TC11 RESEACH PAPAER

ACCESS TO JUSTIC IN TAX MATTERS

TC11

"One declares so many things to be a crime that it almost becomes impossible for men to live without breaking law." -Ayn Rand

Taxation is backbone of a country's economy. A perfectly administered system will hold the nation in difficult times and eventually leading to easy access to justice for the people. Tax raises money for food, cloth, shelter, education and various other things for the people, helps in reducing the already present inequality between the two classes. Taxation strengthens and protects channels of political representation: when citizens are taxed, they demand representation in return from their ruler,[1] manage the growth of economy, and fuels its industrial activity. India's three-tier federal structure consists of Union Government, the State Governments, and the Local Bodies which are empowered with the responsibility of the different taxes and duties, which are applicable in the country. The local bodies would include local councils and the municipalities. The government of India is authorized to levy taxes on individuals and organisations according to the Constitution. However, Article 265 of the Indian constitution states that the right to levy/charge taxes hasn't been given to any except the authority of law. The 7th schedule of the constitution has defined the subjects on which Union/State or both can levy taxes. As per the 73rd and 74th amendments of the constitution, limited financial powers have been given to the local governments which are enshrined in Part IX and IX-A of the constitution. [2]

Taxation basically is the imposition of compulsory levies on individuals or entities by the governments that state. Taxes are levied in almost every country of the world, primarily to raise revenue for government expenditures, although they serve other purposes as well.3 Tax matters refer to assessment and payment of your individual income tax/Corporate tax every financial

[1] Nicholas Shaxson, The Tax Conesus has failed, 2007 Volume 3, Number 2, Tax Justice Focus, https://www.taxjustice.net/cms/upload/pdf/TJF_3-2_Final.pdf

[2] Ashutosh Singh, Law of taxation and the Constitution of India, https://blog.ipleaders.in/law-taxation-constitution-india/

[3] https://www.britannica.com/topic/taxation

year, on the day to day purchase of goods and services, tax evasion - voluntary or involuntary, other disputes related to it. Ever since the economy started growing and the already present high number of active taxpayers, India has been working on the present judicial system to make it hassle free. In FY 2010-11, the prosecution launched 244 cases, out of which 356 were decided, 51 were convicted, 83 were compounded with the acquittal rate of 62.4%. This figure drastically changed over the years, crossing 2225 cases launched by prosecution in FY 2017-18. 50% of these opted for Compounding. The two types of taxes in India are Direct and Indirect taxes. One of the biggest and most successful tax reforms in India is the GST(Goods and Services Tax). It assists as a comprehensive indirect tax which helps in eliminating the flowing effect of tax as a whole.

Direct tax, is a tax imposed on corporate units and individual people. It is a type of tax that can't be moved or accepted by anyone else. Direct tax examples are wealth tax, income tax, gift tax, etc. In the Ministry of Finance, the Central Board of Direct Tax is a part of the revenue department. This board has a two-fold role that gives important ideas, significant inputs of planning, and policies to be implemented regarding direct tax in India. The management of direct taxes which is done by the Income Tax department is helped by the Central Board of Direct Taxes in doing so. Taxes that are indirectly imposed on the public through goods and services are called indirect taxes. The government bodies collect taxes from people who sell goods and services. When a good or product is sold in a state, then a sales tax is levied on it and its rate is decided by the government, this is called Value Added Tax (VAT). After GST came into force, direct and indirect taxes were collected by the three bodies of the government until 1 July 2017. Various indirect taxes which were imposed by the central and state government are incorporated by GST. Both the central and state government collect indirect tax through the intrastate supply of goods and services.[4]

India is a big country with people belonging to different communities and different wealth groups and income. Taxation to all cannot be the same. This is the reason for the tax system in India being a complicated one for long. India has been grappling with the problem of tax evasion which seems to be making our taxation system hollow from the core. India has a high tax rate but

[4] Rachit Garg, Taxation: a comprehensive view, Dec 2017, https://blog.ipleaders.in/concept-taxation-comprehensive-view/

a low yield of direct taxes. So, over the years the government has made an attempt to reduce the taxes. Also, for a nation to prosper its tax collection system has to be strong and efficient even if the tax rates are not high else its coffers will be depleted and developmental programmes truncated. One of the biggest problems faced by India's taxation system is the power of the government to make retrospective amendments regarding the tax statues. The practice began with the judgement given by the supreme court in the case of *Chhotabhai Jethamal Patel & Co v. UOI & Others*[5] after which an amendment bill was passed for retrospective levy of excise duties.

