In the case of Orbitax, that foundation is extensive tax research developed over more than two decades by international tax professionals. The platform draws upon a curated global database covering more than 195 jurisdictions, including corporate tax regimes, withholding tax provisions, compliance requirements, rates, forms, and treaties. Its scope reflects years of systematic research, with thousands of law change reports, tax news updates, rates, and treaty records reviewed and refreshed daily to ensure accuracy and relevance.

This structured knowledge base enables the generation of precise and contextually relevant tax insights. By combining verified research with company-specific data, the system produces analyses that mirror professional reasoning while maintaining consistency and speed. Continuous updates across all jurisdictions ensure that it reflects the most recent legislative and treaty developments. For example, in determining the application of India's tax treaties, XatBot will not automatically apply MFN clauses because it relies on a curated database that reflects the India SC Nestlé ruling. Likewise, it will not automatically apply India's treaties as affected by the MLI because the data source already reflects the ITAT rulings barring automatic activation of the MLI sans specific notification.

Equally important, this foundation helps safeguard against a common limitation of general-purpose AI systems: the tendency to generate inaccurate or unfounded information, often referred to as "AI hallucination." Because the underlying information in the platform is curated, validated, and continuously updated by subject-matter experts, the risk of such errors is significantly reduced. Each analysis is anchored



in authoritative, up-to-date tax intelligence, providing professionals with confidence that the insights they receive are both reliable and relevant.

In this way, technology grounded in verified knowledge supports the same principles that have always defined the tax profession: precision, trust, and integrity.

Intelligent Monitoring of Tax Trends in Practice

When I think back to the countless hours once spent monitoring global tax developments and cross-referencing them against client fact patterns, the contrast with today's possibilities is striking. What was once an exercise in endurance has become a process of informed engagement, where technology assists in identifying, interpreting, and communicating tax changes as they occur.

> Transparency strengthens the relationship rather than diminishing it, creating space for deeper dialogue and strategic collaboration.

Consider, for example, the recent amending protocol to the tax treaty between Brazil and India, which updates key provisions on the taxation of royalties, interest, and capital gains. In the past, identifying affected clients across a multinational portfolio would have required manually reviewing entity charts and jurisdictional exposures. Today, with an integrated monitoring system, I can ask which of my clients may be impacted. Because the platform already contains each client's entity footprint and treaty relationships, it immediately highlights those with relevant connections to Brazil or India.

From there, I can instruct the system to track this development for each affected client and to send alerts when further guidance, ratification updates, or implementing regulations are released. I can even choose to include my clients directly in these alerts, ensuring that they have access to the same real-time information that I do. What once demanded days of research and coordination now becomes a proactive, collaborative process.

This evolution represents more than an efficiency gain; it signals the end of information asymmetry that long defined the advisory model. When both advisor and client share access to the same up-to-date information, the foundation of value shifts from data possession to insight and trust. Transparency strengthens the relationship rather than diminishing it, creating space for deeper dialogue and strategic collaboration. In this new landscape, technology becomes the enabler of trust — and trust, in turn, the currency of a more valuable and effective advisory partnership.

Beyond the Memo: Refocusing Advisory Value

When I began my career, every tax project seemed to end with a memo, often dozens of pages long, that sought to capture our analysis and planning ideas. I remember spending days assembling these documents after monitoring a new regulation or treaty change, manually verifying provisions, and checking calculations. The memo was our way of showing diligence, but it was also where the limitations of time became most apparent. Despite all the effort, clients sometimes found the output too generic, still asking the question: What does this mean for us?

Today, that same process begins in a very different way. Suppose a development such as the amending protocol to the tax treaty between Brazil and India appears through automated monitoring. Within moments, the system can outline which clients may be affected, summarize the treaty changes, and generate a first draft of the technical analysis. Rather than starting from a blank page, the advisor now begins with a

foundation built on verified data and structured reasoning.

This shift changes the nature of our work. Instead of spending hours collecting and formatting information, we can use that time to test the practical implications, refine the analysis, and discuss how the change affects a client's specific structure. The value of the memo is no longer in how much information it contains, but in how well it guides action.

To achieve this, the technology must extend beyond generative text. Generative AI produces language based on probability: an extraordinary capability for drafting, but one that needs precision safeguards in a field as complex as taxation. For that reason, Orbitax combines Generative AI with Agentic AI: systems that can reason through defined steps, apply expert-built logic, and verify their conclusions. These agentic components, such as the Withholding Tax Minimizer, Interest and Penalty Calculator, Global Minimum Tax Model, and Country-by-Country Reporting Analyzer, bring the structure and reliability of human-designed computation into the process.

What emerges is not a replacement for professional writing, but an evolution of it. The initial draft becomes a starting point for deeper reflection, allowing the advisor to concentrate on the nuance of fact patterns, implementation, and strategy. In doing so, we move beyond the era of information asymmetry: where value was defined by access to data, and enter an era where trust, judgment, and collaboration define the true worth of the advisor-client relationship.

Deepening Client Relationships

XatBot's role is not merely that of an analytical



powerhouse. It enables advisors to engage more meaningfully with clients, providing space to listen, understand, and tailor advice to the unique circumstances of each business. By automating routine processes, XatBot allows advisors to spend less time on data gathering and more on cultivating relationships, understanding client needs, and providing personalized strategic guidance. This transformation exemplifies how technology can enhance, rather than replace, the human elements of trust and empathy that are so critical in advisory work.

Turning Compliance into Strategy

Perhaps the most significant opportunity created by automation lies in reimagining compliance work. Preparing tax returns and statutory reports has long been a dependable but low-margin activity, essential for maintaining client relationships but rarely a true differentiator. Yet within every return lies a wealth of information: details about entity structures, cross-border transactions, and operating jurisdictions. With intelligent systems capable of analyzing that data and connecting it to current legislative changes, compliance work can become the foundation for continuous advisory engagement.



Going back to the example of my junior advisory days, much of the client information was coming from the corporate tax returns. Each return told a story about where a company operated, its entity footprint, and relevant transactions. That information was invaluable, but its full potential often remained untapped, buried in spreadsheets and static reports.

Today, this same data forms the backbone of intelligent automation. The entity footprint that is captured across multiple corporate tax returns can now be extracted and mapped directly into a monitoring system. The platform uses that information to track relevant law changes automatically, (e.g. a treaty amendment, a new withholding rule, or an updated incentive regime) and to connect those developments to the specific entities or transactions they affect.

Once a change is detected, the system's agentic capabilities come into play. Drawing on the underlying data from the returns and their supporting calculations, it can simulate planning scenarios in real time. For example, it might assess how a change in depreciation rules or tax credit eligibility impacts a client's capital investment strategy, or model how a treaty update could alter the effective tax rate across jurisdictions. The advisor can then refine these outputs, evaluate alternatives, and design an implementation plan that aligns with the client's broader business objectives.

In this way, the compliance process evolves from a backward-looking reporting task into a forward-looking planning exercise. Advisors can move beyond the routine mechanics of tax return preparation to deliver strategic insights rooted in the client's own data. The result is a practice that not only meets filing obligations but also continuously identifies opportunities,

transforming the return from a regulatory requirement into a catalyst for value creation.

Advisory 2.0: Trust as the New Currency

As technology takes over the mechanical aspects of tax practice such as data collection, research, calculation, and first-level analysis, what remains is what has always defined our profession: human judgment, communication, and trust. The tools we use may have changed, but the foundation of advisory work has not.

At Orbitax, we see AI working as 'digital staff', not as a replacement for professionals. The digital systems perform the tasks that require speed, precision, and scale, while human advisors focus on interpretation, strategy, and relationships. Together, they create outcomes that neither could achieve alone.

This collaboration transforms both the advisor's and the client's experience. Tax departments and advisory firms can move beyond data gathering and compliance oversight to become strategic partners in decision-making. With routine work automated, professionals can invest more time in understanding their clients' business models, anticipating challenges, and identifying opportunities that align with long-term objectives.

In this new landscape, trust becomes the most valuable asset. When clients have access to the same information as their advisors, expertise alone is no longer the differentiator. What matters is the ability to contextualize, explain, and guide the client. The relationships built on that foundation of trust will define the next generation of tax advisory.

Advisors who embrace this change will find that technology does not diminish their role; it magnifies it. By combining the precision of digital systems with the empathy and insight that only humans can offer, we can create a model of collaboration that is not only more efficient, but also more meaningful. In an AI-driven world, it is our humanity — our capacity to connect, to interpret, and to build trust — that becomes the true source of value.

Epilogue: Coming Full Circle

When I first walked into the tax practice at Ernst & Young two decades ago, the work was defined by research, memos, and long hours spent mastering complexity. Today, as I look across a landscape shaped by artificial intelligence, I see the same commitment to precision and professionalism, but expressed through very different means.

> Generative AI produces language based on probability: an extraordinary capability for drafting, but one that needs precision safeguards in a field as complex as taxation.

The tools have evolved, but the purpose has not. Our role as advisors remains to bring clarity where there is uncertainty and to build trust where there is risk. What is changing is the way we do it: by embracing technology not as competition, but as collaboration.

In the end, the question is no longer "Where do we, as humans, fit?" but rather "How do we want to lead?" Those who use technology to amplify judgment and deepen relationships will define the next chapter of our profession.

Author's Note: This article was prepared and refined using Orbitax XatBot AI as part of an experimental writing process: an illustration of the collaboration between human expertise and technology that it describes. The ideas, structure, and conclusions represent the author's own analysis, improved with input from colleagues Dali Bouzoraa and Raiyan Shahryar.

Advisory 2.0: The AI Evo

Transitioning from traditional, labor-intensive research to a strategic,

FROM MANUAL RESEARCH TO STRATEGIC INSIGHT



AI now monitors global law changes in seconds, a task previously requiring hours daily.



6 HOURS
(Daily)



6 SECONDS
(Instant)

Ending Information Asymmetry: Value has shifted from simply possessing tax data to providing actionable, strategic interpretation.



From Reactive to Proactive: Automated monitoring identifies client-specific impacts instantly, turning compliance data into forward-looking strategy.



Generative AI + A



'Creative Drafting' **'E**

Combining creative d
expert built logic ensu
and eliminates 'AI ha



Combining **creative** d
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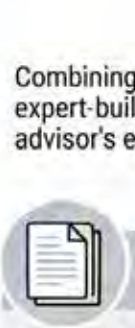

TRAD

Primary Output: Meti

Data Source: Manual

Core Value: Informati

olution of Tax Consulting

AI-enhanced advisory model prioritizing human judgment and trust.

THE POWER OF HUMAN-AI COLLABORATION

Agentic AI

Expert-Built Logic'

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rafting with
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e in judgment.



AI as 'Digital Staff': Technology amplifies human capability rather than replacing the advisor's essential role in judgment.

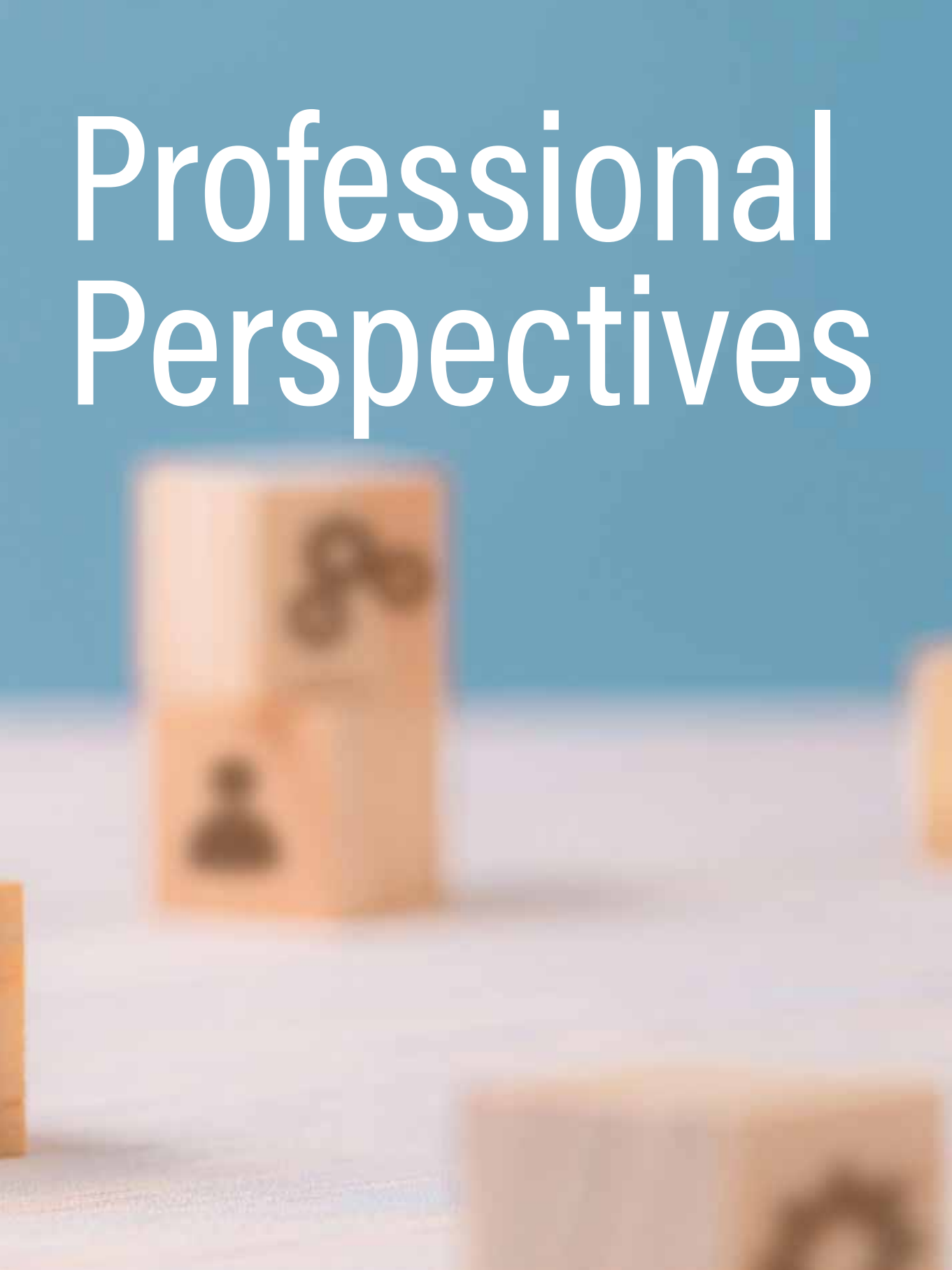
TRUST IS THE NEW CURRENCY

As data becomes common, human empathy and connection remain the primary advisory differentiators.

