

**Income -Tax Bill, 2025 : An Insight into the Income -Tax Bill, 2025.  
An Overview on income -Tax Bill, 2025- Hon'ble Mr. Justice R. V.  
Easwar, (Former Judge of the Delhi High Court)**



**04-04-2025 (Friday)**

**Summary of the speech prepared by CA. Rajesh Mehta, former Secretary General AIFTP and CA. Apurva Mehta from Online lecture of Honourable Mr. Justice R. V. Easwar (Former Judge of the Delhi High Court)**

**<https://www.youtube.com/live/opXxyFOXcNo?si=FRa3Glm3jE3HDvHF>**

Mr. Samir Jani National President of the All India Federation of Tax Practitioners (AIFTP), welcomed the **Honourable Mr. Justice R. V. Easwar (Former Judge of the Delhi High Court)** and also all participants on zoom and YouTube.

Mr. Samir Jani expressed thanks to the Past Presidents who were present in this virtual meeting. He also made a request to participants who are not members of the AIFTP to join as members of the AIFTP and also subscribe to AIFTP Journal which covers all important issues on direct and indirect taxes.

Sr. Advocate Tushar Hemani Chairman Direct Tax Committee of the AIFTP, introduced the learned speaker Honourable Justice R. V. Easwar. In his opening remark he stated that the honourable Justice R.V. Easwar as a member of the ITAT used to pass the order on same day of hearing. As a member he has passed many land mark judgments, he referred one of the Land mark Judgment delivered by Honourable Justice Mr. R. V. Easwar then as a member of the ITAT at Mumbai, in the case of **Pranav Construction Co. v. ITO (1998) 61 TTJ 145 (Mum)(Trib.)** dealing with expenditure incurred by the Builder to remove encroachment in the land. Because of this judgement the legislature has introduced the explanation 1 to section. 37(1) to disallow the expenditure incurred by the assessee for any purpose which is an offence or which is prohibited by law, with retrospective effect with effect from 1-4-1962, by the Finance (No. 2) Act. 1998, He referred the judgment in **ITAT through President v. V. K. Agarwal (1999) 235 ITR 175/101 Taxman 382/150 CTR 513 (SC)** where the independence of ITAT as an institution was in question and the issue arose as regards the interference by the then law secretary as regards the functioning of the members of the ITAT. It is only Honourable Justice R. V. Easwar (Then as a Member of the ITAT) took up the cause with the then President of the ITAT Honourable Shri T. V. Rajagopala Rao, because of this the independency of the ITAT as an Institution is saved. Honourable Shri R.V. Easwar was elevated to Delhi High Court in 2011 retired in 2014. Very recently Justice R.V. Easwar has argued one land mark judgement those youngsters and those who are academically inclined must read this judgment **SNJ Breweries (P) Ltd. v. PDIT (Inv)(2024) 340 CTR 436 / 241 DTR 233 / 468 ITR 37 (Mad)(HC)**, wherein how

the provisions of search and seizure could be challenged and what is the difference now what is the development in law with the judgment of **Justice K.S. Puttaswamy v. UOI AIR 2015 SC 3081/ 2017) 10 SCC 1** by the Supreme Court and right to privacy becoming a fundamental right probably the whole entire law of challenge to the search has undergone a change very beautifully argued and analysed by the Madras High Court.

## **An Overview on income Tax Bill, 2025-**

**Hon'ble Mr. Justice R. V. Easwar,  
Former Judge of Delhi High Court.**

### **1. Formation of the Committee for Simplification :**

The learned speaker Honourable Mr. Justice **R. V. Easwar in his opening remark** stated that on October 27, 2015, Mr. Arun Jaitley, the then Honourable Finance Minister had constituted a 10 member committee which was chaired by him (Mr. Justice R. V. Easwar) to do simplification and certain other things, cut the dead wood, remove redundant provisions and all that, till then he was either doing appellate work, hearing tax appeals both as a member of the Tribunal and as a judge of the Delhi High Court and that was the first time when he was asked to head a committee with a task with simplification of the tax code, tax law, income tax Act, it was a 10 member committee, it had chartered accountants, lawyers, investment bankers and also IRS officers. The second report was submitted to the Government on 30th December 2016. To the best of his knowledge the report of the said committee was implemented to about 70%.