After the implementation of the GST which is an all-inclusive indirect tax, the process has become smoother and helped prevent the cascading effect it had earlier. The Constitution of India has provisions with respect to the distribution of financial resources under chapter two of part twelfth which is in rhythm with the Federal, State and Concurrent list under 7th Schedule. To sum up, the Parliament rights are not bound and the Indian Constitution gives wide powers to the Parliament and it is neither rigid nor the same. So, according to future needs, there are provisions that can change the said rules of law. Paying taxes may not be the best task, however, it pays for all the development and infrastructure that one enjoys.

The taxation system in India is such that the taxes are levied by the Central Government and the State Governments. Some minor taxes are also levied by the local authorities such as the Municipality and the Local Governments. While direct taxes are levied on taxable income earned by individuals and corporate entities, the burden to deposit taxes is on the assessees themselves. On the other hand, indirect taxes are levied on the sale and provision of goods and services respectively and the burden to collect and deposit taxes is on the sellers instead of the assessees directly.

India has opted for a self-assessment procedure, in which the taxpayers assess the taxes for themselves and file returns. Taxpayers having turnovers or receipt over certain limits are also required to get their books audited and file tax audit reports. Taxpayers must file tax returns (for example, income tax and value added tax returns) each year. The Income Tax Act 1961 (Income

[5] 1962 AIR 1006, https://indiankanoon.org/doc/1404351/

Tax Act) outlines the detailed procedure for the assessment of income and also governs the, a) Redress of disputes arising from assessments, b) Levy of penalties, c) Commencement of prosecution proceedings.

Central tax laws provide for a three-tiered appellate mechanism. A person aggrieved by the tax officer's assessment order may approach the first appellate authority, who is generally a designated senior officer of the department. The first appeal is essentially an administrative appeal to the commissioner (appeals), with the appellate authority having powers concomitant to the powers of the tax officers. An appeal can be filed against points of law, against findings of fact or if the order of the ITAT is unreasonable or unacceptable. Furthermore, Special Leave Petition can be filed in Supreme Court, either against points of law, findings of fact or if the order of the ITAT is unreasonable or unacceptable

An appeal from the appellate authority's order goes to the appellate tribunal. The appeal may go before a single-member or a two-member bench, depending on the complexity of issue and the tax effect involved. For what appears to be an arbitration approach, Indian tax treaties also contain provisions relating to Mutual Agreement Procedures (MAP), and resolutions under MAP provisions have also been recognized by Indian courts, if one wants to go forward with it.

Costs as to litigation before the courts and tribunals of the country generally have to be borne by the appellants themselves. However, under exceptional circumstances the courts may award costs to the appellants. In practice, cost awards by courts are extremely rare as regards tax litigation. Accordingly, the costs of the litigation ultimately fall on the particular party: even if successful, the chances of recovering the costs from the other party are minimal.

Recent amendments made to Indian tax laws have sought to rationalise corporate tax rates. Although indirect tax has been reformed through the introduction of the GST, difficulties in implementation are yet to be fully ironed out. In terms of direct taxes, reforms are expected; and while there has been talk of a Direct Taxes Code for several years, there has been a further impetus by the present government. Over the last few years, the Central and many State Governments have undertaken various policy reforms and process simplification towards great predictability, fairness and automation. This has consequently lead to India’s meteoric rise to the top 100 in the World Bank’s Ease of Doing Business ranking in 2019 as India jumps 79 positions

from 142nd in 2014 to 63rd 2019 in 'World Bank's Ease of Doing Business Ranking 2020'. In terms of tax disputes, the government appears to have adopted a policy of concentrating on high-value disputes confirming a bright future for people working in taxation field and the taxpayers.

The old adversarial system in tax dispute has been a big roadblock in nation's growth for so many years and has been continuously ignored. The disputes get locked up for years, rarely get amicably settled. This has a reason it has created an image of not being in favour of the taxpayer and somehow discouraging the foreign investment. According to the procedure provided by Income Tax Act, 1961 ("ITA"), the taxpayer is the one to initiate it by assessing his income and filling a return for the same to the Assessing Officer. [6] In case if there is any issue with the assessment and it gets rejected after getting re-examined by the Assessing Officer and the taxpayer is dissatisfied, he can approach the Tax Appellate Tribunal ("ITAT")[7]. ITAT is a quasi-judicial body which after re-examination of facts and evidence, decides on the matter. Further, the parties have option to approach the High Court and then the Supreme Court however, for the appeals on the 'substantial question of law' will be questioned and heard. Except for the appeal, the High Court and Supreme Court could also be approached through a judicial review by filing a write petition.