ITIONAL MODEL	ADVISORY 2.0 (AI-POWERED)
culously crafted, lengthy memos	**Primary Output:** Actionable insights and real-time alerts
research & disparate databases	**Data Source:** Curated, verified global tax engines
on possession/Billable hours	**Core Value:** Strategic judgment and client trust



Professional Perspectives



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Standard Setting & Regulation in Accounting and Auditing:

Institutional Design, Governance Considerations and the Way Forward - A Discussion Paper

Overview

India's accounting and auditing regulatory framework has evolved substantially since the enactment of the Chartered Accountants Act, 1949. From a unified model of professional self-regulation under the Institute of Chartered Accountants of India (ICAI), the system has progressively incorporated statutory oversight mechanisms, culminating in the establishment of the National Financial Reporting Authority (NFRA) under the Companies Act, 2013.

This article examines a fundamental institutional design question arising from this evolution: whether the functions of standard setting and enforcement should be vested in the same body or undertaken by separate institutions? Tracing the Indian regulatory journey and drawing on broad international practice, the article highlights the conceptual distinction between principle-based standard formulation and certainty-driven enforcement.

While functional separation may enhance objectivity, independence, and public confidence, it also presents challenges relating to expertise, cost, coordination, and the risk of over-regulation. In India's diverse and complex professional ecosystem, these considerations require careful calibration.

Rather than advocating a specific model, the article calls for informed public debate and periodic reassessment of the regulatory architecture, emphasising role clarity, institutional coordination, proportional regulation, and coherent appellate mechanisms. Such reflection is essential to sustaining trust in financial reporting and audit quality as India's economy and capital markets continue to grow.



Amarjit Chopra



Sanjiv Chaudhary

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Introduction

A robust accounting and auditing framework is fundamental to sound economic governance. It underpins the credibility of financial reporting, strengthens investor confidence, and supports efficient capital allocation. As economies grow in scale and complexity, the expectations from such frameworks also evolve, with greater emphasis on independence, transparency, consistency, and protection of public interest.

ICAI has been the principal institution responsible for regulating the accounting and auditing profession in the country.

One of the enduring questions in this context, both globally and in India, relates to institutional design: Should the functions of standard setting and enforcement be vested in the same statutory body, or should they be undertaken by separate and independent institutions?

This is not a new question, nor does it admit a simple or universal answer. Different jurisdictions have adopted different models, shaped by historical evolution, legal traditions, market maturity, and institutional capacity. Each model reflects trade-offs between professional expertise, regulatory independence, efficiency, and accountability.

This article seeks to examine this issue in the Indian context. It briefly traces the evolution of India's accounting and auditing regulatory framework, identifies areas where structural overlaps exist, and highlights key considerations relevant to the debate on the separation of roles. The article does not seek to advocate any specific institutional model or to assess the performance of any regulator. Its objective is to encourage informed reflection and constructive dialogue on how India's regulatory architecture can continue to evolve, keep pace with the changes, and in a manner that best serves the public interest.

Evolution of Accounting and Auditing Regulation in India

ICAI's Foundational Role

Since the enactment of the Chartered Accountants Act, 1949, the Institute of Chartered Accountants of India (ICAI) has been the principal institution responsible for regulating the accounting and auditing profession in the country. Over the decades, ICAI has been entrusted with a comprehensive set of responsibilities, including:

- Enrolment of students and conduct of professional examinations
- Grant of membership and certificates of practice
- Approval of firm names and maintenance of professional records
- Issuance of Accounting Standards, Auditing Standards, and Ethical Standards

The QRB was envisaged as an independent body to review the quality of services rendered by members of the profession.

- Issuance of Statements, Guidance Notes, and Interpretations on technical matters
- Enforcement of professional standards through a disciplinary mechanism

As the profession expanded and the economy diversified, ICAI introduced quality-focused initiatives such as the Peer Review mechanism and Continuing Professional Education (CPE) requirements. For a considerable period, ICAI functioned as a unified professional regulator,



combining education, standard setting, interpretation, and enforcement.

This model was consistent with global practice in the mid-twentieth century and reflected the need to build professional capacity and credibility in a developing economy.

Introduction of Statutory Oversight

NACAS and Statutory Recognition of Accounting Standards

A significant institutional development occurred with the Companies (Amendment) Act, 1999, which accorded statutory recognition to the Accounting Standards. This amendment led to the establishment of the National Advisory Committee on Accounting Standards (NACAS).

Under this framework:

- ICAI continued to formulate Accounting Standards.
- NACAS reviewed the standards and advised the Central Government.
- The Central Government notified the standards under the company law.

This marked the first formal distinction between technical standard formulation and statutory prescription, introducing an element of external oversight while retaining ICAI's central technical role.

Quality Review Board (QRB)

Further evolution took place through the 2007 amendment to the Chartered Accountants Act,1949, which resulted in the creation of the Quality Review Board (QRB). The QRB was envisaged as an independent body to review the quality of services rendered by members of the profession. It was to be chaired by a government-nominated official, with a majority of members independent of the ICAI Council.

While the QRB represented a step towards enhanced oversight, certain structural aspects—such as its funding mechanism—highlighted the practical challenges involved in designing oversight bodies that balance independence, expertise, and operational feasibility.

Establishment of NFRA: A Structural Shift

NFRA under the Companies Act, 2013

A more fundamental shift occurred with the notification of Section 132 of the Companies Act, 2013, effective from 1 October 2018, leading to the establishment of the National Financial Reporting Authority (NFRA).

NFRA was entrusted with responsibilities including:

- Recommending Accounting and Auditing Standards to the Central Government for notification
- Monitoring and enforcing compliance with such standards
- Conducting inspections of audit firms auditing specified classes of companies

NFRA was conceived as an independent statutory regulator, funded by the Government and not governed by an elected professional body.

- Initiating disciplinary proceedings against auditors and audit firms, either suomoto or based on references from regulators or the Government

NFRA was conceived as an independent statutory regulator, funded by the Government and not governed by an elected professional body. Its creation significantly altered the regulatory landscape, particularly in relation to audits of listed companies and other public interest entities.

The Current Regulatory Architecture

As matters stand today, India's accounting and auditing ecosystem operates under a shared and layered regulatory framework:

- ICAI continues to develop Accounting, Auditing, and Ethical Standards and regulates auditors of non-specified companies and non-corporate entities.
- NFRA reviews and recommends standards for notification and undertakes enforcement actions in respect of auditors of specified companies.
- Sectoral regulators such as SEBI and RBI, along with the Ministry of Corporate Affairs, investigative agencies, and courts, also play important roles in monitoring compliance and adjudication.

This architecture reflects India's attempt to balance professional self-regulation with independent statutory oversight. At the same time, it introduces overlaps in standard setting, interpretation, and enforcement, which merit careful consideration from the perspective of institutional design.

The Core Issue: Standard Setting versus Enforcement

Conceptual Distinction

Standard setting and enforcement serve distinct but complementary purposes:

- Standard setting seeks to develop coherent, principle-based frameworks that permit professional judgement and adaptability across varied economic circumstances.
- Enforcement seeks certainty, consistency, and uniform application, often requiring definitive interpretations and deterrent mechanisms.

When the same institution is responsible for drafting standards, issuing interpretations, and adjudicating compliance, certain structural tensions/conflicts may arise—whether in practice or in perception.

Areas of Potential Conflict/Tension

Some of the considerations often discussed in this context include:

- Risk of self-review, where an institution evaluates compliance with standards it has itself framed
- Perceived constraints on independence in enforcement



- Divergence between the intent of principle-based standards and rule-based enforcement outcomes
- Stakeholder uncertainty when interpretations differ across authorities

These considerations do not imply institutional inadequacy. Rather, they highlight the importance of clarity of roles, safeguards, and accountability mechanisms, particularly in matters involving high public interest and expectations of stakeholders.

International Practice: Broad Observations

Globally, there is no single uniform model governing the relationship between standard setting and enforcement in accounting and auditing. Jurisdictions have adopted frameworks suited to their legal traditions, market maturity, and institutional capacity. However, certain broad patterns may be observed.

In many developed economies (like the USA, UK, Australia, etc.), conscious efforts have been made to distinguish the functions of standard formulation from regulatory oversight and enforcement, particularly for entities of significant public interest. This distinction is achieved either through separate institutions or through strong internal safeguards, external oversight, and transparent accountability structures.

The underlying rationale is not merely institutional separation, but the preservation of objectivity, independence, and public confidence, especially where enforcement actions require interpretation of principle-based standards. At the same time, most jurisdictions recognise the importance of close coordination between standard setters and regulators to ensure technical soundness and practical enforceability.

India's framework reflects a hybrid approach, combining professional expertise with statutory oversight.

India's framework reflects a hybrid approach, combining professional expertise with statutory oversight. The question, therefore, is not one of conformity with any particular international model, but whether the existing architecture optimally balances independence, expertise, efficiency, and public interest in the Indian context.

Advantages of Functional Separation

Advocates of separating standard setting and enforcement often point to several potential benefits:

- Reduced conflict of interest and enhanced perceived independence
- Greater objectivity in enforcement outcomes
- Increased public confidence in financial reporting and audit quality
- Clearer accountability structures
- Alignment with globally accepted governance principles

These considerations assume particular relevance in environments characterised by deep capital markets and widespread public participation.

Countervailing Considerations

At the same time, functional separation is not without challenges:

- Potential dilution of technical expertise in enforcement
- Higher regulatory and compliance costs
- Duplication of effort and overlapping compliance requirements
- Risk of over-regulation
- The possibility of rigid enforcement undermining the intent of principle-based standards

For a diverse economy such as India's, these factors warrant careful balancing, and it is possible to have meaningful resolutions to the factors as stated above.

India's professional ecosystem is characterised by scale and diversity.

India's Contextual Complexity

India's professional ecosystem is characterised by scale and diversity. Professionals serve entities ranging from micro enterprises to large, listed companies. Regulatory transitions—such as a company moving into the public-interest category—may result in changes in applicable standards, interpretations, and enforcement authorities, creating operational and compliance challenges.

Further, professional members may be answerable to multiple authorities depending on the nature of their assignments. This raises legitimate questions relating to efficiency, consistency, proportionality, and certainty in regulation.

Conclusion and Way Forward



India's accounting and auditing regulatory framework has evolved significantly over the past seven decades, reflecting economic growth, increasing market complexity, and heightened public interest expectations. The establishment of the National Financial Reporting Authority represents a deliberate policy choice towards enhanced statutory oversight, particularly for public interest entities.



At the same time, the coexistence of multiple institutions involved in standard setting, interpretation, and enforcement brings to the fore important institutional design considerations. The issue is not one of institutional intent or capability, but of how responsibilities are best structured to promote independence, consistency, proportionality, and trust.

Rather than approaching this as a binary choice between professional self-regulation and statutory control, India may benefit from a calibrated and evolutionary approach, guided by the following principles:

- Clear functional demarcation between standard setting, interpretation, and enforcement, supported by transparent articulation of roles
- Single-point disciplinary oversight for professional members, with inputs from sectoral regulators routed through a coordinated mechanism
- Strong institutional coordination among ICAI, NFRA, and other regulators to minimise duplication and conflicting interpretations
- Proportional regulation, recognising differences between public interest entities and other enterprises
- Robust and consistent appellate mechanisms to ensure fairness, predictability, and jurisprudential coherence

Periodic review of the regulatory architecture, informed by experience and stakeholder feedback, would help ensure that the framework remains responsive to changing economic realities without sacrificing stability.

This article does not propose a definitive institutional model. It seeks to underscore that clarity of roles, avoidance of structural conflicts, and alignment with globally accepted governance principles—adapted to Indian realities—are essential to sustaining confidence in financial reporting and audit quality.

As India continues its journey towards becoming a major global economic power, continued reflection on the design and effectiveness of its accounting and auditing regulatory framework is both timely and necessary, in the larger public interest.

