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Speech Delivered on 84th Foundation Day Of ITAT

TAX means the amount of Money that a government requires People to pay according to their Income, the value of their property etc. and that is used to pay for the things done by the Government. A tax is a compulsory financial charge or some other type of levy imposed on a Taxpayer by a Government Department / Organization in order to collectively fund government spending Public Expenditures or as a way to regulate and reduce negative externalities.

Nobody likes being Taxed particularly his income being subjected to it. However, the law that taxes his income also protects it against unnecessary and undue burden. It performs a balancing act. It ensures that if the power to tax is exercised illegally, unfairly and unreasonably, unjustly he can approach the in-built legal Machinery. The ITAT is part and parcel of it and created by the Taxing statute itself. It is a independent, impartial, autonomous judicial body. It is the last fact-finding authority. It is final arbiter on facts and law within the Act. Its decisions can be subjected to a further Appeal only on a substantial Question of law to the High Court but not every Litigant can afford the Luxury of approaching Higher Courts where it becomes difficult to get access to Quality Professional Assistance. Even the Revenue cannot approach the Higher Courts because of the hierarchical problems of Clearances, Approvals, Sanctions etc. Hence, a great responsibility rests on your shoulders and that has to be shared collectively by the Bench, Bar and Revenue officials. The ITAT Members particularly drawn from the Administration need to know that they have to detach themselves from the office files once they don the attire or dress of a Adjudicator. Its not a mere change of Dress but assumption of a New Duty towards the Public. You are Judges. You are now Judging an factual/legal Issue more intensely. Your judicial and judicious mind has to be applied to render justice.

A Tribunal like ITAT is a substitute for a ordinary Civil Court. Tribunalisation of Justice Delivery is not synonymous with In House or Departmental Legal Mechanism. A Tribunal is not a extension of that system. It is not a wing of the Government much less a part of the Revenue. It is a body endowed with enormous powers to correct the factual and legal errors,

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Gross irregularities and Patent illegalities. Abuse and acting in excess of Jurisdiction by the Sub-ordinate Authorities can be interfered and set right by the ITAT. It is comprising of a Judicial and Accountant Member. It is thus a blend of both but not bound by the Departmental Instructions, Practices etc. and must act strictly in accordance with the law. It is bound only by the Judgments of the Jurisdictional High Courts and the Hon'ble Supreme Court and totally free from any interference by the Government. It is well settled that justice must not only be done but must be seen to be done. Hence, a Personal hearing cannot be a Empty formality. Adjudication is serious business and nothing can substitute much less eliminate open Court Justice.

There cannot be faceless hearing of Cases and no closed door Adjudication. A Judge cannot rely upon any Private Information and materials not on record of a Case. The Court proceedings are transparent and every document or paper must be shared with Parties. In a adversarial system the Revenue is the opponent or Adversary of the Assessee and hence cannot pass on anything to the Members of the ITAT without the Bench's prior permission and sharing with the Adversary any document not already on Record. The Record of the Case is sacrosanct. It contains materials relied by both sides to a Case. In a faceless or impersonal or Online / Virtual exchange there is every likelihood of Pre-Judging of matters. Nobody can ensure a fair, full hearing and delivery of Judgments on the Dias on conclusion of proceedings in Open Court. Even if a Judgment is Reserved, in a Open Court nothing can be introduced or inserted in the Record once the hearing is concluded. In my humble Opinion, the faceless adjudication system and procedure will hamper the cause of Justice. It will not eliminate corruption or reduce the arrears of Cases. It will compound the problems faced by Litigants and increase Litigation. It is not a solution to deal with existing Issues. It is not a healthy practice. Thus, faceless disposal is no adjudication at all. A face to face Interaction, Exchange of views results in Quality Assistance by both sides thereby ensuring speedy Justice at affordable costs. No change is advisable much less hastily.



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