This may appear to be a similar process but it is not, in reality tax litigation takes 1- to 20 years before any judgement is passed on the dispute. Filing income tax returns is something which is done by a every taxpayer once a year and however, small dispute can put him in circle of years of legal hearing with a huge finically loss. An estimate of 2,59,523 tax disputes are pending at all level of court and tribunals which adds upto a sum of almost Rs. 45,000 crores (2012). Over the years, continuous stress had been given on the tax litigation by both the legislature judiciary and as the latter as pointed it out the prevalence of the delay. Courts have endlessly attempting to curb the delay however; the situation has never really improved remarkably. Moreover, the transfer pricing dispute cases of Vodafone and Nokia recently have just presented the vulnerability of government of a international level. Even with the implementation of General Anti-Avoidance Rules ("GAAR"), not much has changed.

[6] Section 139 of the Income Tax Act, 1960.
[7] Section 143 of the Income Tax Act, 1960.

The most appropriate alternative that should be persuaded to reduce the pile of tax dispute would be Authority for Advance Rulings ("AAR"). AAR id basically a quasi-judicial body chaired by retired judges of Hon'ble Supreme Court who will act as an independent third party adjudicatory body. A taxpayer can approach AAR to obtain a ruling a on any question of law or fact be it related of international transaction. All ruling made by AAR are binding on parties, taxpayer and revenue department. The biggest advantage of AAR is its speed disposal approach. The ITA mandates that all applications must be disposed of within 6 months from filing and only allowed for extension of 1 year maximum, which a blessing considering the normal ligitation on a similar matter might take a decade or two to reach over any decision. However, the advance ruling does lack a proper administration as there is no authority of pass order over them.

Efficiency of delivery of Justice

Back in 2015, the then hon'ble Chief justice of India H.L. Dattu, constituted a special bench which would take only tax matters. With the increase in number of taxation cases that got piled up at apex court, he realized the need to address the issue and therefore came up with this approach.With adding political recognition of the link between profitable growth and involved duty laws and action, it was a reform that sounded necessary. Fortunately, the figures feel to suggest that the duty bench has been a success each around. The bench of judges A.K. Sikri and Rohinton Nariman heard duty cases until the alternate week of December, and in 2015, the Supreme Court delivered 197 judgements in duty law.

This is nearly as numerous as the apex court managed in the three times antedating 2015, when it passed 206 duty judgements; or a nearlyfour-fold increase in its productivity in each of 2014 and 2013. The vast increase in figures was really due to the effectiveness of the duty bench — in the nine months that it was functional, the bench delivered 170 out of the 197 duty case judgements delivered in all of 2015. The results of this trial were also phenomenal at the duty judgements delivered by Supreme Court in 2015 came the loftiest. And if one counts the orders where the Supreme Court did n't claw in depth into the logic, also a aggregate of 289 similar orders and judgements were delivered, disposing of cases. The bulk of the judgements were rendered in central circular duty cases, both relating to central and state circular levies. Of the 170 judgements delivered by the duty bench, an astounding 149 were penned by Sikri and 21 by

Nariman. Indeed when not sitting on the duty bench, Sikri delivered a farther seven duty judgments relating to earlier times, bringing his census to 156 over the course of the time. While detailed figures aren't available for earlier times, Sikri now presumably holds the record for having delivered the loftiest number of duty judgements in a time in the Supreme Court. Matters were conjoined up and heard together as numerous of them had been multiple times. This meant that through the 197 Supreme Court judgements in 2015, a aggregate of 518 connected cases that dealt with analogous points of law were disposed of (the duty bench's judgements themselves were directly responsible for clearing 400 cases off the books in 2015 with an fresh 490 being disposed of through orders). This was a major advance in the history of duty matters as it came a light force for all unborn times and other pending cases present for times. A small step taken by the Hon'ble H.L. Dattu made a huge impact by creating a precedent for not only the Apex Court but also the other profit authorities and petitioners. While numbers haven't yet been made public by the profit department, it's likely that the overall value of duty profit held up in duty action in the Supreme Court will have come down by a substantial quantum as a result of the work of the duty bench over the course of the time. What the disposal of such a large number of duty cases also reveals is the detainments that have taken place in these cases. The duty bench seems to have concentrated on disposing those duty cases that have been pending for long, including, as the table below shows, one dating back to 1997.

The bulk of the duty matters disposed of by the Supreme Court thus feel to be cases that are 8-12 times old. This doesn't inescapably mean that more recent cases have taken a back- seat; they're likely to have been tagged with the aged cases and disposed of when the questions of law were analogous or identical.