The Evolution of Indian Audit Regulation: Fro

1949: The Era of Self-Regulation



The ICAI is established as a unified body for education, standard-setting, and enforcement.

1999–2007: Introduction of Oversight

Statutory recognition of standards begins with NACAS and the Quality Review Board (QRB).

The D
Separation v

Principle-Based Standards vs. Certainty-Driven Enforcement



Principle-Based Standards Juddgment

Standards require professional judgment, while enforcement demands uniform application and deterrent mechanisms.

The Case for Functional Separation



The Case for Functional Separation

Separation enhances objectivity, independence, and public confidence while reducing conflicts of interest.

m Self-Governance to Independent Oversight

2018: The NFRA Structural Shift



The National Financial Reporting Authority is established as an independent statutory regulator.

Comparison



	ICAI	NFRA
Primary Focus	Standard Formulation	Monitoring & Enforcement
Scope	Non-specified companies and non-corporate entities	Listed companies and specified public interest entities

ebate: vs. Integration

Challenges of Over-Regulation



Challenges of Over-Regulation

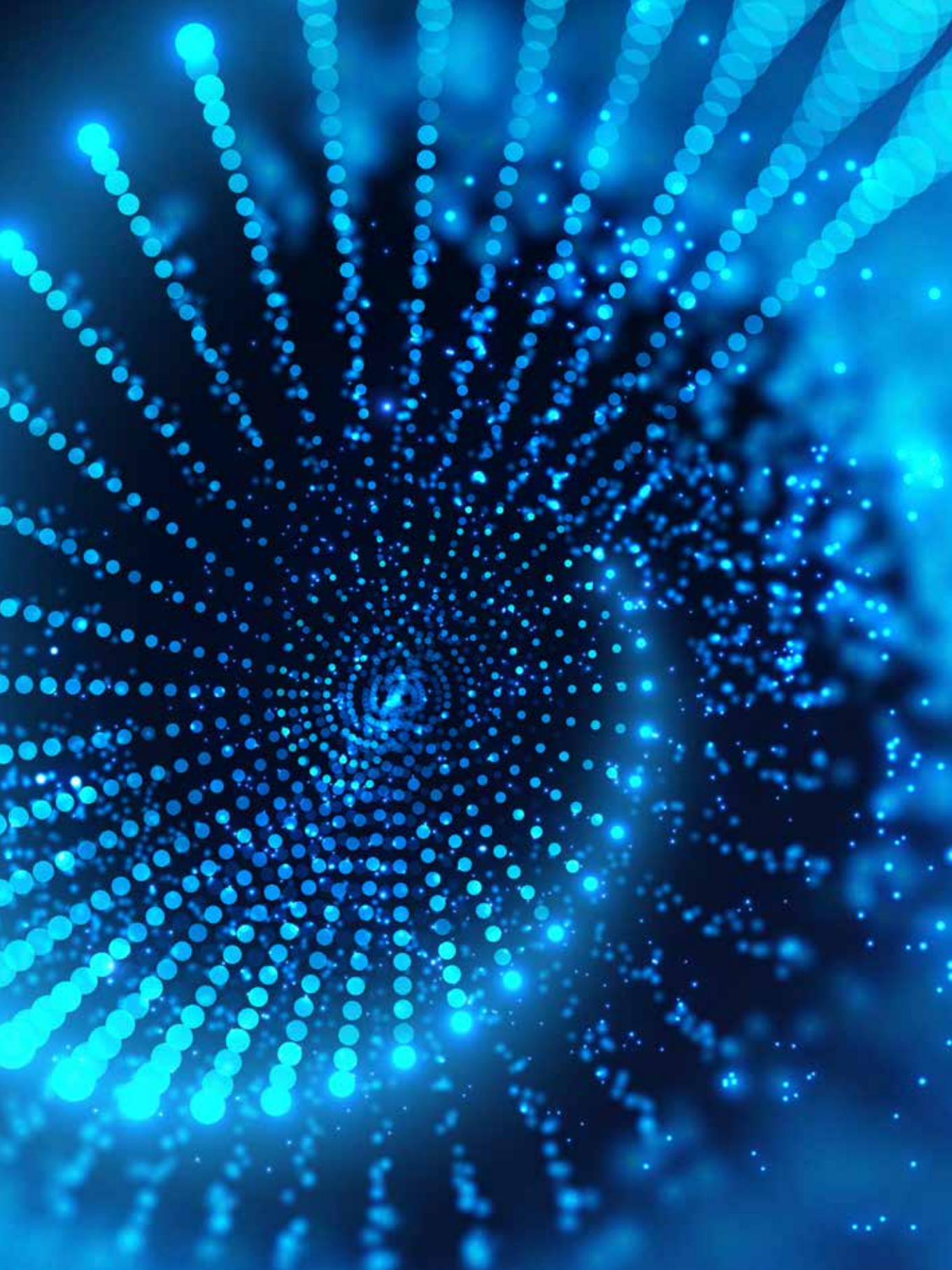
Risks include higher compliance costs, duplication of effort, and potential dilution of expertise.



Principles for the "Way Forward"

Success requires clear role demarcation, institutional coordination, and proportional regulation for different entity sizes.

FUTURE OUTLOOK



Justice, Taxation, and Technology: A Centenary Address for India's Future



Justice Dr D Y Chandrachud

Overview

As the Chamber of Tax Consultants celebrated a century of service and excellence, former Chief Justice of India, Justice Dr D Y Chandrachud, delivered a landmark address that was both deeply reflective and boldly forward-looking. Speaking to an audience of legal and financial professionals, he touched upon the evolution of India's taxation framework, the transformative impact of digital technology on the judiciary and professional services, and the urgent need to align legal infrastructure with India's economic ambitions.

Reproduced below is the full text of his speech—a rich narrative that offers insight into how justice, technology, and economic policy must evolve in tandem to meet the aspirations of a rising India.

Good evening Mr Justice Chandrakant Bhadang, the President of the Income Tax Appellate Tribunal, and my own distinguished former colleague at the High Court adjudication in Bombay, Mr Soli Dastur, Mr PC Joshi, Dr K Shivram and other distinguished past presidents of the Chamber of Tax Consultants. Mr Vijay Bhatt, President of the CTC; Mr Jayant Gokhale, President Elect; Ms Neha Gada, Vice President; Mr Vipul Chokshi, Chairperson of the Centenary Committee.

Esteemed members of the Chamber of Tax Consultants, distinguished colleagues from the legal and accounting professions, and all the guests present here.

It gives me great pleasure to join you for the centenary celebration of the Chamber of Tax Consultants—an institution which has been a bedrock of fiscal wisdom and professional integrity.

The institution has evolved over a period of time. What was initially a Chamber of Income Tax Consultants, having over a period of time assumed the broad avatar of the Chamber of Tax Consultants, incorporating not just direct tax, indirect tax and now complex federal and international tax arrangements, including the GST, which has significant implications for the federal structure of the country.

The Chamber's long journey has witnessed India's economic and legal evolution. The Chamber is also in a state of flux, witnessing India's social evolution in terms of gender and inclusion. I was delighted to learn of the fact that Neha Gada is the first Vice President of the Chamber of Tax Consultants. Looking at the number of women chartered accountants and lawyers who are now a part of our profession, I'm sure that my successors—those who will follow me in future such events of the CTC—will say one day that we also have male members in the CTC.

Throughout this journey of the Chamber of Tax Consultants, it has led by example on how to navigate state power and citizen obligations to achieve commercial prosperity. A centenary celebration is not only an occasion to honor the past but also an opportunity to reflect on the future. In the spirit of reflection and progress, I want to speak about three emerging concerns facing us today.

First, I shall speak about the benefits of replacing our current taxation statutes.

Second, I would wish to speak on the influence which digital technology has on professionals and their services and what the emerging economic and technological environment means to the future of the legal and accountancy professions.

And third, I will speak on the imperative of aligning our legal and judicial framework and systems with India's ambition to emerge as a global economic powerhouse.

Income Tax Bill of 2025

A new income tax bill was placed before Parliament to undergo scrutiny by the Parliamentary Select Committee. The old Income Tax Act of 1961 had about 819 sections, including alphanumeric sections like sections 80CCD and 115JB. These were the bread and butter of the prosperity of legal and tax professionals. These sections were divided into 47 chapters.

By contrast, the new Bill reduced the number of sections from 819 to 536. It removed 1200 provisos and 900 explanations. Naturally, the number of chapters went down from 47 to just 23. But the number of tables has gone up from 18 to 57, and the number of formulae from 6 to 46.

> New laws must represent a conscious evolution of thought to address the realities of the 21st century and of emerging India.

To its credit, the new Bill has excelled in removing redundancies and simplifying the language. How many trees have been cut in devoting paper to understanding whether a proviso to a section is an exception or an explanation! The wordcount of the new bill is nearly half of the old Act. This process of simplification echoes the recent overhaul of criminal legislation, which replaced the Indian Evidence Act with the Bharatiya Sakshya Adhiniyam, the Indian Penal Code with the Bharatiya Nyaya Sanhita, and the Code of Criminal Procedure with the Bharatiya Nagarik Suraksha Sanhita.

While these new laws achieve simplicity, many of them have made few substantive changes. The few changes they do bring could have also been achieved, someone will say, by amendments to the old Acts. But there was something more fundamental in the process. While new enactments retain the skeletal framework and

core principles of their predecessors, they should not be mere replicas.

New laws must represent a conscious evolution of thought to address the realities of the 21st century and of emerging India. The Income Tax Act of 1961 was enacted to serve the structural design of a tightly regulated state-controlled economic order. With economic liberalization in the 1990s, the statute witnessed the incorporation of provisions which were intended to spur growth in certain segments considered beneficial to the economy, be it export or later, electricity, greenfield projects or green energy.

Tax laws are not just a means to collect revenue, but also a significant policy instrument to incentivize entrepreneurial and creative potential in a market-based economy.

But the fundamentals remain the same, with some tweaks. The state is perceived as the permissive creator of economic energy and economic enterprise. The law today must yield to present economic reality, which is that the onward evolution of our nation is conditioned on private enterprise being the source of innovation, the generator of capital, the source of leadership, and ultimately the provider of productivity and employment.

This evolution exposes the fundamental tension between legal stability on the one hand and the appetite for economic progress on the other. Think of it this way: the Income Tax Act 1961 has undergone hundreds of amendments. Its complexity has haunted taxpayers and lawyers alike. But this complexity of the law has led to periodic court interventions to clarify ambiguities.

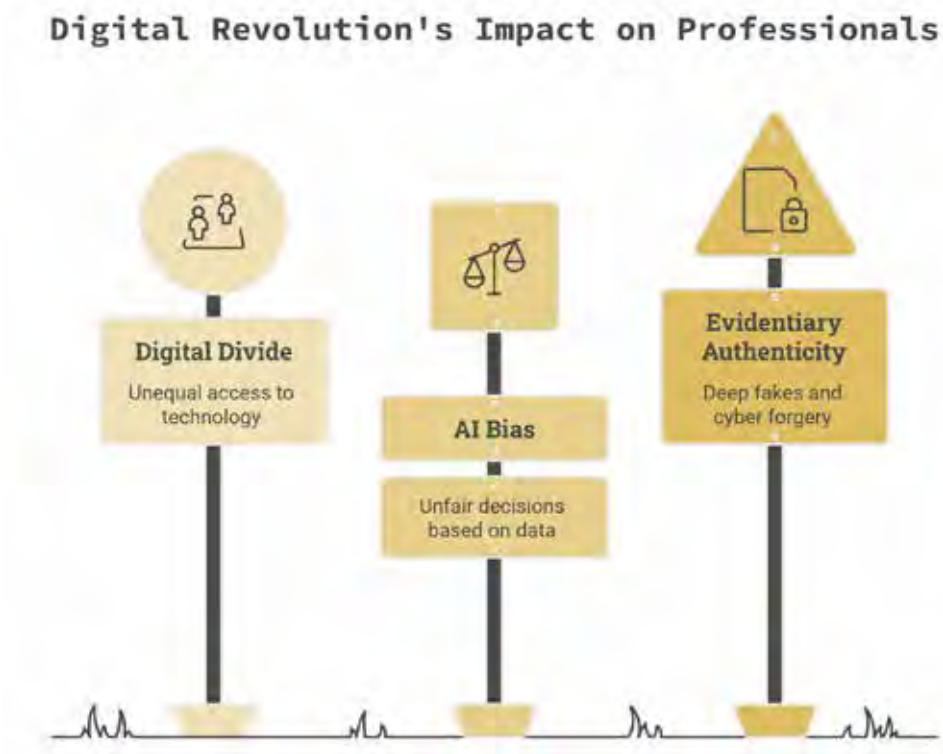
The tussle between judicial pronouncement and legislative amendment has produced an unwelcome synthesis of uncertainty and ambiguity. The burgeoning membership of the Chamber of Tax Consultants may indicate that tax law is fertilizer for professional prosperity. Today, the 1961 Act, despite its complex structure, is abundant with case law which interprets it exhaustively.