### **2. Distinction in Drafting a Tax Bill :**

Before going ahead with overview of the Tax Bill, he stated a few aspects of the drafting of a law, of a Bill, particularly a Tax Bill, is that going to be different from the way in which other statutes like a Civil Procedure code or a Transfer of property Act or some such general legislation is to be drafted? Is that going to be different or going to be the same, he said overall

consensus is that any tax code has to by default receive annual amendments because tax itself is an annual thing. In addition to the Finance Act, where which brings in several amendments to keep the act updated what really happens, the Indian experience has shown we had the 1922 Act before that, there were some legislations and an Income Tax Act and there was a brief 60-65 sections, it was at that time sufficient to deal with the tax issues and the tax payments and the assessments, appeal remedies and all that the number of taxpayers would have been much less than what they are today and the issues cropping up were not so complex perhaps it was confined mostly to simple additions and disallowances and what is the difference between capital and revenue, this is what if you see the old Income tax reports you'll find these are issues and there were certain little complicated issues because of the interaction between the British India the Princely States and the Indian States this is one aspect of it.

### **3. Evolution of the Income-Tax Act :**

Probably after 40 years Report of the Direct Taxes Administration Committee (1958 -59) Mahavir Tyagi commission came and then they had suggested a complete overhaul of the legislation to bring in 1961 Act. In the 1922 Act there were 60 or 65 sections, became 298 close to 300 sections almost five times. The question arises as to why it became more bulky so after 40 years, after independence industry boomed in India, started booming, income levels became higher and tax complications also became little more deeper so it is necessary and government has the right, it's my humble opinion Government has the right to make amendments frequently, if necessary to plug leakages of revenue and also see that the avoidance doesn't become evasion so you can put it that way, so there was a need for amendments to be carried out annually, it was some kind of a race between the taxpayer and the tax administrator so you may make a provision and then there is a loop at the right and so when you find out and there's a leakage because of the loophole you plug the loophole and in

doing so if you are a little careless there's another loophole so there it becomes a race between the two sides of the Act. The amendments became very frequent in the 1961 Act perhaps more than the 1922 Act, this prompted Mr. N. A. Palkhivala in his Preface to the Eight Edition of the Law and Practice of Income tax, dt. 21, February, 1990, reads as under "Today the Income-tax Act, 1961, is a national disgrace. There is no other instance in the Indian jurisprudence of an Act mutilated by more than 3300 amendments in less than thirty years. Simple provisions like sections 11 to 13 (Which deal with exemption of the income of charitable trusts ) have suffered no less than fifty amendments". What Mr. Palkhivala wrote the words may be slightly different, but ultimately use the word disgrace there was strong criticism from the IRS side as how it can be called the disgrace because, we need to keep pace with the attempts of the taxpayer to circumvent the law, amendments are a necessary evil and it keeps the Acts updated, can you take away the right ? that right of the Government, no you really can't. After 1991, after 30 years of the 1961 Act, the working of the 1961 Act, was perhaps a defining moment for the entire country, we all know when the skies opened up, the economy opened up, the License Raj was given a go bye and then the free trade cross border investment with this industry boomed everything there was a complete transformation of the country and it catapulted itself into a very fast developing economy in fact a galloping economy as they say and then the rest is history.

#### **4. Frequent Amendments and Legislative Clutter :**

Today we are talking of Five Trillion economy and all that we need not go into all that but what happens is with all this when income levels, when a lot of money coming in going out, industry booming, taxes have to be given their due importance so there are a lot of scope for taking out taxes and because of the ingenuity I will only go that much ingenuity of the taxpayer. there are lot of opportunities to circumvent the law, take advantage of the gaps perfectly lawful, fraudulent cases are in a completely different, not those cases where there was tax mitigation and all that so layering of