By all accounts, Supreme Court attorneys and petitioners are happy that the duty bench was set up to serve over the course of the time to decide only duty cases. Without the routine change of canon, the judges were suitable to concentrate and go in depth into the area of law in question. " I hope the new Chief (Justice of India) will also come up with some plan like this and can form a separate bench to concentrate just on direct duty this time," said Singh. Another word of caution is also needed. While the number of duty judgements delivered by the Supreme Court has indeed seen a dramatic jump, the overall number of judgements delivered by the Supreme Court in 2015 didn't see such an increase.

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Although only two judges retired during the course of the time and the Supreme Court was at near 90 capacity, it didn't deliver mainly further judgments than the former time, 2014, where 10 judges retired over the course of the time. In Central Commission for Central Excise vs Hindustan Lever Ltd[8], the Supreme Court clarified that Vaseline intensive care heel guard was a drug and not a cosmetic and it was up to the tax authorities to prove that there was no prophylactic or curative value to a product. In The Commissioner of Income Tax v Veena Developers, [9] the court laid down that deductions for construction of low-cost residential apartments will also be available to those who constructed mixed commercial and residential buildings, thereby resolving a large batch of pending cases.

Foreign Investors Perspective

FDI (Foreign Direct Investment) is a virtual gold every country thrives for. The major reason behind it is that is provides new technology, generate new jobs for locals and creates a healthy environment where employment can easily be promoted. The government not always ha high amount of budget to investment in huge projects and they also have to cater to the people and at the same time look out for the defense and security at the border. FDI provides exactly was the demand it, huge investment in the economy. Developing countries like India open their market, try to provide which hassle free, has a smooth taxation system and less legal formalities before starting at new business. The resulting net increase in domestic income is shared with government through taxation of wages and profits of foreign-owned companies, and possibly other taxes on business (e.g. property tax). FDI may also positively affect domestic income through spillover effects such as the introduction of new technologies and the enhancement of human capital (skills).[10]

And because of these huge benefits that come with it, the government usually re-examines their Tax laws in order to attract more investment. Even the outbound investment provides efficient access to foreign markets and production scale economies, leading to increased net domestic income. However, the government keeps trying to maintain a balance between the desire to offer

[8] 2002 ECR 279 SC
[9] 2015) 277 CTR 297
Commissioner of Income-tax v. Veena Developers
[10] Tax Effects on Foreign Direct Investment, February 2013, Policy Brief OECD, https://www.oecd.org/investment/investment-policy/40152903.pdf

a competitive tax environment for FDI, with the need to ensure that an appropriate share of domestic tax is collected from multinationals.[11] But in reality the actual factors that attracts these FDI's the most are well developed infrastructure for work, cheap and skilled labour in abundance, heavy profits opportunities, cheap raw material and transportation and a predictable and nondiscriminatory legal and regulatory framework; macroeconomic stability.

To how the FDI may react to the taxation policy depends a lot of the host country's corporate tax burden. FDI is not exactly highly sensitive towards a taxation policy but it does create a huge difference if the host country has a favorable policy as there is always a pressure present globally. Investors, before moving on with any investment, take in account of the different locations and draw a comparing between their tax burdens with country who have provide similar market conditions.

"A widely-held view is that taxes are likely to matter more in choosing an investment location as non-tax barriers are removed and as national economies converge. There is broad recognition that international tax competition is increasing, and that what may have been regarded as a competitive tax burden on business in a given host country at one point in time may no longer be so after rounds of tax rate reductions in other countries. However, it is not always clear that a tax reduction is required (or is able) to attract FDI." [12]

Even though many OECD Countries have a high corporate tax policy, if hardly effects the investment as they provide with other facilites with the it like well structured infrastructure. Due to that, developing countries fell more pressured, as they cannot provided the same but by loosening the tax burden they still have a chance. the size of market the host country provides also has a huge role to play in it and thr location specific profits attract the investors. It is also clear that a low tax burden cannot compensate for a generally weak or unattractive FDI environment. Tax is but one element and cannot compensate for poor infrastructure, limited access to markets, or other weak investment conditions. However, business-friendly the tax administration is perceived to be. Investors look for certainty, predictability, consistency and

[11] Ibid, 4
[12] Tax Effects on Foreign Direct Investment, February 2013, Policy Brief OECD, https://www.oecd.org/investment/investment-policy/40152903.pdf

timeliness in the application of tax rules, and in many cases these considerations are as important as the effective tax rate paid. The tax environment will also be influenced by the need of governments to introduce anti-abuse measures to protect the tax system from sophisticated tax planning and aggressive tax schemes which exploit differences across tax systems. A key challenge is striking a balance in devising rules to adequately protect the tax base, without imposing excessive compliance cost on business. In doing so, it can be difficult to accurately weigh business arguments that FDI will locate elsewhere unless the scope of tax base protection measures is reduced. To put it all in simpler words, a less burdening tax policy has a lot to do in attracting FDI investments. With the strong competitive, it becomes more important for countries like India to capture them. The government is constantly trying to make a balance between the environmental laws, the well being of the people, government treasure and the economic growth.