The trade-off which Parliament is considering is whether it should enact a new statute to simplify the tax code or retain the nuanced body of case law which has evolved under the 1961 Act. The task before the Parliamentary Committee, which was constituted to scrutinize the Income Tax Bill of 2025, was to ensure that the fiscal statute emerges not simply as a new collection of old provisions, but as a demonstrably superior instrument of law.

Will the new law achieve clear language, fairer application and more efficient administration of tax? After all, tax laws are not just a means to collect revenue, but also a significant policy instrument to incentivize entrepreneurial and creative potential in a market-based economy.

Look at what is happening in the US, where you have the big, bold and beautiful bill which has just passed the House in the US. At a certain level it reflects an economic reform, but at a more fundamental level it marks a distinct policy change. So let's not be befuddled about this. Tax law in the colonial times may have been regarded by the British as a source of revenue collection, but today tax law transgresses all that and it's a powerful instrument of bringing about economic and social change.

The new bill must therefore avoid reawakening the specter of retrospective uncertainty which the *Vodafone* case (of which I was a part) exemplified, or creating fresh ambiguities which spawn another generation of protracted and costly litigation. The health of India's economy is intrinsically linked to a tax regime which is perceived by taxpayers and investors as fair, transparent, predictable and efficient.



A regime viewed as capricious or excessively adversarial undermines its own revenue goals by discouraging compliance and investment. Think of the License Raj era, where excessive litigation terrorized tax-paying businesses. Some of our most exceptional lawyers, like Shri Nani Palkhivala, came from a tax law practice because they were trained under the rigorous hardship of the License Raj tax laws.

A generation of citizens of my genre would listen to Nani's budget speeches year on year at the Brabourne stadium. His eloquence and amazing memory were simply mind-boggling. But his speeches reflected the courage of a fearless crusader who spoke truth to power. His anguish over all, what was wrong in the regulatory sphere of the 1970s and 1980s, is valuable to us for another reason.

The fundamental truth is that economics and finance guide the prosperity of the nation. You, as tax professionals, have that duty to the nation which goes beyond the success of your individual client before the CIT appeals, the ITAT, or, for that matter, in guiding the High Court in the nuanced art of following or distinguishing precedents.

Impact of the Digital Revolution on Professionals and their Services

The drive for clear laws, fair procedures, and efficient administration is stronger than ever thanks to digital technology. The digital revolution has opened up information to citizens. We, as professionals and the administrators of laws, no longer have a monopoly over the search for truth.

For Digital India to succeed, we must deliver professional services quickly and effectively through digital means. Strong digital institutions, especially in law and accountancy, are not extras—they are essential to how we operate. When fiscal disputes pile up, it's not just about the numbers. It affects real people and real businesses. Economic activity slows down,

businesses are left waiting, and investments are delayed or lost.

This uncertainty erodes public trust and holds back our growth. The large number of unresolved fiscal disputes is a major barrier to unlocking our economic potential and achieving growth for everyone. But technology, if used wisely and



fairly, can help us overcome these challenges. This shift to digital technology promises to drastically reduce the crippling costs associated with the pursuit of justice—and tax justice is no exception.

For example, the adoption of virtual hearings during the COVID-19 pandemic yielded savings of over 1200 crores of rupees annually. Imagine the good that can be achieved towards reducing litigation by a quantum of 1200 crores—enhancing judicial infrastructure, expanding legal aid services, training judicial officers and staff, and court staff and lawyers.

The Bharatiya Sakshya Adhiniyam's explicit recognition of electronic records and digital evidence will bring more efficient, transparent and reliable methods of presenting evidence—from complex financial transactions immutably recorded on blockchain ledgers, to the intricate and voluminous data trails generated by e-commerce platforms, digital marketplaces, and social media interactions. We are in the midst of a transformative era.

Online dispute resolution or ODR has already proven that it can quickly solve most consumer complaints, landlord-tenant issues, and small business disputes in just days or weeks instead of years. This success shows us a powerful model that we should urgently use for tax disputes as well.

Imagine if we had special ODR systems for simple tax issues like TDS mismatches, small mistakes in returns or low-value refund claims. Today, all these travel up right up to the Supreme Court. And I have dealt with all of them in the midst of dealing with some of the most seminal constitutional issues.

But taking these small disputes out of the legal system would free up our tribunals and courts to focus on the big, complex cases that really need their attention. By adopting ODR for straightforward tax matters, we can speed up justice, reduce the burden on our courts, and build a more efficient and trustworthy tax system.

Every problem does not have to be litigated, but we must move from a model where adversarial contexts dominate our tax landscape. If we fail to do so, we will only render our entire system dysfunctional—dysfunctional beginning with the lowest levels of fiscal administration, stretching all the way up to the Supreme Court.

While digital technology brings us closer to a future of greater efficiency and access, it also presents us with serious challenges. One of the biggest issues is the digital divide.

We heard a short while ago that the future of tax practice is traveling beyond large metropolitan areas or the global metropolises like Mumbai or Bangalore. At one time, the Indian cricket team was represented in the largest part by the Ranji cricket team from Mumbai, which reflected India. Mumbai was India. No longer.

Whether it's in athletics, whether it's in cricket, whether it's in hockey or football, whether it's

in the bureaucracy, whether it is in the political landscape—the balance of power has shifted to our tier 2 and tier 3 cities.

And let's therefore understand the impact of the digital divide in bringing more and more access to our professionals in the delivery of professional services across the length and breadth of India—particularly as industrialization, particularly as the growth of trade and commerce stretches beyond the large cities into the internal heartland, the rural heartland of India.

In many parts of our country, especially in remote villages, people still do not have reliable Internet facilities. They cannot afford smartphones or data, or lack basic digital skills. For them, joining a virtual court hearing is simply out of reach.

Digitization without social empowerment can create a new kind of justice gap and make existing inequalities even worse.

Artificial intelligence and emerging developments in quantum computing will radically change the tax administration and the profession of accountancy and law. AI algorithms have an unprecedented ability to organize, collate and analyze large volumes of data.

Data computing technologies can locate patterns of behavior, note aberrations in business conduct, and provide details of compliance, which will transform the administration of revenue.

At the same time, any repository of data on such a large pan-India scale has to be ring-fenced from abuse or misuse of data.

Another major concern is the risk of bias in artificial intelligence. If the AI systems we use in courts or government are trained on old data that reflects past prejudices or unfairness, they can end up repeating and even worsening those same problems of the past.

For example, an AI tool might wrongly flag cases from certain financial frameworks as high risk just because of flawed historical data which was generated from an outmoded regulatory framework of the past. This could lead to unfair decisions about which case gets extra scrutiny or how cases are prioritized—not based on facts, but on old biases.

As a vocal champion of digitization and simplification of judicial work, I must nonetheless emphasize the importance of human expertise in adjudicating cases. True justice requires careful judgment that only people—real people and not robots—can bring.

Decisions of individual cases, even in taxation arenas, turn on nuances of legal interpretation and conduct of business, all of which cannot be reduced to the application of algorithms.

All these virtues are, of course, compatible with digitization. But the rapid advancement and increasing accessibility of deep fake technology and sophisticated cyber forgery techniques present unprecedented challenges to the very notion of evidentiary authenticity in the digital age.

This means that all of us need new skills, better technology, and possibly new laws to protect the integrity of our legal system.

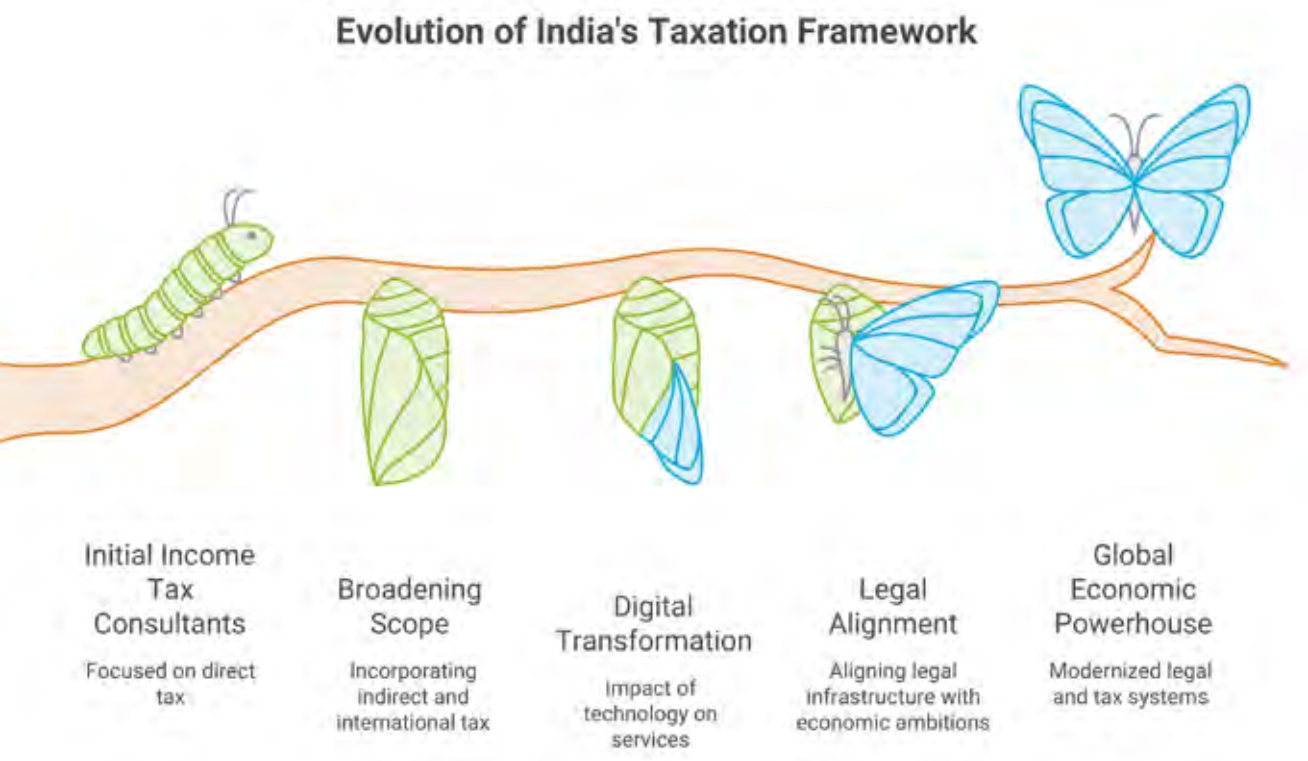
Imitation cyber scams have become so rampant that the government has imposed a mandatory public service announcement warning against such scams before every phone call. I remember

> The true potential of AI lies not in replacement, but in liberation...

that as Chief Justice of India, I was shocked to discover that an industrialist had been duped into paying crores of rupees by a scammer pretending to be me over a video call.

To imagine that my name was used to rob someone and disrupt their peace made a deep mark in my mind.

Legal professionals, especially those here today,



have a crucial role to play. You stand at the crossroads of law and business, and technology.

Modern business requires efficient outcomes which are arrived at with speed and objectivity. The revenue end of tax administration has adopted technology because the revenue end has capital that individual practitioners don't possess.

The incorporation of technology will increase with incredible speed as smart government plugs loopholes in compliance. Chartered accountants and lawyers—tax lawyers who provide tax-related services—do not have the choice to be left behind.

Your job is not just to adapt, but to lead with integrity and wisdom.

As we navigate these changes, you must become pioneers of using new digital tools for research, case prediction, compliance and secure record keeping. But you must also be ethical guardians, making sure that algorithms used in courts or tax offices are fair, transparent and free from bias.

The role of a professional watchdog will have to be discharged by professional bodies like yours. Institutions in the private sector must leverage investment from private enterprise to watch over the manner in which data sets are deployed in tax administration.

It's also your duty to guide your clients, especially small businesses, individual taxpayers, through the maze of digital rules. And most importantly, your experience should help shape the very technology that is changing our legal landscape.

Work closely with lawmakers, with judges and developers of intellectual property to ensure that these new systems are based on principles of essence, equity, fairness and justice for all.

Technology will not replace the wisdom, judgment and ethical standards which define our professions. AI is a tool, not a substitute for

the lawyer or the chartered accountant. Your role remains as vital as ever.

The true potential of AI lies not in replacement, but in liberation—freeing the skilled professional from the burdensome drudgery of routine and repetitive tasks. AI can take over repetitive tasks like reviewing documents, checking compliance, sorting out data, or drafting standard forms.

This gives you skilled professionals more time to focus on what truly matters: offering expert advice, solving complex problems, interpreting tricky legal and financial issues, and building strong, trusting relationships with your clients.

This digital transformation is not something to fear or to simply accept. It's a chance for us to shape the future.

Aligning India's Judicial Infrastructure with Our Economic Ambitions

India's dream of becoming a global economic powerhouse, a 10 trillion-dollar economy and a leader in sustainable growth depends on the strength and reliability of our legal and judicial systems.

Our laws and courts must be efficient, fair and predictable if we want to attract investment and create opportunities for all. The efficiency with which tax disputes are resolved affects financial bottom lines for investors and impacts shareholder value.

The world is watching India. But to meet our potential, our rules, infrastructure and dispute resolution forums must not just work—they must be competitive enough to keep pace with other emerging economies across the global South. We need to match or surpass global standards for speed, fairness and transparency.

Investors, both from India and around the world, want certainty. They want to know that contracts will be enforced quickly, properly, and innovation will be protected, and that disputes will be settled fairly and without delay.