multinational corporations of holding companies, number of subsidiary companies all over the world, so ultimately nobody knows who holds which company, it's perfectly lawful nothing sinister about that, but then there were lot of revenues in countries and there was competition between countries, to get the taxing rights, the source versus residents, all that came agreements, international the pace of amendments, the number of amendments was much more than before, especially at the corporate taxation level, the way in which revenue, the executives were being remunerated, different ways were thought over and then the tax authorities were after that and they wanted to plug all the loopholes to ensure that somebody doesn't get a tax-free salary in the guise of something else, all these things were incidental and they cropped up now with all this what one finds is that the act was getting cluttered because when you, it's common sense when you tinker with something and keep on adding or deleting something, you can do it only by way of amendments, to these sections you add an explanation, you add a proviso to deal with that particular situation, after the passing of the Finance Act, you come across something before the next Finance Act, then you suggest something to plug that and you add an explanation you add a proviso you add a subsection or some addendum some schedule or whatever so the act by this way became very cluttered and very hard on the eyes, it's very difficult to keep track long sentences and then very complicated language was required, so it became more of a bulky thing which couldn't be easily handled so though the sections were 298, in the FAQs also they said though the sections were actually only 298 in number because of the various amendments over a period of years the effective sections were somewhere around 800 plus so that sections are numbered as 115A, 115AB and all that if you count each as a separate section which in fact they are, the number of sections would be much more, this is one of their arguments to bring in a new bill rightly so and then the act became very verbose and long sentences so they say that the entire 1961 Act,had about 5.2 lakh words that which they wanted to control now.

## **5. Rising Litigation and Judicial Challenges :**

One of the offshoots of all this complicated thing which was the Income-Tax Act 1961. What it had become was the litigation it generate because of the provisos and the explanations and then cross references and a lot of interpretative issues which reached the court and The difficulty was compounded, there would have been no difficulty if all the courts were uniform but there were different interpretations, ultimately Supreme Court had to come and settle, but not all cases went to Supreme Court, probably the government took the view that sometimes the trend of decisions were contrary to what the legislature really intended, so they had to remedy the situation, which they had every right to do, so these generated further amendments, sometimes it was retrospective amendments, so ultimately with all this, not only the Act became very bulky, the rules became very bulky, a lot of litigation generated, he said, I think the only persons who were happy were the lawyers like us.

## **6. The Push for a New Income-Tax Bill, 2025 :**

The justification, a time had come that where the Government thought enough is enough, now let us first of all try to simplify the whole thing and you see you can't simplify the concepts of income or they all received a particular kind of understanding, a particular type of judicial interpretation so all those things will not be touched, let everything remain as it is, but then there is lot of deadwood lot of clutter which clogs the smooth working of the Act and the understanding so what they said was that let us remove all the deadwood, let us rewrite the law, try to reduce the bulk or if not able to reduce, put it to an optimum size and then we will see how it goes so they sat down to draft the bill and it has 536 sections and some schedules and all that the issue, whether drafting of a tax law is in any way different from drafting any other enactment. There is a difference in the sense that you can't avoid amendments but at the same time you can keep the language simple, convey the same idea in much simpler language and there are certain legislative methods to do that and those tools have all

been applied. Now there is a connotation to the word simplification which perhaps has given rise to some confusion.

## **7. The Unchanging Core of Income- Tax Law :**

I frequently hear wherever I go that the New Bill is nothing new, it contains the same ideas only thing is they have changed the phraseology and it's some kind of the same thing packaged in a different form and all that but how else can it be, because you are not going to change the ideas of income tax, you're not going to change the ideas of whom you are going to tax? How you are going to tax? What is income according to the law? What are the deductions allowable? What are the incentives given? How to recover the tax? What is advance tax? What is tax deducted at source, tax collected at source, recovery proceedings? All those things and then International Taxation Agreements DTAA, how they have to be? All those things will have to remain the same and nobody, the Government has not, if subject to correction the Government has not said anything, they have not given any promise that they will change the concepts, there's no such thing.

All they have said is the Act is now overburdened, it has become verbose and this has created difficulties for the tax administrators, tax practitioners and the taxpayers and let us remove all the deadwood and keep the language simple so they have done exactly that and even they have not even promised that they will make a thorough overhaul of the concepts that was not there so what they have achieved is by and large welcome. Learned Speaker said, let me preface that before I go to the nitty-gritty of the tax bill it is they have removed some, 200 explanations and 900 provisos that's what they claim and I fully believe it because take for example we have the section 10(23C), all of you will be familiar with that, there are there are about 24 provisos, dealing with the different kind of assesseees different kind of conditions and all that it's a nightmare of a section, now they brought in a completely new format they have used tables where they have given columns as who is going to be the assessee and if this is the assessee



what is it that he is entitled to, and what are the conditions upon which, the fulfilment of which, he will be allowed to get the exemption, these are very broadly and then you don't have to read long sentences long provisos and ultimately go on a wild goose chase, what you now have is a very clear presentation which is easy on the eye as well as highly readable so this is what they have done.