Financial Indepencence of Judiciary

In order to appreciate this ground of attack on Section 99 of the Finance Act, 2020 amending the first contingency to Section 254 (2-A) of the Act, it's first necessary to appreciate the background in which the Bars in India have come to stay and have come an essential part of our bar who has the task of discharging judicial functions.

Secondly, the difference between the Courts and the Bars (which are substituting the Courts) would have to be considered. Despite the differences, the two authorities are participating the judicial power of the State. Thus, just as independence of the Court is shielded, it becomes necessary to guard the independence of the Bars as well.

We largely need to appreciate the proposition of separation of powers as per the scheme of our Constitution which is specifically handed under Composition 50. Simply put, it's the discrimination of the functions of the State to the three organs as handed under the Constitution. First, it's the Legislature (includes the Centre as well as the State), second, it's the administrative authorities (for illustration Income Tax Department, the Police Department,etc.) and third is the bar (courts and bars). It has been emphasised that every organ of the State must perform and exercise the functions entrusted to it without inching upon the functions terminated to the other.

In Indira Nehru Gandhi v. Raj Nara[13], it was held that division of three main functions is recognised in our Constitution. Judicial power of the State is vested in the bar. Also, the Administrative and the Legislature are vested with powers in their spheres. Judicial power has lain in the hands of the bar previous to the Constitution and also since the Constitution. It isn't intended that powers of bar be passed to or be participated by the superintendent or the Legislature or that the powers of the Legislature or the Executive should pass to or be participated by the bar. The Constitution has a introductory structure comprising the three organs of the Republic viz. the Legislature, the Administrative and the Judiciary. It's through each of these organs that the autonomous will of the people has to operate and manifest itself and not through only one of them. Neither of these organs of the Republic can take over the function assigned to the other. No Constitution can survive without a conscious adherence to its fine checks and balances. "Just as Courts ought not to enter into problems entwined in the'political copse', Parliament must also admire the save of the Courts. The principle of separation of powers is a principle of restraint."

In Chandra Mohan v. State of U.P[14], it has been held that the people of our country come by close contact with the inferior bar in comparison to the Higher Judiciary and therefore, it's no less important and presumably indeed more important that their independence should be placed beyond question than in the case of Superior Judges. Composition 50 of the Directive Principles of State Policy states that the State shall take way to separate the bar from the superintendent in the public services of the State. Simply stated, it means that there shall be a separate judicial service free from the administrative control. In S.P. Sampath Kumar (supra), it was held that judicial review is a introductory and essential point of the Constitution and Parliament can not take it down else, the Constitution would cease to be what it is. Every organ of the State must act within the limits of the authority and power deduced from Constitution. A question may arise as to whether the superintendent has acted within the compass of its power. Originally, determination of this question is within the sphere of bar because it requires interpretation of the Constitution and the laws and this wouldpre-eminently be a matter fit to be decided by the bar. Secondly, the protection swung to the citizen would come illusory, if it were left to the

[13] (1987) 1 SCC 124
[14] 1975 Supp SCC 1

superintendent to determine the legitimacy of its own action. The same principle applies for determination of acts of Legislature as well. It's only an independent bar under the Constitution assigned with the delicate task of determining what's the extent and compass of the power conferred on each branch of Government, what are the limits on the exercise of similar power under the Constitution and whether any action of any branch transgresses similar limits. It's also a introductory principle of the rule of law which permeates every provision of the Constitution and which forms its veritably core and substance that the exercise of power by the superintendent or any other authority mustn't only be conditioned by the Constitution but also be in agreement with law and it's the bar which has to insure that the law is observed and there's compliance with the conditions of law on the part of the superintendent and other authorities. In view of the above, it is clear that Article 50 of our Constitution has been interpreted and it has been held that there is a requirement to have an independent judiciary for the purpose of adjudicating the disputes. Judicial review by an independent judiciary has been considered to be a basic and essential feature of the Constitution. "*On a combined reading of the above decisions, it is submitted that judiciary also includes authorities such as the Tribunals which are below the High Courts and Supreme Court.* Whenever the rights of parties are affected, the forum of last resort is a judicial forum. This forum must necessarily be independent and must be in a position to uphold the rights and condemn the wrong. The Supreme Court has expressed its displeasure in at least five[15] if its Constitutional Bench decisions in the manner in which the minimum standards of judicial independence as are required to be maintained have been diluted.