Enforcing a business contract in India can still take almost four years, which is much longer than in many other countries. Long-running tax disputes can stretch on for decades, creating uncertainty and discouraging investment. Litigation cannot be the first option for good governance.

In July 2024, the Supreme Court of India organized the first Lok Adalat to dispose of cases where amicable solutions were possible. We have been speaking about protracted tax cases lying in the court docket, but the Lok Adalat made us confront the magnitude of these petty tax cases, which had been pending for over two decades at the Supreme Court.

Hundreds of dormant tax cases came before us during the Lok Adalat, and in several of them, all we had to do was to declare that the claim amount was below the statutory threshold required for the Income Tax Administration to litigate.

But those cases remained pending for years and years and years—not just adding to the docket, but affecting the very credibility of our judicial system.

> Litigation cannot be the first option for good governance.

Our legal and regulatory systems must move beyond just maximizing short-term revenue. Instead, we should focus on creating a business environment which supports job creation, manufacturing and innovation, especially for your young people.

New industries such as green technology and digital services to support a $10 trillion economy—we must strengthen our commercial courts and tribunals. These should be staffed by experts in areas like finance, international trade, intellectual property, corporate insolvency, competition law and new technologies such as AI and data privacy.

These specialized courts should resolve cases quickly, ideally within 180 days, so that justice is not delayed.

At the same time, we need world-class arbitration and mediation centres in India, matching the standards of global legal institutions. This will help us resolve complex international business disputes efficiently and earn global respect.

This can happen only when we bring true professionalization to tax administration.

This centenary is not just a celebration of 100 years of survival. It is a call to action and a challenge for the future.

The dichotomy between the private and the public sectors must end, and that dichotomy must give way to a realization that one impacts the other. What is public begins with the private, and what is private, when aggregated together, becomes a matter for the public.

We need clear regulations, especially in rapidly changing fields like digital assets, green finance, artificial intelligence, advanced manufacturing and personalized medicine. By using regulatory sandboxes—safe spaces for testing new ideas under supervision—we can encourage innovation while protecting consumers and managing risk.

Crucially, the destabilizing goals of retrospective tax amendment must be permanently banished. The Income Tax Bill 2025 and indeed all future fiscal legislation must embody crystal clear drafting and minimize grey areas.

Many expert committees have strongly recommended that we simplify our tax codes, make tax administration more predictable, build a culture of trust with taxpayers, and use technology to make interactions with the tax departments smooth and easy.

These ideas deserve our full attention and should be included in our laws and policies.

Institutions like the Chamber of Tax Consultants, which is celebrating its entry into the hundredth year today, play a much bigger role than just helping with compliance or representing clients in disputes.

You hold deep knowledge, experience and high ethical standards. You are the bridge between government policies and their practical implementation. With your expertise and credibility comes a great responsibility.

You must keep pushing for reform that balances the country's need for revenue with the need to support a vibrant, innovative and job-creating economy. Your work helps businesses understand and follow the rules—not out of fear, but because the system is clear and fair. By doing this, you play a vital role in keeping our economy healthy and strong.

This centenary is not just a celebration of 100 years of survival. It is a call to action and a challenge for the future.

Technology can make justice faster, more transparent and more accessible for everyone.

Today we stand at a unique moment in history. We are seeing major changes in our laws, a digital revolution in how justice is delivered, and bold economic goals for our nation. Together, these give us a once-in-a-generation chance to shape India's future.

Changing old laws is not easy. It means managing tough transitions and making sure that we keep the valuable lessons from years of legal experience alive. But updating our legal system is essential.

We need laws that are clear, modern and ready to handle the challenges of today's digital and global economy, while always protecting our constitutional values.

But equally, changes in the legal regime must be matched by change in legal culture—both within the government and on our part as citizens who have to comply with the law.

Digital technology is transforming our justice system. While we must be careful to avoid problems like bias in algorithms or leaving people behind, technology can make justice faster, more transparent and more accessible for everyone.

This is our best hope to finally reduce the huge backlog of cases that has slowed our courts and held back our economic and social progress.

To match our big economic ambitions, we need a new way of thinking. We must commit to speed, certainty, expertise and fairness in resolving disputes, and follow the best global standards.

With this approach, we can create an environment where businesses grow through innovation and fair competition, where good jobs are created, where investment comes in confidently, and where India takes its place as a respected leader in the world.

The Chamber of Tax Consultants, standing proudly today as a centenarian institution, embodies the spirit of transformation and enduring relevance. It carries this out by continuous learning, principled adaptation and proactive engagement with the changing tides of law, economy and technology.

Honoring this legacy should not just be about looking back—it must inspire us to come together with fresh energy and a commitment to action.

Let's use our expertise to help shape how technology is used in our justice system and regulation, making sure it truly serves justice and supports a strong economy.

We should lead the way in pushing for legal and procedural reforms which drive India's economic growth—growth that is not only fast, but which is also inclusive, fair and sustainable.

Let us then, in conclusion, make sure that the next hundred years of the Chamber are defined not just by technical tax knowledge, but by our vital role in building a just, prosperous and technologically advanced India.



We must work for a country where every citizen enjoys dignity, opportunity and justice, and where our commitment to fairness inspires the world.

The challenges are great and the responsibilities shared, but together we have the power to make a historic, positive impact on India's future.

May the Chamber of Tax Consultants continue to be a shining example of excellence and ethics for the next century and beyond.

Thank you very much.

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Tax Profession in 2050: A Vision for the Second Century



M S Vasan

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Overview

The article explores the evolution and future of the tax profession, highlighting the transformation from complex compliance processes to more strategic roles in business management. It notes that the tax landscape has changed significantly over the past 50 years, moving towards more standardized global tax rates and addressing issues like base erosion and profit shifting. The integration of artificial intelligence (AI) is forecasted to revolutionize tax compliance by 2030, automating data management and enabling quicker tax filings, audits, and reconciliations. With AI, tax officers can enhance their efficiency in audits by utilizing risk profiling and data analytics, making the tax function a strategic decision-maker rather than merely a compliance entity. The article emphasizes the importance of technology in reducing costs and time in tax operations, facilitating seamless integration with government portals, and enhancing overall tax management. Ultimately, the tax profession is poised to embrace new technologies that will redefine its role, making it more dynamic and responsive to the evolving business environment.

Introduction

The tax profession has grown exponentially in the last 50 years, from a complex, fearful compliance protocol and audits to more sophisticated business restructuring and unimaginable combinations. It has moved quickly from a double non-taxation situation to a more globally accepted standard tax rate across countries. The base erosion and profit shifting approach has been prevalent with many multinational companies globally practised for a century, but came to a grinding halt with a godly realisation by the tax havens. This exploitative approach to move cash flows freely from one geography to another without any tax effect thereto created ruckus in the countries which were genuinely denied their rightful share. The ever-scarce fund flows in many developing countries to catch up with the saturated developed countries, tax collections have been a perennial source of money to satisfy at least a portion of their requirements.

The tax profession is intertwined with the societal changes and business carried out across the globe.

A vision for the second half of this century is very difficult to predict as it is a very fast, aggressive and dynamically changing ecosystem.

- Tax revenue-generating activities – business incomes, intangibles
- Ageing population in most of the developed economies and a drastic reduction in the income-earning group of people and human-free rapid technological changes
- A blurred organisation structure due to extensive digitisation and technological advancements and the complexity in determining the right share of incomes and taxes for each tax jurisdiction

In this article, we shall discuss the future outlook of the tax profession, which is a function of all the incomes and expenses and finally put up as a provision for tax in an enterprise's performance statement. A vision for the second half of this century is very difficult to predict as it is a very fast, aggressive and dynamically changing ecosystem. I do wonder whether artificial intelligence ("AI") is more disruptive than our god's intelligence ("GI") and powerful.

Is it challenging the creator?

Mundane Tax Compliance to Business Strategies

The tax function presently faces data challenges and time-bound submissions for the past periods' audits and conclusions.



The availability of cleansed data with accuracy in a presentable form to the tax office is always a challenge, not once or twice but recurs continuously throughout the year. From Income tax – TDS and corporate tax to GST across all states where the enterprise is present, data is called for in different formats with underlying tax disallowances. The unplanned tax costs of prior years will make the tax function a "black box" which is analysed after a huge fat tax bill. Then starts the tax litigation which goes on and on, for 15 years with an uncertain outcome.

By 2030, Tax automation with the help of AI would have been complete across all the facets of business operations, including for MSMEs. Absorption of AI workflow can be noticed significantly in the tax filings - monthly, quarterly, and annual compliance, including discrepancies, mismatches, and reconciliation of the same in seconds.

Even the tax officers who pick up for audits based on risk profiling can nail the companies

with specifics in their show cause notices and get responses rather than spending a lot of time on operational aspects and data collation.

Any retrieval of ledger extracts and vouchers of the past years has been the real challenge for the tax function. This will be completely automated with generative AIs in place. The accounting entries will be tuned to synthesize instantly for routine transactions, and advanced algorithms will be in place for exceptional/one-off transactions. The power of Agentic AI to transform data challenges into a good case to defend the tax positions and value creation will be very evident as we move from a compliance-led function to a powerful strategic decision-maker of choice.

What might be left out shall be pivoted to advisory and tax planning opportunities. GI shall continue to interpret the grey areas of taxation law to the advantage of the enterprise. With data mining tools, what took months and years could be completed in hours for business restructuring and strategies in place. To put it explicitly, any strategic planning will require navigating the tech-driven automated information-sharing platforms where the revenue authorities have real-time visibility into almost all the transactions.



Any retrieval of ledger extracts and vouchers of the past years has been the real challenge for the tax function.

Tax Technology Transformation

The tax profession shall move far away from manual compilation of information required by the tax office. Use of technology-enabled solutions shall be the order of the day. The following benefits are visible:

- Reduces tax cost
- Drastic reduction in the manhours spent on data collation
- Effortlessly integrates with the government portals
- No risk of missed timelines to respond to notices and periodic portal checks
- With complete integration with tax portals, the case laws and litigation matters can be handled with ease

The Tax function of an enterprise looks for data

collation, automated flow of information, ledger extracts, and analytics as the key areas to focus on:

Data Flow	Analytics	Outcome
Culling out data from the ERP system	Formatting of the data to be presented to the tax office	Easy to present in the format called for
Automated flow of data	Efficient tax compliance	Quality time for enhancing tax knowledge
Data analytics	To derive conclusions for tax positions	An informed tax decision is possible
Business planning with insights into tax avoidance measures	For a robust defence to any litigation approaches	Any tax avoidance measure should not be interpreted as a tax evasion mechanism.

New Income Tax Act 2025 – A Beginning to Change Drastically

The transition from the Income Tax Act, 1961 to the Income Tax Act of 2025 is for a simplified set of rules, easy to understand and implement. The reinforcement of a digitally enforced ecosystem and faceless income tax orders for tax demand as well as refund.

By 2050, this enactment will further mature into a system throwing up 360-degree taxpayer profiles, predictive risk analysis, and integrated data from across the global financial market.

Statute and Its Implementation

The tax professional should not only know the statute and its legislative intent, but also focus on the tax impact it shall create on the enterprise. Tax authorities will use sophisticated AI tools to scan through the whole bunch of transactions and question the doubtful transactions. The tax orders might be generated with less human intervention and embed the proof of such transactions.

The integration of blockchain and machine learning technologies into the unified tax portal with GSTN and TRACES together makes transaction records immutable, drastically reducing the tax evasion process. This will fundamentally change the nature of disputes and speaking orders pronounced with data back-up.

Next-Gen International Taxation and Transfer Pricing

India is moving into a USD 10 trillion economy; cross-border unilateralism and favouratism will



show up very eminently, and the complexities will dominate.

Global Tax information reporting (CbCR and EOI disclosures) will grow exponentially as revenue authorities in each tax jurisdiction will call for information from other tax jurisdictions as well to cross-check any tax avoidance taken place. Further, the regulatory bodies (Eco zones, SEC, and other specified bodies) will ensure tax transparency from a global tax perspective. It might insist on transparent communication with the stakeholders if the enterprise is a public company, even its corporate community contributions.

Transfer pricing in highly integrated sectors like the automobile, BFSI, and E-com / digital businesses will go far beyond the traditional benchmarking approaches.

Transfer pricing in highly integrated sectors like the automobile, BFSI, and E-com / digital businesses will go far beyond the traditional benchmarking approaches. It will be very difficult to justify arm's-length pricing in supply chains and distributive systems when predominantly AI, robotics, and intangible digital assets drive most of the value creation.

A focused approach to jurisdictional reporting and documentation of business carried out will be critical from a transfer pricing perspective. Data flow into the tax data hub or through third-party technology platforms shall be analysed strategically to manage any tax controversy resulting from transparent disclosure of information in each tax jurisdiction.

Future State of Appellate Hearings

Appellate hearings will be based on predictive analytics wherein historical precedents will be at the forefront for the orders to be passed. Before the Appellate authority, the tax professional shall put forth a nuanced intent of the law, as the facts and information shall not be disputed and verified with the books of accounts during the assessment stage itself.