#### **8. Nature of Tax Law Drafting and Simplification :**

Learned Speaker stated that it's his prima facie view that it's welcome to have something which reads easy something which is not formidable because we all have heard several statements even how judges and eminent scientists and all they abhorred income tax, they didn't know how to file the return, they thought income tax was something very frightening and all that now you don't have to be, to a large extent still it is technical no doubt about it, layman may need assistance but we are not talking about the layman, we're talking about the Tax professionals, Tax Administrators and the Judiciary they have a much simpler language much less bulky enactment where you don't have the provisos and explanations and taking you round and round.

#### **9. Legislative Simplicity Reduces Litigation :**

Honourable speaker stated that the main thing which strikes him is this, lack of legislative simplicity leads to interpretative complexity and confusion and it forces much litigation this is actually one of the answers given in the FAQs by the Board, so normally earlier when the parliamentary draftsmen, the draftsman of the bill used to be very adamant and what they did was there's a saying like this which says, "I am the parliamentary draftsman", I compose the country's laws and half of the country's litigation, I am undoubtedly the cause". So this aptly sums up the one of the major ills, major offshoots of a very complex legislation.

## **10. The Anecdote of the Town Planning Clerk :**

There is a story, which the learned speaker have heard it, that in England there was a very complicated piece of legislation, all the laws were very complex and then there was a Town Planning Waterworks Act which was to be drafted by the town planning authorities and they gave they entrusted this work to one of the town planning clerks, you see, that town planning clerk had a marital difficulty he badly wanted a divorce but in those days, it was 11th - 12th century, divorce could be granted only by an Act of parliament, by this thing we are now 800 years down the line it was the law at that time, that divorce could be granted only by an Act of parliament, so when this man was a very smart man when he was given the task of drafting the law he wrote a section included seven eight provisos and in one of the last provisos he said that, "and the marriage of the town planning clerk is hereby dissolved". he wrote that when the bill was tabled I mean the parliament did not even read up to the seventh proviso, they just passed it and he got his divorce this is of a frequently heard anecdote which highlights, only to highlight, I don't know whether it really happened or not, only to highlight the difficulty in drafting lengthy sections with a number of provisos and explanations and mercifully I think we are spared that trouble in the new tax bill.

## **11. Principles of Good Drafting :**

The very style of an enactment I mean, this is one of the features which according to an eminent author who knows much about legislative drafting especially drafting of the tax enactments, he says that the style of an enactment must be so conceived as to assist the persons who make the law, the citizens whose rights and duties are likely to be affected by the law and the judiciary I think the new income tax bill 2025 has recognized this aspect well, as is clear from the statement of objects and reasons and the FAQs where they state that the need for the new enactment is dictated by the tax administrators, tax practitioners and taxpayers who have raised concerns about the complicated provisions and the structure of the present

act, the requirements of a new enactment in general which is introduced to replace an existing enactment, what are those requirements and how far the new tax bill has fulfilled those requirements this is very aptly brought out by a learned author in the following words, he says that, "the purpose of new legislation to replace the old legislation is to establish legal rules and to make them known to those who are likely to be affected by those rules privity is the soul of wit but brevity of words should never be carried to such an extent as to sacrifice clarity in order to be brief and simple".

