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India's Direct Tax Reforms: Transparent Taxation and Taxpayers' Charter

Vinod Rai

Summary

The Indian government has unveiled a set of reforms in the direct tax sector to ensure faceless assessment and appeal, while also announcing a taxpayers' charter. The changes are welcome and it is hoped that these will be followed by sensitising officers in the department to abide by the spirit of the reform, apart from bringing about a change in their approach and mindset. The success of the scheme will depend on the sincerity in its implementation.

The Indian government recently unveiled a new platform: 'Transparent Taxation – Honouring the Honest' to reform and simplify the tax system by introducing a mechanism for faceless assessment and appeals, and a taxpayers, charter to reduce litigation, simplify tax filing and prevent harassment of honest taxpayers.

India has seen a substantial reduction in the number of tax scrutiny cases. The proportion of tax returns scrutinised every year has fallen by 25 per cent from 0.94 per cent in 2012-13 to 0.26 per cent in 2018-19. The tax base, however, continues to be very low. Of a population of 1.3 billion, only 15 million individuals file income tax. While rolling out the tax reforms, the government has urged citizens who fall within the tax net to come forward and pay their taxes and thereby contribute to nation-building by being honest, compliant and keeping accurate records. At the same time, tax officers have been encouraged to trust tax payers and avoid treating them with suspicion without any evidence.

Structural Tax Reforms

The government has proposed three structural tax reforms:

i. Faceless assessment – this scheme has already become effective;
ii. Faceless appeal – this mechanism will become effective from 25 September 2020; and
iii. Taxpayers' charter.

<u>Faceless Assessments and Appeals</u>

The contours of the new system involve a process of selection through a system using data analytics, artificial intelligence and abolition of territorial jurisdiction. It was felt that scrutiny of assessments involved a high level of personal interaction between the taxpayer and the jurisdictional revenue official, which led to certain undesirable practices. The newly-introduced faceless assessment system will eliminate such instances since scrutiny as well as appeals against them will be randomly allocated to any tax official throughout the country. For instance, a scrutiny case of a taxpayer in Chennai can be allocated to an officer in

Chandigarh and an appeal against this decision will go to an officer in a third city. Similarly, a review of this decision will be done by officers in yet another city. Taxpayers will not be required to visit tax offices and can reply to any notice electronically.

In conformity with the government's announcement, the Central Board of Direct Taxes has instructed that all assessment orders under the Income Tax Act will be passed by the National e-Assessment Centre. The reforms allow for two exceptions to this – orders assigned to central as well as international tax jurisdictions have been excluded from its purview. It is also clarified that any assessment order which does not conform to the revised guidelines will be treated as non-existing, viz. it will be deemed to have never been passed.

Cases involving search and investigation, which fall under the jurisdiction of the central's charge, and international tax issues, have been kept out of the faceless assessment scheme, merely because of the sheer complexity of issues involved in these cases, for which face-to-face interaction may still be required. There is however, some ambiguity about functions like reassessments, transfer of existing cases, domestic transfer pricing cases and dispute resolution process for transfer pricing cases. It is also to be seen if the system's load-taking capacity to handle heavy assessment documents can withstand the additional burden. While faceless assessments may reduce litigation, issues related to contravention of law or in contention of the law will remain in the old format.

The Taxpayers' Charter

The charter aims to provide a fair and reasonable treatment to taxpayers by treating them as honest and it directs the department to collect the right amount of tax. The Ministry of Finance detailed the purpose of the charter in tweets. It said:

1. The department must follow the due process of law, and respect the privacy of taxpayers by maintaining confidentiality and not disclosing any information unless authorised by law.

2. Revenue department should provide complete and accurate information to taxpayers, which will ensure timely decision-making.

3. The department must allow a taxpayer to choose an authorised representative of his choice, provide a fair and just treatment and reduce the cost of compliance for taxpayers.

The new charter's emphasis on respect for taxpayers' privacy and maintaining confidentiality has been welcomed by various bodies. An absence of such categorical provisions, in the Citizen's Charter of the Central Board of Direct Taxes, as it exists, have led businesses facing difficulties relating to speculative news on tax affairs of individuals and corporates coming in public domain and impacting their right of privacy. While the charter has excellent statements of intent, its success and trust for the tax payer will depend on a change in the mindset of officials.

It was also felt that with this announcement, the government has taken a leaf from the United Kingdom charter focusing on respect for taxpayers as well as the Canadian and South African charters that have focused on confidentiality, secrecy and privacy as the basic tenets of common law system. It is believed that it will aid in attracting foreign capital.

Incidentally, it has been separately suggested that hotel bills above S$400, educational fee above S$2,000, electricity consumption above a similar amount, property tax payments above S$400, life insurance coverage above S$1,000 or bank transactions above S$60,000 will come under the scrutiny of the tax department. These are transactions that cannot be addressed in a faceless operation and should not become a cause of distrust by a department which, on the one hand, is aiming to build trust but, on the other hand, seeking clarifications on executive class travel or health insurance premium of amounts above S$400. If this is the degree of trust, then the fear of the taxman's 'big brother' attitude may still haunt the taxpayer.

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Mr Vinod Rai is a Distinguished Visiting Research Fellow at the Institute of South Asian Studies (ISAS), an autonomous research institute at the National University of Singapore (NUS). He is a former Comptroller and Auditor General of India. He can be contacted at isasvr@nus.edu.sg. The author bears full responsibility for the facts cited and opinions expressed in this paper.