Dual Skill - Tax & IT System Expert

The tax professional will be truly an information technology systems expert as well as a deep domain knowledge of tax laws and practices. Data fluency is mandatory and non-negotiable. The tax professional shall analyse huge data sets and understand different algorithms. He shall match the Tax authorities' detailed questioning apart from his critical knowledge about various tax laws and legal disputes. The tech-savvy tax professionals can only survive the onslaught of disruptive AI models.

In 2050, tax professionals will be multi-skilled – data analysis, statistics and technology. They should have exposure to process improvements and change management as well. The tax function shall comprise dedicated IT systems experts, data and project management specialists who can develop and execute tax technology and transformation to strategically defend its tax positions globally.

Data Privacy of the Taxpayers

With so much data flowing to the government portals, trustworthiness in the digital age is a challenge. The Government must showcase its strong accountability and transparency through its laws and rules. It shall visibly demonstrate its controls on taxpayers' data. Will they act opportunistically and create uncertainty is the biggest question going to be posed in the second half of the century

In 2050, tax professionals will be multi-skilled – data analysis, statistics and technology.

Exchange of Information – Whether Unilaterally Exploited

Under the multilateral instruments signed as part of the double tax avoidance arrangement, will the automatic exchange of information be effectively used to cooperatively address common challenges or fragmented to exploit unilaterally? Information sharing across tax jurisdictions as part of the global compliance and taxing authorities results in data mining and conducting global audits. This might result in international tax disputes – fair and right tax being paid in each of the tax jurisdictions the enterprise operates.

Divergent World Views

- Market power of a few trillion-dollar multinationals in the digital world brings out lopsided decisions – diluting the significant economic presence approach to taxing rights and fixing a flat percentage to leave minimum profits in the market economies limits the ability for progressive taxation.
- Unreliable governments and autocratic leadership styles fail to deliver their promises on tax certainty. This hinders a stable rules-based system.
- Fragmented stance on important international cooperative decisions for the





well-being of the world, leading to reluctance to introduce carbon taxes and space usage taxes. This leads to tax competition, arbitrage, and favoured nations.

- To effectively respond to domestic trends and localisation, imports and exports get secondary treatment, leading to tax avoidance / evasive measures.

To illustrate with an example, how to tax a new Tech App developed in India in a software development centre under the control and supervision of technical and technology platform enablement, including 100% guidance by the USA. The servers are located in Switzerland and the UAE. Marketing materials and access code are generated by the UK. It is marketed and licensed to 150 countries globally. If the value of the Tech App has to be attributed and allocated, how and by whom the allocation is to be determined and applied to all concerned tax jurisdictions. Each tax jurisdiction will ask for a bigger share of the value as the license fee runs into billions of dollars.

Gradual Shift to Value Added Taxes with a Watch on Incentives

Consolidation and specialisation are buzzwords to control global trade. New technologies and intangible assets make processes easy to access from anywhere in the world. It is very hard to sustain taxes as it was in the brick-and-mortar system.

Destination-based taxation is a more appropriate and rightful approach. We see this as a tendency, as articulated in Pillar 1 of the global tax deal and the gradual shift toward VAT.

In India, GST collections have surpassed all other tax collections. When the market is robust and demand for goods and services exists, value-added taxes shall remain more relevant. With only the value addition being taxed and the supply chain remaining intact, globally, the alignment is falling in place.

> Destination-based taxation is a more appropriate and rightful approach.

Climate change is on top of the agenda for all countries due to drastic changes in climatic conditions. Global efforts intensify to reduce harmful emissions. Tax policymakers increasingly leverage fiscal measures to drive the transition to clean energy with tax incentives and punish enterprises with ESG tax if non-compliant.

Particularly in the EU, as per their directive for climate neutrality by 2050, Carbon taxes,

functioning as indirect taxes similar to excise duties, are increasingly influencing VAT collection by embedding carbon emission costs into the taxable supply price.

Tax talent is in short supply, with cost-cutting pressures on top amid rapid technological changes.

MNEs analyse the cost of imported products that have carbon emission costs when the same can be manufactured locally in an emission-free environment to reap carbon credits as well as cost-effectiveness. These become tax strategic analytics which need to be carried out by the tax professional on the make-or-buy decision.

Tax Profession – Way Forward

Tax leaders cope with an unpredictable tax environment, reshaping tax policy and business practices across the globe. Tax bases are under threat from demographic changes, trust in governmental policy framework due to changes in leadership, and tax policy continuity. Tax talent is in short supply, with cost-cutting pressures on top amid rapid technological changes.

The failure to reach a consensus on the digital services tax involving the digital economy is likely to be actioned in the form of increased tariffs. Global footprints and supply chains have to be re-drawn. Businesses that were set up for lower manufacturing costs and closer to the customer base are to be re-aligned. Added to that, a low tax regime with R&D incentives would have propped up setting up their manufacturing facility. The tariff threat and new global minimum tax rules could result in additional costs and compliance in other tax jurisdictions. A lot of specialization will emerge around AI-based tax audits, digital assets taxation, climate-linked tax structuring to avoid penal ESG tax, and real-time compliance architecture.

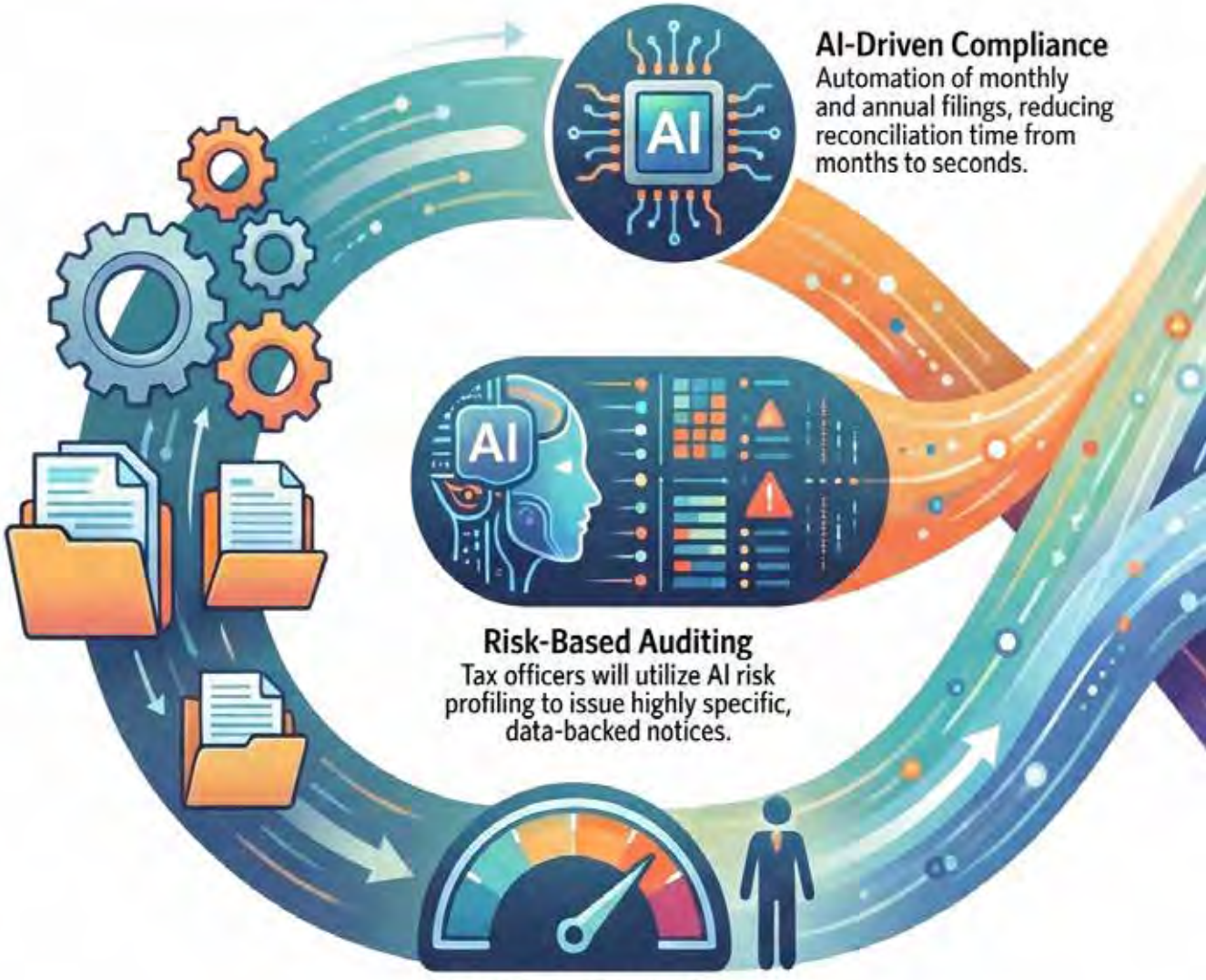
Even if a whole lot of tax transactions get processed through automated technology-enabled systems, professional judgment given by GI and the ability to navigate during business uncertainties with genuine client coordination. Indian tax professionals with deep insights into common law practices and understanding of tax sovereignty measures, backed by a strong domestic market, are well positioned to take up tax technology head-on.

The tax profession in 2050 will be a very exciting phase in the history of the global fiscal policy framework, led by India's global outlook with perseverance to learn and perform.



Tax 2050: The Evolution fro

2025–2030: The Automation Milestone



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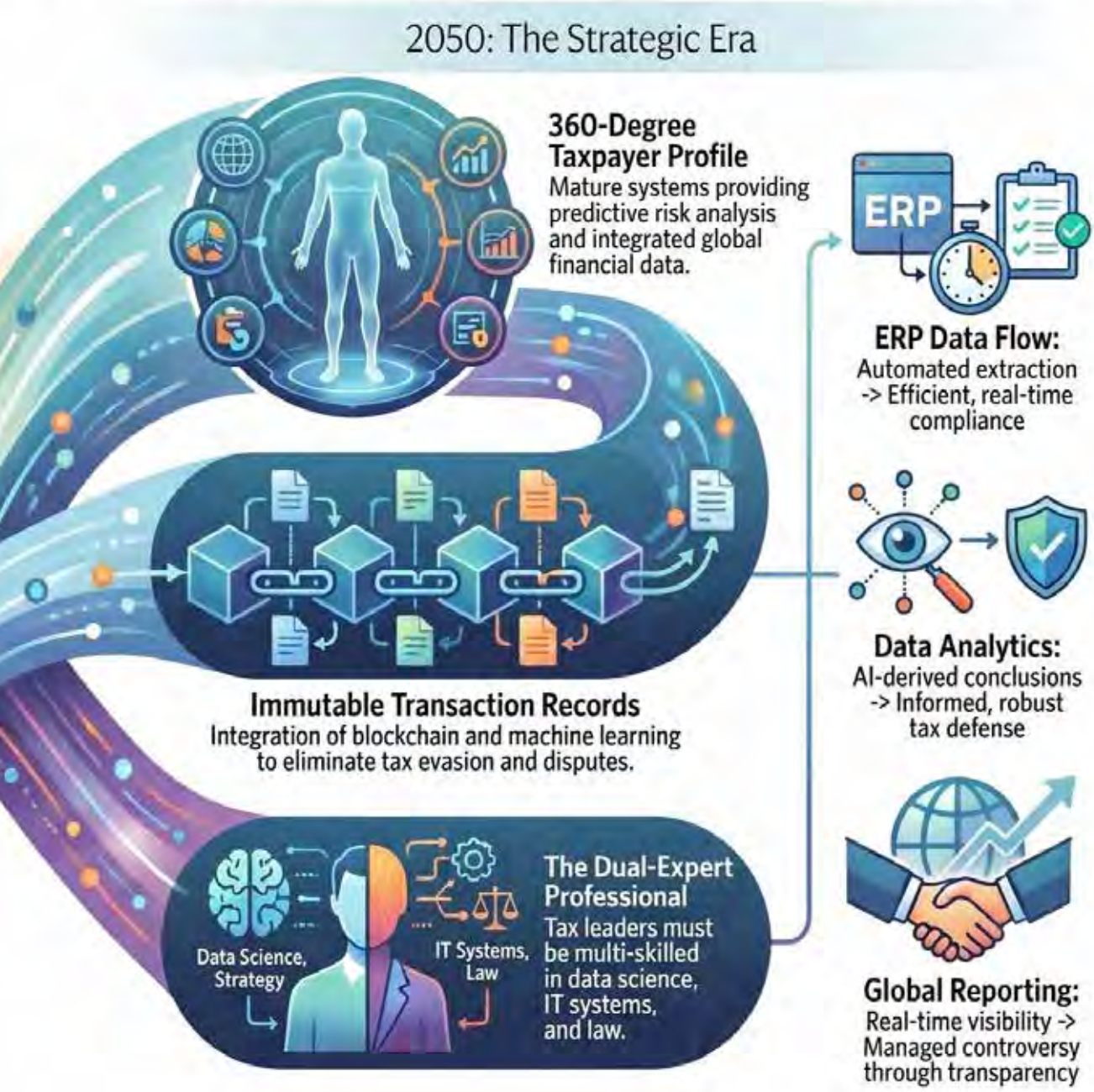


Professional Development





& Leadership



The Human Advantage

Communication and Emotional Intelligence in Stakeholder Management for Tax and Legal Professionals in an AI-Driven, Hybrid India



Surekha Poddar

Overview

The tax and legal professions are being reshaped by technology. Artificial intelligence can now research, draft, analyse, and report faster than any associate. This raises one defining question: if machines handle the technical, what remains uniquely ours?