One has to be straightforward, circumlocution of every kind must be avoided", as they say goal, therefore it is necessary that a draft should be read over and over again and scrutinized to see if there are any roundabout expressions, it is obviously necessary, this is his view, that familiar words should be used for conveying the draftman's idea instead of the unfamiliar, hence a draftsman should have with him not only an ordinary dictionary but a dictionary of synonyms from which he can choose more familiar words and avoid obscure ones, having said this there's one thing which has already been, is being debated that the New Bill avoids the word notwithstanding and uses the word irrespective instead of the word notwithstanding, now the debate is going on as to whether this has really any meaning, whether the words are different, convey different ideas or whether they still convey the same idea and if it conveys the same idea then why did they change the word so, if then they change the word and replace the word, definitely there must be something else in their mind which has not been spelled out and what is frequently heard is the word, "notwithstanding", being substituted by the word, "irrespective", I was just thinking about it not very deeply, of course curiously, what they said, what somebody told me that, "notwithstanding means that you accept that there is something there which is against me which is against what I am going to say but nevertheless that won't prevail what I am going to say will prevail", now if you use, he also told me that if you use the word irrespective now you don't care whether there is something which is against me or in my

favour whether it is there or not, my view is this, this is the meaning of the word irrespective, this is what I thought it was a fair understanding so what ultimately we come back to the same thing, so if you, if the government, thinks that the use of the word notwithstanding which has received judicial interpretation everywhere in several judgments and the word irrespective are the same then why change it, that's the first question, now it has been changed it's going to be a fact when the bill is passed then it's going to be respected now if the meaning is going to be the same then we have nothing to worry we already have a line of precedence as to what is notwithstanding what's the meaning of notwithstanding, number two the other safeguard is given, the experience of all of us practitioners, we all know courts are not going to change the meaning of the word irrespective from what they have been they have understood from the word notwithstanding so I don't think anything drastic is going to come out of this except that there's a kind of freshness, if you can if I can use that expression when you read the section instead of reading notwithstanding anything contained to the contrary in this act then so and so instead of that you had irrespective of, so it's a little different I don't know what is advantage which is going to be gained whatever it is I think there is no need for any alarm merely because the word irrespective is being substituted for the word notwithstanding I think they both convey the same idea and I think this will be certainly tested sometime before the courts and then we'll have more clarity on this but for the present I'm inclined to think that there's nothing to worry and I have both may convey the same meaning I have not very deeply thought about it but it prima facie appears that these are the same in a tax law as in other laws also the draftsman has to anticipate situations, this is true in the case of every enactment not only tax but other enactments also but perhaps in the case of tax enactment this is more relevant because as we have already noticed the business models keep changing very frequently and then the need for amending the law probably becomes an annual exercise to take care of the changing business models.

It is very easy to say that the language used must take care of all situations, but it is very difficult in act when it comes down to practical drafting, to cover all situations we all remember this famous Vodafone case [**Vodafone International Holdings B.V. v. UOI, (2012) 1 S.C.R. 573**] it was not expressly, the situation was not covered, that situation was expressly not covered by the language of the of section 9 that and that's one of the reasons that Supreme Court held, that transaction was not taxable in India but then they had to come with the retrospective amendment so here the draftsman could not contemplate or visualize that kind of a situation, so ultimately what do you do you come back to an amendment, only if you are not able to visualize therefore it is that old law or new law, amendments cannot be avoided in a tax legislation and that is a very big difference between a tax enactment and other laws the amendments there in the CPC CRPC cannot be so frequent but in a tax law it will by default be frequent because it is a race between the multinational corporations on the one side and the Government on the other side so they are assisted by top grade professionals and they know how to mitigate their taxes they know to arrange their affairs in such a way that they pay minimum or no tax so government tries to collect the maximum tax by roping in more and more transactions so it is a kind of a race and then this has to be put through only by amendments so old act or new bill we are not going to escape from amendments, that much is I think clear, at least clear to me, there was one example which I read somewhere that in England there was some legislation where the draftsman said that, "things sold", this is the exact word things sold in a shop and things sold in a place were taxable or whatever, so he thought when he said things sold in a shop and also things sold in a place is such a general term so wherever there is a sale it'll be covered but he was very wrong because he forgot, the judge pointed out that the draftsman here has forgotten that salesperson, who says stop me and buy one, that person is the ice cream vendor, who goes on a bicycle, who stopped by a customer and who buys an ice cream so they said that person that bicycle is neither a shop nor a place so what the draftsman

thought was that he had covered everything by including the word place still he was wrong he couldn't, he hadn't actually covered the tricycle fellow who takes the tricycle along the road and then somebody wants an ice cream, stops him and gets an ice cream so however this only underscores the need for the inevitability of an amendment I'm sure the act would have been amended to include a tricycle, also a person selling ice creams in a tricycle so however the broad the taxman the draftsman tries to imagine and draft the tax enactment it's humanly impossible for him to cover every situation and then situations which are not at that time extent may develop in future.