Digitalization of Judiciary

When the whole world was hit back the COVID-19 and everything suddenly shifted to online, judiciary was not exception to it. Where on the one hand online services like Amazon, Zomato, Ola bloomed, the court on the other hands had a huge setback. The 'work from home' conception was accepted very easily by other field however, the judiciary faced a lot of challenges. It was quite impossible to replace all daily physical activities to a a packed online one to one user interface. The pendency of cases in various courts in India is staggering. The Economic Survey of 2019-2020 dedicates a chapter to pendency of tax cases and revenue cases. The Survey

[15] (i) L. Chandrakumar v. Union of India, (1997) 3 SCC 261;(ii) Union of India v. R. Gandhi, (2010) 11 SCC 1; (iii) Madras Bar Association v. Union of India, (2015) 8 SCC 583 ; (iv) Madras Bar Association v. Union of India, (2014) 10 SCC 1 and (v) Rojer Mathew v. South Indian Bank Ltd., 2019 SCC OnLine SC 1456.

mistakenly argues for more court infrastructure and judges to solve the problem. On the contrary, the existing infrastructure is grossly under-utilised. There are tribunals such as the Income Tax Tribunal that function only half-day most of the time. To make matters worse, most courts are closed for Christmas and summer vacations. Judges are not accountable for efficiency and performance. Thousands of Indians cannot afford to go to court as legal costs are high and legal procedures are complicated.

It's a fact that utmost duty matters don't bear particular sounds. Duty cases reach bars and advanced courts after lower authorities record all the data. The High Courts and the Supreme Court deal with issues or interpretation of the law. The bane of the court system is that attorneys on both sides need to be physically present in court. Cases are frequently suspended due to colorful reasons. It's in this environment that we make the case for a virtual bar.

In such a script, we can submit all the papers via correspondence. The judge can decide the case grounded on all the available information. Wherever the judge requires interpretations, he or she can seek the same through dispatch. Generally, the judge, after considering all the material available, can pass a draft order and shoot it to both sides for any commentary which they may want to give. Later, the judge can, after considering the commentary, pass the final order. This will enhance the quality of the judgment and also exclude egregious crimes.

The use of the court hall to decide analogous matters is spare. Not only will a virtual bar result in substantial savings in costs but will also lead to speedy disposal of cases. The productivity of attorneys will increase substantially as visits to courts and long waiting hours will be more an exception than rule. However, effectiveness will doubly, indeed treble, If this practice is extended to other civil cases.

The fact that the governance of a court is defined by terrain makes no sense in matters analogous as taxation and company law. The change to-particular electronic court sounds will change this. All judges should be empowered to handle any case, wherever it originates. This will affect in multiple advantages — the top bone being better utilisation of force and structure by equitably distributing the work. Also, malpractices will be limited as there will no longer be familiarity between attorneys and judges in a municipality.

While India grapples with a extremity on the health and profitable front, we need to suppose out of the box. We need a change in mindset regarding the way we work. Imagine the overall savings and extent of improvement of the judicial ecosystem if 70 of the cases get decided without going to court? If vested interests are kept down and cooperative will to initiate what is for the common good takes precedence, a virtual bar can come a part of our lives.

A drive for complete digitization of the judicial system amid the lockdown is being echoed throughout the country. This doesn't just mean conducting regular sounds over Video Conferencing (although a vital first step). It's an occasion to revise the way the entire legal system constitutionally functions beyond just this epidemic.

The opinions taken now in the short term will really have a continuing effect for months to come, as social distancing morals are not likely to be completely eased in the foreseeable future, atleast till a vaccine for the Novel Coronavirus is developed and posted.

The Supreme Court issued guidelines to reduce physical presence in courts so as to maintain social distancing. Recently, Justice DY Chandrachud stated that video conferencing in the Supreme Court was performing fluently and ane- form software was being developed and was in the advanced stages of trial. Though this is a welcome development, ane- form system alone is not nearly enough. There must also be a corresponding change in the manner of arguments. Any analogous change in the system of form and arguing must be precisely analyzed so as to ensure that the effectiveness and sanctity of the process are saved.

While it can't be disputed that shifting of the legal profession to a technology-dependent practice is going to pose a large number of challenges, the same can be gauged in an effective manner, by icing a numerous simple tweaks to the present way of practice.

The biggest chain in shifting the working of the courts to an online platform is the time operation and related logistical issues that would be demanded to be ironed out to ensure the functioning of the court in an effective manner.