The answer is not a new tool or methodology. It is the human capability to communicate with clarity, build trust, read a room, and guide decisions ; capabilities that technology cannot replicate and clients cannot do without.

This article, written for the Centenary Special Issue of The Chamber's Journal, examines why these human capacities are becoming the most significant differentiators in an AI-driven, hybrid India.

Introduction: The Night a CFO Taught Me Everything

I still remember a late evening in Mumbai, many years ago. I had just wrapped up a leadership workshop for a group of senior tax and legal professionals. As I packed my laptop, a CFO, someone I had coached earlier, walked up to me with a tired smile. She leaned against the table and said:

"Our tax team is brilliant. But brilliance is not enough. They need to understand people, not just provisions."

— A CFO, after a leadership workshop for tax and legal professionals

She was not criticising her team. She was naming a truth that many leaders feel but rarely articulate.

Tax consultants and lawyers in India operate at the intersection of promoter expectations, CFO pressures, regulatory scrutiny, business urgency, global alignment, and now, AI-driven disruption. Across hundreds of coaching conversations over two decades, one truth has remained constant.

Technical expertise is the entry ticket. Human intelligence is the differentiator.

The value of professional services was once anchored in specialised knowledge that clients could not easily access. That position is changing. AI makes information abundant. What remains scarce — and therefore valuable — is judgment, communication, and the ability to guide people through uncertainty.

Era	Primary Source of Professional Value	Key Differentiator
Pre-Digital Era	Access to specialised information	Technical knowledge
Digital Era	Access + interpretation of information	Technical expertise
AI Era	Judgment, communication and stakeholder management	Human capability

As access to knowledge becomes widespread, professional differentiation shifts from what you know to how you apply it in service of people and organisations.



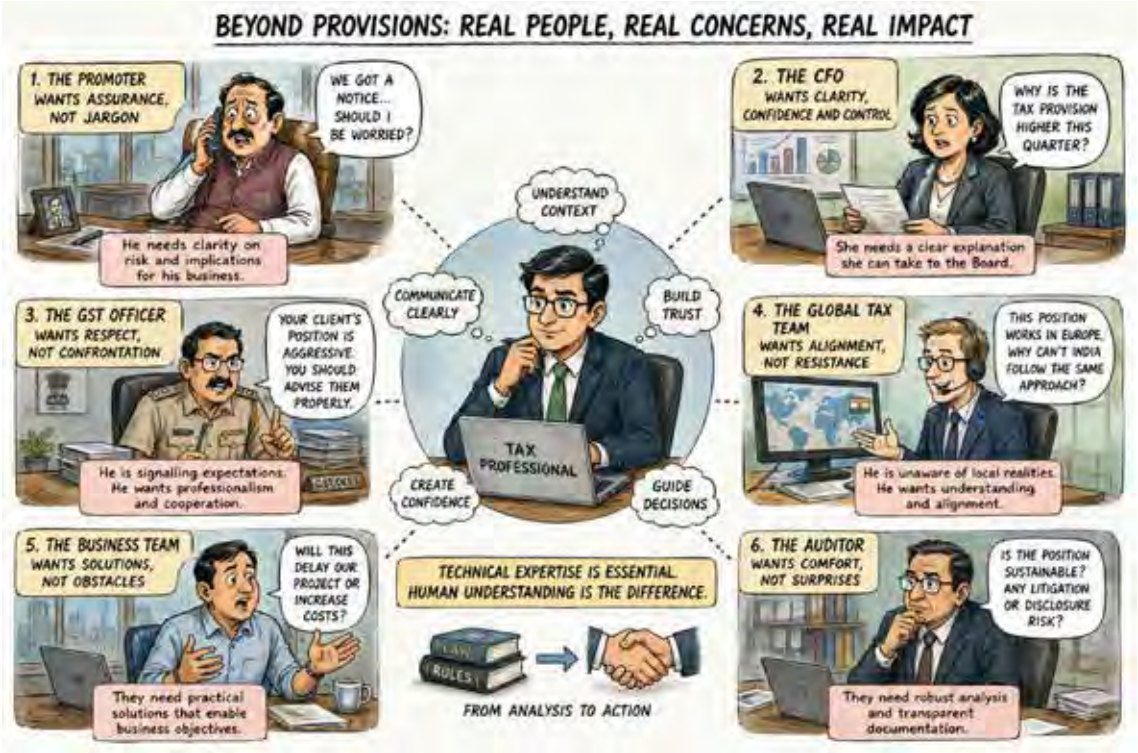
The many roles of the Legal and Tax Professional

1. The Indian Legal and Tax Landscape: A Human Drama Disguised as Technical Work

Tax and legal professionals are generally viewed as technical specialists. That is understandable and, to a significant extent, correct. But it captures only one dimension of the profession.

The practical reality is that even the most technically sound advice must be communicated, defended, negotiated, and ultimately accepted by human beings. That is where many professionals lose ground - not in the law, but in the room.

Consider five scenes that every reader of this Journal will recognise.



Beyond Provisions: Real People, Real Concerns, Real Impact

Scene 1: The Promoter Wants Assurance, Not Jargon

A promoter calls at 10:45 pm about a notice. He is not asking for Section numbers. He is asking: Is this serious? Can I sleep tonight? The professional who absorbs that anxiety rather than amplifying it earns something no technical opinion can buy — trust.

Scene 2: The CFO Wants Clarity, Confidence and Control

She needs to explain the tax provision to the Board in twelve minutes. She does not need a reconciliation. She needs a narrative — clear, confident, and defensible. The professional who gives her that becomes indispensable.

Scene 3: The GST Officer Wants Respect, Not Confrontation

Outcomes in regulatory hearings are shaped not only by technical arguments but by credibility, tone, and the ability to engage constructively. Every stakeholder interprets information through the lens of their own responsibilities. Reading that lens is a professional skill.

Scene 4: The Client Before a Hearing Wants Certainty, Not Caveats

A client calls the evening before a tribunal appearance: "Will we win?" He is not asking for a probability. He is asking: Can I trust you? The response that builds confidence is delivered with quiet authority, not hedged language.

Scene 5: The Global Team Wants Alignment, Not Resistance

"This position works in Europe. Why can't India do the same?" He is not being unreasonable — he is unaware of the Indian litigation reality. Reconciling those perspectives requires communication, influence, and judgment. Not just knowledge.

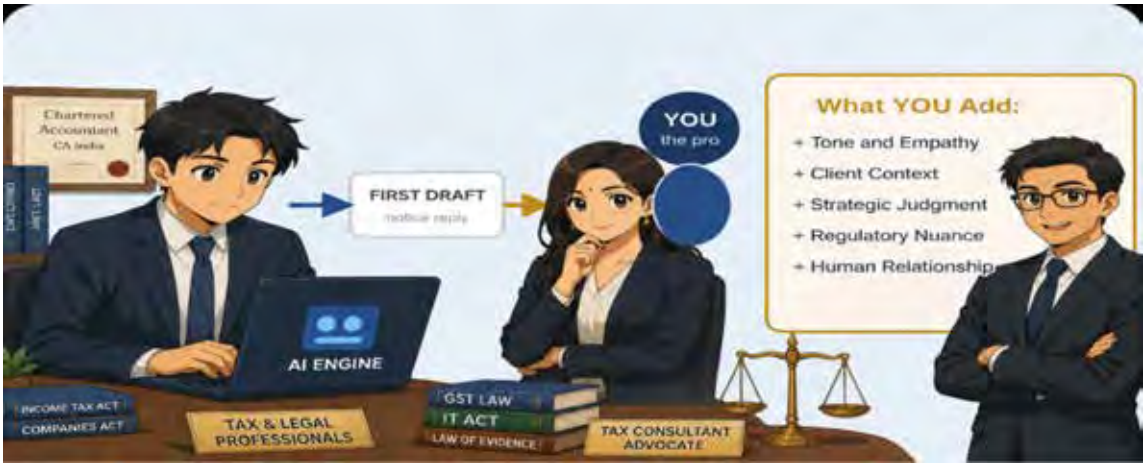
In all five moments, the outcome depends less on technical brilliance and more on the ability to communicate with clarity, build trust, manage emotions, and influence decisions.

Tax and legal practice, at its best, is the management of confidence as much as the management of compliance. The most trusted professionals are not always the most technically accomplished. They are those who translate complexity into understanding and move stakeholders from uncertainty to action.

Technical expertise will always be the foundation. But those who combine it with communication, emotional intelligence, trust, and influence will create substantially greater value — for the organisations they serve and for the profession they represent.

2. The AI Shift: Why Human Skills Matter More Now Than Ever

Artificial intelligence has arrived in the tax and legal profession, not with a distant rumble, but with a decisive knock. AI can already draft notices and legal opinions, summarise case laws and judgments, analyse reconciliations, generate first-cut briefs, and prepare risk matrices. Entire categories of work that once occupied junior associates for days can now be produced in minutes.



AI handles the draft; you provide the judgment

> "AI will not replace legal and tax professionals. Professionals who use AI will replace those who do not."
>
> *— A widely shared insight from the global advisory world*

But here is what AI cannot do, at least not in the Indian context. It cannot read a promoter's anxiety over a midnight call. It cannot sense a CFO's impatience in a terse message. It cannot decode the tone of a GST officer in a hearing room. It cannot read a client's fear the evening before a tribunal appearance. It cannot navigate family-business politics, manage hybrid-work misunderstandings, or influence a global stakeholder who believes India should simply fall in line with Singapore.

India's legal and tax ecosystem is uniquely human. It is driven by relationships, context, nuance, and emotional undercurrents that no algorithm can map. AI can draft. Only humans can interpret. AI can analyse. Only humans can influence. AI can process. Only humans can build trust.

The most significant shift AI brings is not the elimination of tax consultants or lawyers. It is the elevation of what makes them irreplaceable. In a world where the technical baseline is handled by machines, the human layer becomes the only true differentiator. The professionals who understand this, and invest in developing these human capacities, will lead the next decade of the profession.

3. The Hybrid Work Reality: Communication Without Presence

Hybrid and work-from-home arrangements have fundamentally changed the texture of professional communication. What was once softened by a corridor conversation, a glance across a conference table, or a chai break now arrives as a WhatsApp message, an email at 9 pm, or a three-line Teams response that could mean anything.

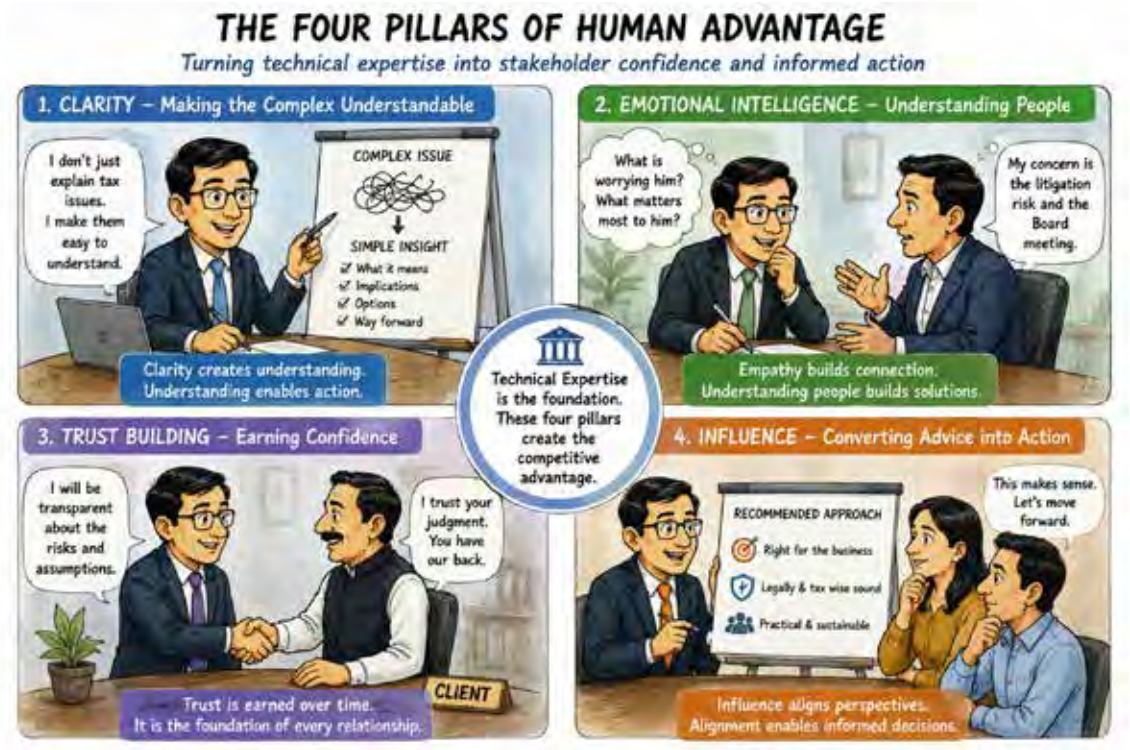
Independent Practitioners Face	Employed Professionals Face
Clients expecting instant replies at all hours	Global teams and senior leaders across time zones
Fee negotiations becoming transactional and commoditised	Cross-functional alignment without face-to-face meetings
Difficulty signalling expertise without physical presence	Written words carrying disproportionate weight in hybrid settings
Being compared with AI-enabled, low-cost providers	Proving value to leadership beyond technical deliverables

Hybrid work has removed the 'corridor conversations' that once softened misunderstandings and repaired relationships before they frayed. Now, tone is misread. Intent is misinterpreted. Silence is seen as incompetence. A well-crafted email has become as important as a well-argued brief. A clear WhatsApp reply can preserve a client relationship that a jargon-filled paragraph would destroy, whether you are a tax consultant or a lawyer.

