

# Income-Tax Department Cares

R. Devarajan  
.....

## < EXECUTIVE SUMMARY >

◆ There is a widespread perception that the Income-Tax authorities look at the assesses with a suspicious eye; that they consider all assesses as tax evaders and tax avoiders; that they always resort through and ready methods like raids to send their message home. Complaints and grievances galore are there regarding every step in the

assessment and appeal proceedings. The department is also on firm foundation in its conviction that if there is total tax compliance on the part of the assesses, enlightened economists would not estimate that more than half the Indian economy is run on unaccounted channel. The article below analysis the two sides of the coin as mentioned above.



here is a widespread perception that the Income-Tax authorities always look at the assesseees with a suspicious eye; that they consider all assesseees as tax evaders and tax avoiders; that they always resort to rough and ready methods like raids to send their message home. Small individual assesseees always complain that they never get their legitimate refunds in time. Complaints and grievances galore are there regarding every step in the assessment and appeal proceedings. Delayed assessments, non-speaking Assessment Orders levying hefty additions and resorting to unreasonable disallowances without rhyme or reason, inordinate delay in rectification of mistakes, non-speaking Appellate Orders without detailing the ground for taking a particular stand are some of the familiar complaints in this regard. The assesseees are contributing to the exchequer and as such

*The author is Additional Director of the Institute. The views expressed herein are the personal views of the author and do not necessarily represent the views of the Institute.*

they have to be given a dignified treatment by the department. On the contrary the assesseees find no comfort in the corridors of the Income-Tax Department.

At the professional level one of the important criticisms of the Income-Tax Department is that numerous amendments are being incorporated in the taxation laws year after year making the laws more and more complicated. In fact the complex nature of taxation laws make them very difficult to understand even for professionals who are dealing with such laws in their day-to-day practice. It is also contended that several amendments are being made just to nullify Court rulings if they are not favourable to the revenue. They also contend that the Department is much more litigation oriented than the assesseees and appeals are resorted to even on frivolous matters and this contention is borne out by the fact that almost all the appeals of the department are knocked down at the first or second appeal stage itself.

What is the answer of the Department to these negative factors affecting their credibility?

For a dispassionate analyst, however, while there is much substance in the contentions of the assessee and the professional fraternity, the department is also on firm foundation in its conviction that many things are not above board in the matter of tax compliance. If there is total tax compliance on the part of the assessee, enlightened economists would not estimate that more than half the Indian economy is run on unaccounted channel.

Bearing in mind the two sides of the coin as mentioned above, let us attempt an objective analysis whether the Income-Tax Department is really not responsive to the public utterances, suggestions and grievances or whether the tax administration is tuned to be friendly to those assessee who comply with law.

At the outset, let us have an idea about the organisation and functions of the Ministry of Finance and Company Affairs in general and Income-Tax Department in particular. The Ministry of Finance and Company Affairs is under the administrative control of the Hon'ble Minister for Finance and Company Affairs. So far as revenue matters are concerned, he is assisted by a Minister of State for Finance (Revenue) and a Minister of State (Expenditure, Banking and Insurance). These ministers are assisted by the Finance Secretary, the Revenue Secretary and Secretary (Expenditure). There are other departments like Central Board of Excise and Customs, which do not come within the purview of this article.

The Central Board of Direct Taxes is a statutory authority functioning under the Central Board of Revenue Act, 1963. The officials of the Board in their Ex-officio capacity also function as a division of the Ministry dealing with the matters relating to levy and collection of direct taxes.

The Central Board of Direct Taxes consists of a Chairman and the following six members.

- (i) Chairman
- (ii) Member (Income-tax)
- (iii) Member (Investigation)
- (iv) Member (Audit and Judicial)
- (v) Member (Legislation)
- (vi) Member (Personnel)
- (vii) Member (Revenue)

The activities of the Central Board of Direct Taxes are handled by the following wings:

- (i) National Academy of Direct Taxes
- (ii) Regional Training Institute in various cities
- (iii) Valuation Wing
- (iv) Directorate General of Income-Tax (Vigilance)
- (v) Directorate General of Income-Tax (Admn.) under

whom the Directorate of Income Tax (Research, Statistics, Publications and Public Relations) functions.

- (vii) Director General of Income-Tax (Systems)
- (viii) Director General of Income-Tax (Exemptions)
- (ix) Director General of Income-Tax (Research)
- (x) Director General of Income-Tax (International Taxation)
- (xi) Income-Tax Appellate Tribunal
- (xii) Income-Tax Settlement Commission
- (xiii) Authority for Advance Rulings
- (xiv) Appellate Tribunal for Forfeited Property

The above mentioned wings have field formations all over the country. Apart from the above internal wings, the CBDT has to coordinate actively with the Enforcement Directorate; Directorates of Advertising and Visual publicity; Prasar Bharti (Broadcasting Corporation of India); and Director General, Doordarshan to spread the message of tax compliance and also the warning that willful tax defaulters and evaders will be firmly brought to book.