The present form of practice, where attorneys are anticipated to be physically present in the court till their cases are called out, is not the most provident operation of the time of those engaged in the legal profession. Attorneys rehearsing regularly in the High Courts/ Supreme

Court and other bars are abnegated to the fact that the first half of their day is to be spent staying for their matter to be called up, if it indeed does get called up. Physical presence at all times needs to be assured in the courtroom, lest the matter be is called out of order due to adjournments in the former matters.

This diminishes openings to attend matters in multiple courts, due to deficiency of time and long distances, constantly forcing attorneys to prioritize certain matters over others at the cost of irking guests and harming bones' character. Still, the technological shift can count this mystery and save invaluable time, allowing attorneys to appear in different courts within beats of each other, If planned properly. One of the biggest challenges that will be faced in administering such an approach will be proper logistical operation in the calling out of cases. A shift to online courts, still, would bear perfection in time operation since both the parties and the attorneys would be anticipated to join the virtual courts at apre- determined time.

In such a script, it becomes imperative that the cases listed for the day are dealt with in a time-bound manner to ensure lower online business (so as to help overfilling of the system), and most importantly, to ensure quick and effective justice. In this terrain, it becomes imperative to re examine the 99th Report of the Law Commission published in the time 1984. The report tried to address the question of certain time saving changes to the system of' Oral and Written Arguments in the Higher Courts'. To address this question, the Law Commission released a questionnaire aimed at seeking opinions of knowledgeable persons and bodies on certain questions concerning the association and improvement of the functioning of the advanced Judiciary.

Fast-forward to the present day, judges are now equipped with state-of-the- art computers and other technological paraphernalia allowing quick and effective disquisition. Further, there now live a plethora of programs analogous as Judicial Church at Supreme Court and High Courts and other internship openings which not only allow the immature legal minds to be shaped by the judges, but also provides judges with the resources to help them sift through large amounts of information which was understandably considered insurmountable in 1984.

"*Written advocacy has played the part of the poor alternate kinsman to oral advocacy but decreasingly, written advocacy has taken on a more significant and important part. Opening and closing cessions are generally filed in civil matters and in prayers written arguments must be filed before the hail. The written argument therefore provides an occasion to convert the Court before oral address has any part.*"

This would really cut down the time of oral arguments and streamline the whole process. It is, still, material to note that a standardized format must be espoused so that brief and precise Written Statements can be filed before courts.

The High Court of Delhi has stressed the rudiments of an effective written detail in the case of Mst. Kiran Chhabra And Anr. Vs Mr. Pawan Kumar Jain. Though written submissions must not be viewed as an volition to the oral arguments in toto, they may be the most effective tool to save time. This would have the fresh advantage of weeding out matters with little merit, especially those that do not have a prima facie case made out, especially in appellate courts and bars where a large number of prayers are filed simply to defer from having to fulfill the awards passed by the lower courts.

Another recommendation of the report was that in the advanced courts, a day may be set incremental for holding conferences between judges. The practice of the Federal Court of the United States of America was analyzed wherein the courts hear to arguments on 4 days and take up one day to just go through written submissions and operations. Performing on only four days may not be possible given the being weight on the Indian Judiciary. Still, High Courts can follow the practice of the Supreme Court, which reserves two days of the week for miscellaneous matters alone. Certain days can be kept for matters in which the proceedings are at a purely procedural stage, which would take a truly limited amount of time.

In such a case, the functioning of the court would not be only for a numerous hours, and latterly, time can be taken by the judges to confer amongst themselves on pressing points of law and to read the operations of cases to be taken up in the coming week. Such a model would allow the entire judicial structure-from the attorneys to judges-to save large amounts of time. Anotherpre-needful for the success of such a model would be the laying down of a unified set of rules for the

online functioning of all the courts. The Judiciary of England and Wales has come up with a unified protocol regarding remote hail of civil matters and the same has been executed with effect from March 26. The protocols give introductory guidelines as to the conduct of remote sounds and have declared Skype as the platform to be used by all courts for online sounds. A similar protocol needs to be developed for Indian courts across all authorities to ensure ease of use and vacuity to the parties as well as practitioners.

A commone- form practice needs to be developed. As on- form is present in only a sprinkle of courts across the country. Still, it's also necessary to ensure that the rules of analogous form are harmonious throughout the legal system. Not only will this allow for faster form, it will also allow for easier movement of lines in cases of transfer and prayers to advanced courts. This also presents the bar with a unique occasion to reaffirm the faith of the public and ultimately apportion with the cloak that covers the functioning of this most vital popular institution. In multitudinous courts, the general viewing public can't indeed gain access to the court unless their matter is being heard. This has really led to sustained negativity amongst the public, which has little faith in the ideals of open justice and translucence. Fortunately the Supreme Court in the case of Swapnil Tripathi v. Supreme Court of India[16] has stated that in the interest of the general public, live streaming of court proceedings in matters of public interest and Indigenous matters must be eased.

