

Markets Mature Enough to Take DTAA Change in Stride

“Change is inevitable and is the only thing in this world which is eternal”. The ever changing and dynamic nature of taxation laws in India have been eliciting thought-provoking consultations, negotiations, assessment and so on. Growing complications in taxation laws involving diverse understanding impels disagreements and motivates prospects for tax evasion. The advent of tremendous increase in capital mobility and cross border transactions, state-run tax laws have been abused to evade double taxation. This has been a matter of primary concern both for business enterprises engaged in the cross-border transactions and the tax administrations of the countries concerned. The information exposed through the ‘Panama Papers’ leak has, unquestionably, impacted the tax administrators’ wisdom worldwide.

The global complexities in taxation laws arose owing to Base Erosion and Profit Shifting (BEPS). BEPS refers to tax planning strategies that exploit the gaps and mismatches in tax rules to artificially shift profits to low or no-tax locations where there is little or no economic activity, resulting in little or no overall corporate tax being paid. BEPS has led to massive revenue losses to the governments, particularly the developing countries where the dependence was mostly from corporate tax. This loss of revenue, otherwise could have been utilised for the betterment and growth of masses. It has been rightly said that this all-encompassing global problem requires universal solution.

OECD and G20 countries collectively grasped this inventiveness to rationalise that every country gets its due share of tax and the tax payers do not elude paying tax in any country or pay the least tax by adopting different planning devices which are to a large extent tactics to evade tax. OECD was mandated to develop feasible *Action Plans* to dissuade the erosion of tax base. OECD formulated 15 Action Plans which provide tools to the establishments to encounter BEPS. As per reports, majority of developing countries have contributed openly in the work and more than 80 non-OECD, non-G20 jurisdictions have provided feedback. Almost all stakeholders impacted by BEPS had made their suggestions properly considered. India too has keenly participated in the process.

In order to address BEPS apprehensions, unified efforts were put in for its implementation and it necessitated amendment to state laws and treaty provisions. The intent is to deal with the root cause of BEPS rather than its symptoms. Far-reaching legislations

enacted by Indian Tax Authorities confirm alignment with the BEPS action plans. To start with, two major steps have been introduced *i.e.* Tax Equalisation Levy and Country by Country reporting. The enactment of these laws has raised several contentious queries and misgivings which are probably to be resolved in due course. Notwithstanding these disagreements, India has to safeguard its fair share of income and need to generate assurance in tax policy. Unquestionably, it is a tight rope walk to be accomplished.

It is now time for the multinational enterprises to be ‘BEPS-ready’. At the outset, such multinational enterprises need to understand the implications of the BEPS actions, evaluate the potential impact, identify the potential tax risks associated and possibly restructure existing arrangements, if the need arises. The implementation of BEPS measures would make tax management a challenge in the initial years for multinational enterprises, tax professionals and the Revenue authorities worldwide. Undoubtedly, this will widen the scope of practice for ICAI Professionals in the area of international taxation.

Professionals practising in the field of International Taxation realise that BEPS is an impending prospect. ICAI professionals are competent and equipped to handle the complex challenges functioning in the borderless domain. ICAI too is geared up to support them in respect of the required knowledge integration. To help the members to build their capacities in the area of international taxation, ICAI through its dedicated *Committee on International Taxation* has been steering a certificate course for its members since 2009. Recently, approval from the Ministry of Corporate Affairs has been accorded to conduct Diploma Course in International Taxation. The Diploma course is expected to be launched soon and certainly benefit our members and propel the profession to greater heights. Simultaneously, ICAI is regularly organising conferences and short interactive gatherings relating to International Taxation matters. ICAI deferentially confess that its members seamlessly fit in the consultative role of International taxation.

There are no boundaries for the people who aim at the sky...howsoever difficult ...howsoever soaring... there is no such field which Indian chartered accountants cannot surmount ... ■

Editorial Board ICAI – *Partner in Nation Building*