This is why communication and emotional intelligence are no longer 'soft skills'. They are survival skills, and for the centenary generation of legal and tax professionals, they are the most important strategic assets in an AI-driven, hybrid India.

4. The Four Pillars of Human Advantage

These four pillars are not theoretical constructs. They are distilled from hundreds of coaching conversations, workshops, and real-world observations across Indian tax and legal practices: Big 4 firms, independent consultancies, in-house legal teams, listed companies, family offices, and regulatory environments. Each pillar is both a skill and a mindset. And each applies with equal force whether you advise on a tax notice or argue before a tribunal.



The Four Pillars of Human Advantage

Pillar 1: Clarity. Making the Complex Simple

Tax and legal work is inherently complex. Clients and stakeholders are inherently impatient. The professional who can translate one into the other, without losing accuracy, has a lasting advantage. The tendency of many advisors is to communicate technically to demonstrate competence. But technical communication often signals insecurity, not expertise. The most trusted professionals, whether in a tax filing or a courtroom briefing, speak simply and think deeply.

"Clarity is not about dumbing down.
It is about elevating understanding."

Situation	Jargon-Driven Response	Clarity-Driven Response
GST notice received	"Mismatch under Sec 73, potential liability under CGST Act…"	"Routine reconciliation notice. No penalty risk at this stage. Here is our three-step plan."
Higher tax provision	"Deferred tax liability increased due to timing differences in depreciation…"	"Two year-end adjustments moved the number. Here is the impact on EPS, and what we do next."
Client asks: will we win?	"The merits are arguable. The precedents are mixed and the bench composition is uncertain…"	"Our position is strong. The risk is manageable. Here is what we do to maximise our chances."
New business scheme	"Risk depends on interpretation of beneficial ownership…"	"Low risk if structured this way. Moderate risk otherwise. You choose; I will support either."
Transfer pricing query	"Arm's length analysis under Rule 10B benchmarking required…"	"India's rules require a market-rate comparison. I'll show you how we position this to protect the entity."

Pillar 2: Emotional Intelligence. Reading the Room

Emotional Intelligence (EI) is not about being warm and fuzzy. It is about being strategic with emotions, your own and others'. In a profession where nearly every interaction carries stakes — a client's financial exposure, a company's regulatory standing, a litigant's years of effort — EI is the ability to manage those stakes without escalating them. In practice, EI means understanding what stakeholders feel beneath their words, managing your own reactions under pressure, responding with empathy rather than defensiveness, and adjusting your communication style mid-conversation when you sense resistance.



Your EI Radar: reading emotions before they are spoken

EI in Action: The Delayed Client

A client delays sending data for the third time. Without EI: "I need the documents urgently, this is holding up the filing." With EI: "I sense this period has been overwhelming. Would it help if I broke the data request into smaller, specific asks? Tell me what is easiest to get to first."

What You Observe	What It Usually Means	The High-EI Response
Rapid, anxious questions	Underlying fear of penalty or embarrassment	Slow down, reassure, give the bottom line first
Short, curt replies	Frustration, or feeling unheard	Acknowledge, pause: "Let me take a different approach"
Deflection or avoidance	Conflict avoidance or protecting turf	Open a private channel; do not push in group settings
Repeated clarification requests	Confusion masked as engagement	Simplify ruthlessly; use an analogy or a one-line diagram
Silence after you speak	Processing, or disagreement held back	"What is your gut feeling on this?" Invite the unexpressed

Pillar 3: Trust. The Currency of the Profession

In the centenary year of The Chamber of Tax Consultants, it is worth reflecting on what has truly sustained this profession for a hundred years. It is not any particular section of the tax code or a landmark judgment. It is trust, the quiet and durable belief of clients, colleagues, regulators, and courts that an advisor's word can be relied upon. For a lawyer, it is what makes a client call you first when trouble arrives. For a tax consultant, it is what makes a CFO defend your position in a board meeting. Trust, in both professions, is the only currency that compounds over time.



Trust: the bridge that holds everything together

"Trust is built in drops and lost in buckets."

— A principle shared in professional ethics training

Trust is built through five behaviours practised consistently: reliability (doing what you say you will, when you say you will), transparency (sharing bad news early rather than late), competence (staying

current and citing limitations honestly), empathy (demonstrating that you understand the client's world, not just the law), and integrity (holding your professional ground when clients push for positions that cross the line).

Trust-Building Behaviours	Trust-Breaking Behaviours
Meeting every commitment, however small	Over-promising and under-delivering
Calling with bad news before the client reads it elsewhere	Hiding uncertainty behind jargon or silence
Saying 'I need to check' when you do not know	Projecting false confidence to appear authoritative
Recommending the safer option even when it costs fees	Validating aggressive positions without clear caveat
Proactive updates during delays or disputes	Going silent when things get complicated

Pillar 4: Influence. Moving Stakeholders Toward Better Decisions

Influence is not persuasion. Persuasion moves people from your starting point. Influence moves them toward better decisions, which may sometimes be different from what either of you originally thought. The distinction matters enormously in legal and tax practice, where the advisor's role is to inform judgment, not override it. A lawyer who bulldozes a client into a position loses the relationship. A tax consultant who caves under pressure loses their credibility. The skill is to hold your ground and move the stakeholder, at the same time.



From options to decision: the consultant as guide

The most effective technique is option-framing: never presenting just one recommendation, but laying out the full risk-reward landscape and letting the stakeholder choose with full information. This removes the adversarial dynamic and positions the professional as a trusted navigator, not a gatekeeper.

Influence in Action: The Global vs India Tension

A global tax head wants to apply a structure that works in Europe to the India entity. Low-influence response: "That will not work in India. Our courts have consistently rejected such positions." High-influence response: "The global intent here makes complete sense. In India, the litigation history creates a different risk profile. Here are three ways we can honour the global design while addressing local exposure. Let me walk you through each."

Influence Technique	When It Works Best
Option-framing (conservative / moderate / aggressive)	When stakeholders feel cornered into all-or-nothing positions
The risk-impact matrix (visual)	When boards or CFOs need to see consequences, not just hear them
Storytelling using a relevant precedent or real case	When data alone does not move the room; humans respond to stories
Empathy before argument: acknowledge, then advise	When resistance is emotional rather than logical
The aligned question: 'What outcome matters most to you?'	When the stakeholder's actual priority differs from their stated one

5. The AI-Enabled Advisor: A New Professional Identity

The legal and tax professional of the next decade will not be defined by whether they use AI. They will be defined by how well they use it, and what they add on top of it. AI removes the drudgery. The human professional provides the judgment. The combination is formidable; the absence of the human layer is a vulnerability.

What AI Handles	What the Professional Adds
Drafting notice replies, opinions, and legal briefs	Strategic tone, regulator-specific language, judgment on what to say and what not to
Summarising case laws, judgments, and CBDT circulars	Selecting what is relevant, what is misleading, and what is missing
Analysing reconciliations, data, and precedents	Interpreting patterns and spotting what requires human explanation
Generating risk matrices and scenario analyses	Assigning weight to risks based on client-specific context and relationships
Preparing memos, briefs, and board presentations	The final layer of tone and trust that determines whether advice is acted upon

AI does the heavy lifting. The human professional does the heavy thinking. And in a world of AI-generated drafts and briefs, the advisor who can spot what the AI missed — the cultural nuance, the client's unstated concern, the regulator's unwritten expectation, the judge's likely temperament, the promoter's real question beneath the stated one — will be extraordinarily valuable. That advisor is not a technical operator. That advisor is a trusted counsel. And trusted counsel is irreplaceable.

6. Practical Tools for the Human-AI Professional

Theory without practice is philosophy. Here is a simple framework, distilled from field experience across hundreds of coaching conversations with tax consultants, lawyers, and senior leaders, that any professional can begin using from tomorrow. It takes less than five minutes before any significant client interaction, whether that is a client briefing, a hearing, a board presentation, or a difficult regulatory conversation.

When	The Questions and Habits That Make the Difference
Before a Meeting or Hearing	What is the real concern beneath the stated question? What decision or outcome do I need them to reach today? What emotion is likely to show up, and how will I respond? What is my one-line message: for the client before a hearing, for the CFO before the board, for the regulator at the opening of an appearance?
During	Slow down; speed signals anxiety, not competence. Use plain language; if jargon appears, translate immediately. Watch for emotional cues: pace of questions, tone, body language or forward lean on video. Summarise frequently: 'So what I am hearing is… is that right?'
After	Send a crisp summary within the hour: decisions, responsibilities, next steps only. If there was tension, address it privately within 24 hours. Document commitments, yours and theirs. Use AI to draft the summary; use your judgment to edit the tone and emphasis.

This framework works with equal force for an independent tax consultant managing a demanding promoter, a corporate professional navigating a global review call, a lawyer debriefing a client after a tribunal hearing, and an in-house counsel aligning with a business head on regulatory risk. The context changes. The human capacities required do not.

Conclusion: The Human Advantage in an AI-Hybrid India

As The Chamber of Tax Consultants celebrates a hundred years of service to the profession, the world its members operate in has changed beyond recognition, and yet, in the deepest ways, it has not changed at all. The centenary generation — tax consultants and lawyers, those in independent practice and those employed in organisations — faces AI, hybrid work, global pressures, and extraordinary complexity. But at the heart of every client interaction, every board presentation, every regulatory hearing, every courtroom appearance, every difficult conversation: there is still a human being who needs to be understood, reassured, or convinced.

AI will handle the technical baseline. Hybrid work will continue to reshape how professionals interact. Regulatory and legal complexity will only increase. But the advisors who will lead this next century will be those who communicate with clarity, build trust intentionally, manage emotions skilfully, influence decisions ethically, and use AI not as a crutch but as a capable colleague.

> "The future of legal and tax advisory in India is not just technical. It is profoundly human. And those who master the human skills will not just survive the AI era; they will define it."

One hundred years ago, the founders of The Chamber could not have imagined GST, transfer pricing, artificial intelligence, or hybrid work. But they understood, intuitively, the thing that makes a professional's advice worth seeking: the combination of rigorous knowledge and trusted humanity. That combination, across every era and every disruption, for every professional who reads this Journal, is the Human Advantage.

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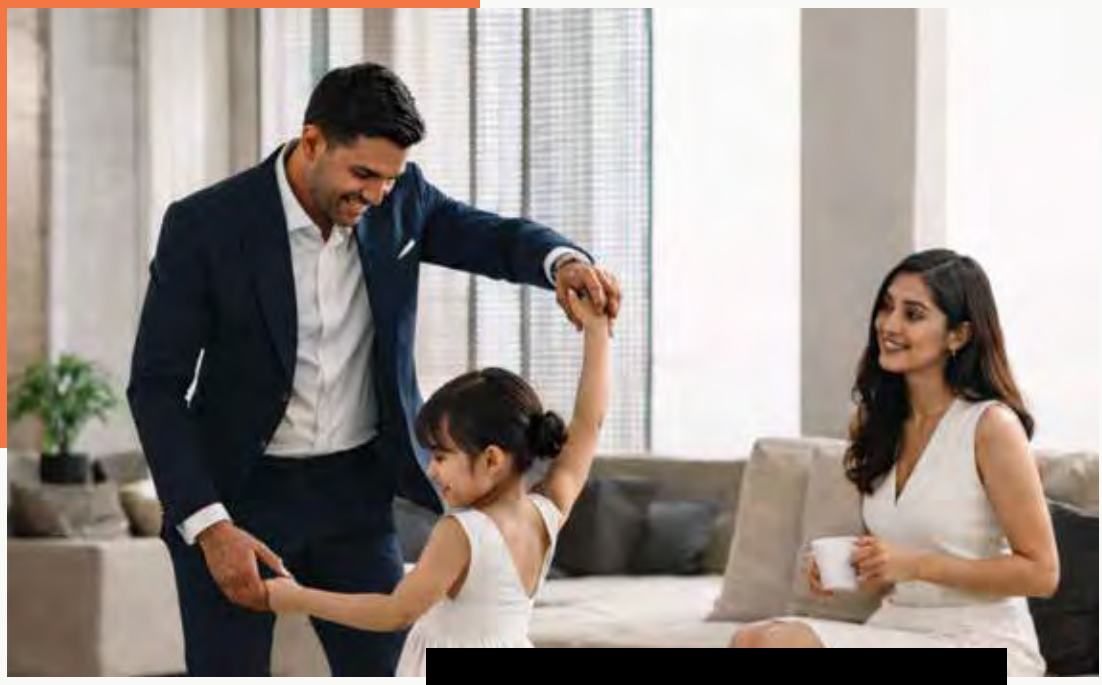

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