This also has the added advantage of reaffirming the hourly- ignored ideal of a 'Court of Record' under Composition 129. This has unfortunately regressed to mean simply publication of the courts' judgments. Still, a court of record should be one that retains records of its proceedings- including oral arguments in the course of cessions-to perpetual memory.

In the Swapnil Tripathi case[17], the Supreme Court has painstakingly anatomized the practices of several authorities around the world and the advantages of recap and broadcasting. However, perhaps this epidemic is the drive demanded for our legal fraternity to decelerate down and introspect, so that we may crop more effective, If other courts have been doing this for several times now.

[16] (2018) 10 SCC 628
[17] ibid

Conclusion

It's argued that the council is the applicable authority to make the policy choices it considers necessary to increase public goods. Consequently, courts bound by the principle of executive compliance would limit remedies in duty matters must, hence, be grounded on objective principles of legislative interpretation. Still, given the overreaching governance that the Supreme Court has developed as a result of the principles in cases similar as Tullow, the profit authority and taxpayers are maybe correct in viewing the court of law as an institution with unusual and extraordinary power to resolve duty disagreement in their favor. Judicial activism (that is enabled by nebulous duty legislations) reduces abstract clarity of a taxpayer's rights or a government's profit entitlements under the Indian legal system. Petitioners (including government authorities and taxpayers) must have certainty about the limited nature of the court's powers and shouldn't be misled into lengthy action in the stopgap of extraordinary remedies. However, the coming stylish 119 AP SteelRe-Rolling Mill Ltd, If civil courts are to continue enjoying an extraordinary governance in duty matters (where executive compliance is more applicable).v. State of Kerala and Ors,[18] IVRCL Structure and Systems Ltd. v. Commissioner of Customs,[19] Zuari Diligence Ltdv.[20] Volition is for the courts to laboriously apply effectiveness in the duty administration by relating and administering a broad set of well- innovated principles. According to the Organization of Economic Development (OECD)[21], the transnational norms for an effective duty system include impartiality in duty issues, effectiveness, certainty and simplicity, effectiveness and fairness, and inflexibility in the duty system. It's possible to apply these norms in a way that doesn't bear the court to overreach its limits in judicial review. For case, if a particular department has unreasonably delayed the issue of a instrument that a taxpayer requires for carrying a duty impunity, it's applicable for the courts of law to first estimate the taxpayer's claims under similar broad principles. This may help a court identify a better result to the taxpayer's disagreement caused by executive detention – for case, a writ remedy. This principle-grounded approach will insure that civil courts will be able of tone- regulation and may avoid awarding unhappy rights and remedies in duty controversies. Further, government departments

[18] 2007) 2 SCC 725
[19] (2015) 13 SCC 198
[20] (2007) 8 RC 568
[21] Robort Thornton Smith, Tax Treaty Interpretation by the Judiciary, (1996) 49 (4) The Tax Lawyer 845, 882. NUJS Law Review 12 NUJSL.Rev. 2 (2019) April-June, 2019

will be under stricter judicial scrutiny for icing an effective duty system and duty controversies. Controversies that may be resolved at the stage of the departmental inquiry need not affect in long times of pending action – a violation of a taxpayer's licit anticipation to effective duty collection may be remedied by warrants against executive authorities that unnecessarily delay the duty administration process. In substance, the principle- grounded approach reinforces abstract clarity about the complex nature of a duty system and the significance of the bar to exercise executive compliance. I admit that a principle- grounded approach alone may not be sufficient to address the incompatibility of judicial remedies with consonance in the duty system. A long-term result to reducing the prevalence and pendency of duty controversies involves a deliberate cohesion between duty administrations and the bar. A duty policy that's taxpayer and business friendly, transparent and coherent will significantly reduce action. Till similar time that cohesion is achieved in duty policy and duty justice, the remedies of the courts and executive practices may remain inharmonious to a great degree and affect in public profit undesirably being congested in the appellate medium.

Justice is not an idea or thought that can be achieved easily by any person in their daily lives. It requires time, patience and money even for the slightest ordeal. Even when we see the blooming state of tax matters in India is still very far from being easily accessible, with proper administration and mutual efforts by the authorities and the taxpayers it can reach up to a level where it don't be treated as a threat by assesses. As litigation are hefty for even the MNCs, a push towards the quasi judicial approaches like Authority for Advance Rulings ("AAR") a positive outlook towards it. Even promoting compounding of offences in certain cases would leaded to huge improvement.

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