One can, therefore, realise the stupendous nature of administration of direct taxes in such a diverse, varied and complex country like ours.

Let us take the professional aspects first. Contrary to popular perception, amendments to the Income-Tax amendments are not made whimsically. In many instances the amendments have a sound logic and rationale. There are many instances where tendency has been noticed to exploit every loophole in an irregular manner. When statutory amendments are brought to plug these loopholes, they certainly appear to be harsh. Many times they also result in complexities.

Particularly in the recent past the Department has accepted many of the objectives and impartial suggestions made by the Institute in its Pre-Budget and Post-Budget Memoranda. Many correct accounting principles have been incorporated in the statute book. The classic example is the clarificatory amendment making depreciation mandatory which is based on the principle enunciated in AS 6 Depreciation, that depreciation is a charge on profit. Explanation 8 to section 43(1) provides that where any interest is payable as interest in connection with the acquisition of an asset, so much of such amount as is relating to any period after such asset is first put to use shall not be included and shall be deemed never to have been included in the actual cost of such asset. This Explanation was inserted to incorporate a correct accounting principle and to put a stop to the tax avoidance measures exploiting a wrong accounting principle. There are many such

logical and rational amendments and a discerning student of Income-Tax will be able to spot them out. The legislative and tax-planning wing of the CBDT closely analyses all the responses and suggestions received from all parts of the country for this purpose.

The Departmental officials attend numerous seminars and conferences particularly on the Budget-eve and immediately after the Budget is presented in Parliament to gauge the public reactions to the Budget proposals. Meticulous noting of the worth-while suggestions are carefully studied by the Tax-Planning Cell for incorporating necessary amendments in the Finance Bill. Every year many such suggestions emanating from leading professional bodies, chambers of commerce and general public are being accepted and incorporated in the statute book.

While appreciating the Department for such an objective outlook we cannot forget to mention that generally the suggestions made in the annual meet of Commissioners of Income-Tax are accepted wholly and without debate. The Institute has pointed out that some of the suggestions made by the CITs and accepted and implemented would cause the same old problems to reemerge. The best example is the abolition of block assessment system and prescription of a new assessment procedure for search and seizure cases. This will revive all the earlier problems faced by the Department.

The Income Tax Department has done good work in the matter of processing returns received up to 31st March, 2003 and issuing refunds pertaining to these returns. In fact the Income-Tax Department, New Delhi issued an advertisement in major national dailies which reads as follows.

### GOOD NEWS TAXPAYERS OF DELHI

The Income-Tax Department Delhi has issued refunds in all the cases where returns were filed between 1.4.2001 to 31.3.2003. The department would welcome request from any tax payer who has still not received the refund in the return filed during this period. The tax payers may contact their respective Commissioner of Income-Tax, Income-Tax Department, New Delhi. It would thus be seen that in the Delhi charge there are hardly any refunds outstanding. The grievances received as a result of the aforesaid advertisement are being redressed expeditiously.

This good work has been done at the all India level. It was indeed a commitment made by the Chairman, CBDT.

Coming to the provision of better infrastructure facility and an assessee friendly atmosphere, the

Department is seized of the matter and high level team of officers is making an in-depth study of the issues. In this context it should be mentioned that the Central Tax Advisory Committee always welcomes suggestions to tone up the administration of the facilities to the assesseees.

Judged by the foregoing, it is unfair to say that the Income-Tax Department is always harsh and never understands the problems of the assesseees. There are always two sides to a coin. The Department manned by experienced revenue officers is trying to bridge the expectation gap. While we have all the rights to critically review the working of the Department, as a nation we have to become more tax compliant because as Justice Holmes said "I like to pay taxes. With them I buy civilization". ■

### ELECTION 2003

#### FOR ATTENTION OF POSTAL VOTERS OF THE CHARTERED ACCOUNTANTS ELECTIONS, 2003

- ◆ In terms of the provisions of the Chartered Accountants Regulations, 1988, postal ballots will be sent to those members (domestic as well as overseas), who are entitled to vote by post. The individual communication accompanying the postal ballots would contain the detailed instructions to be followed by the voters for recording the votes as well as the manner in which the ballot paper is required to be returned.
- ◆ In the past, ballot papers received from certain voters had been rejected on various grounds. Some of the grounds are non-tallying of the signature of the voters concerned with reference to the signature(s) as available in the records of the Institute, receipt of more than one ballot paper in the same envelope, non-compliance with the mode specified for return of postal ballots, etc. Concerned voters are hereby requested to strictly adhere to the instructions to be received by them in this behalf at the relevant time.
- ◆ In addition, as a matter of abundant caution, it may be noted that any act in regard to election, including the postal ballot which in any manner could be construed as unfair or improper, might become a subject matter of action under Section 21/22 of the Chartered Accountants Act, 1949.