## **12. Updated Construction in Judicial Interpretation :**

There's something called an updated construction which we all know the Supreme Court used it in that **CIT v. Podar Cement P. Ltd. (1997) 226 ITR 625 (SC)** the decision is as to the interpretation of the word owner, following this earlier judgment of the Supreme Court where they were interpreting this Telegraph Act of 1885 which at that time there were only typewriters and then telegraphs were the other electronic typewriters and all they came later but for that reason they are not going to say that the Act does not apply to them they are going to use the updated construction and do that so either they do it or the amendment takes care of it so old act or new law it'll new law will also have to undergo amendments this is something which is as clear as birth and death. We can't get away from amendments in any case that's what I started by saying 1922, Act, frequently amended 1961 Act, complete overhaul of 1961 Act, and we are now in 2025 where we want a new law and this is, will also be amended and then sometime in future there will be a clamour for a new law.

### **13. Essentials of Drafting Tax Legislation :**

There is a summary by a learned author as to what are the salient features or the essential elements of drafting a tax legislation and he gives us about eight nine points:-

**The first point** is drafting a taxing statute is a subspecialty of legislative drafting in general that we know,

**Number two** drafting is generally to be undertaken after listening to the tax administrator taxpayer and the tax practitioner which has been done and it has been stated so in the statement of objects and reasons as well as in the FAQ, goals are set,

**That's number three** as to what is desired or what is to be achieved the options available to achieve them consideration of the consequences of different options and finding the language which best implements the policy number,

**Four** effectiveness of the taxing enactment is enhanced only if the language or words used are:- (1). they should be meaningful, (2). they should be intelligible, (3). they should be well thought out and, (4). they should be well organized, (5). Precision is different from simple precision in language is the most desirable quality but it should not be at the cost of obscurity. I think there is also a very apt example of this. I'll try to locate that, (6). the tax law must be easy to understand.

The hallmarks being brevity goes along with precision use of plain language numbering of the sections use of section headings or marginal notes as we call it simple structure of sentences and the use of active voice instead of passive voice these are very important things use of plain language as opposed to legally is, one maybe it's just coming off the cuff from me maybe when they thought of substituting the word notwithstanding by the word irrespective they thought that they are using plain language instead of legally legal language maybe that was one of the considerations the numbering of sections of course we have the numbering of the sections why this is touted as one of the important points is this when you have

frequent amendments there can be no there will be complicated numbering but if you re-enact the enactment then you can have a very convenient way of numbering the section that is one advantage use of section heads or marginal notes what we call marginal notes there are authorities of the Supreme Court particularly, **K. P. Varghese v. ITO (1981 ) 131 ITR 597 (SC)** - and all those cases which give due importance to the marginal notes when there is a doubt about the purpose of the section they say it is permissible to look at the marginal notes so marginal notes are quite important in a taxing enactment particularly whether it is anti-abuse provision or it is a provision which applies across the board across all genuine transactions also that can be sometimes found out by the marginal note, so marginal notes are very important then simple structure of sentences of course we can't overemphasize that the use of active voice instead of passive voice this.

#### **14. Avoiding Legalistic Language and Redundancy :**

One of the authors gives an example of please don't say that a return must be filed that's what he says, he canvasses for the active voice, he says an assessee must file a return. don't say a return shall be filed don't use that passive voice, he says there is great advantage in using the active voice and to say simply and then he also advocates the avoidance of the word shall when he speaks of plain language use of plain language against legal language he says the word shall has been used in so many enactments in so several sections that it has attained a kind of a legalistic language the quality of a legalistic language so he says please be conversational and instead of using the word shall, he says you use the word must, which is conversational you must come to my house that's the way you invite somebody you don't say you shall come to my house so that will be a little there's a kind of a compulsion so he says today's it's fashionable or it is the trend today in several western countries to use a conversational style even in the enactments so that it is understandable by everyone including the layman so I thought there was a lot of merit in that he says, since don't



say a return shall be filed you, simply say an assessee must file a return so there you have the active voice as well as the simple style of using the word must which is conversational instead of the legal word shall and very pertinently he says and this has been followed by the new bill.

#### **15. Minimizing Explanations and Provisos :**

Keep the explanations and provisos to the minimum, in fact I think the new bill completely has eliminated some thousand provisos and 800-900 explanations that's what they say, I didn't find any explanation or proviso in my quick reading of the new bill so that's a very commendable thing because you have a lot of litigation generated out of and what is an explanation, can it expand the section can it curtail the section can it take away what it has given in the main provision or can it give more than what has been given in the main section a proviso, is it a carve out or is it part of the main section and can it override the section, can it impose new conditions, all those things a whole lot of litigation starting from Indian Express case and then Jet Airways several cases have **S. Sundaram Pillai, etc v. V. R. Pattabiraman etc on 24 January, 1985, 1985 AIR 582, 1985 SCR (2) 643, AIR 1985 SUPREME COURT 582, 1985 (1) SCC 591, (1985) 1 RENTLR 414** or whatever that is the leading authority where both the features of explanation and proviso are very thoroughly discussed and all that now is avoided in the new bill and which is I think is one of the best features of the new bill to eliminate all explanations and provisos which means eliminating all litigation which is generated out of the interpretation of the explanation and the proviso the sweep and scope of those explanations and the provisos.

#### **16. Clarity in Definitions :**

Then coming to definition section the author says that keep or if possible avoid inclusive definitions is what he says because inclusive definition and means and includes all that has again generated a lot of litigation and one of the very famous judgments is the Supreme Court judgment in case of

**CGT Madras v. N. S. Getty Chettiar on 16 September, 1971 1971 AIR 2410, 1972 SCR (1) 736, AIR 1971 SUPREME COURT 2410, 1971 TAX. L. R. 1743, 1972 (1) SCJ 385, 82 ITR 599, 1972 (1) ITJ 240, 1972 (1) SCR 736,** where the word transfer, they said transfer means and includes, still the Supreme Court said you can't take away the general word of transfer, general meaning of the word transfer, even though you may say means and includes still the popular meaning of the word transfer cannot be taken away merely because you have used inclusive definition, an inclusive definition, so he said when there is a partition under general principles of law there is no transfer by the joint family to the karta of property therefore because what he gets is what he already owns it's only a question of working out his rights, so they say it is not a transfer the revenue pointed out that, No, transfer definition is inclusive, it is expansive they say nothing doing still the popular meaning of transfer must be satisfied, so this is a kind of litigation which reached the Supreme Court and it settled it, but why take a risk probably so they say keep the inclusive definitions to the minimum, and one example he gives is that if you want to define cattle, please don't say cattle means a boin animal and includes a pig what is recommended by him is to say cattle means a boin animal or a pig so the question of inclusion which suggests that actually a pig is not a boin animal but it is only because of inclusion it is a boin animal that idea will be removed and pig is straight away a boin animal so this is what he recommends so.

#### **17. Attributes of a Well-Drafted Bill :**

When we look at the Bill as a whole and get what is the impression which we get, this is one very important test as to whether the bill is well drafted or it is ill-drafted, so there are actually two major points with the help of which we can test whether the bill has been well drafted first is understand ability is it easy to understand not only for a technical person not only a person for a person who knows the income tax law but to a layman as such the second thing is how is the act organized how are the provisions of the

act organized, you do you know where to look at for which section which topic are same topics grouped under the same section or are they spread out over different sections throughout the act which means you will have to search through several provisions so that is the sign of an ill-drafted law under the caption of understand ability, there are several sub features each of which can be, the bill can be tested with reference to each of that, each of these qualities one is gravity which we have already seen, I think the new tax bill, given the complexity of the tax law in general has done a job which is very reasonable under the circumstances brevity, transparency, use of plain language.

### **18. Innovations in Format :**

We already saw that avoidance of legalistic language both are the same section heads it is there they have retained sentence structure innovations in format, out of all this innovations in format, I think that is the main I think that's a USP of the new tax bill we all have, for example if you take section 10(23C) as I said earlier it take a long time to read that section and ultimately you are not even sure what has been conveyed it's very difficult to understand for no fault of the reader so what they have used for example for example in Schedule 2 S. No. 1 is agricultural income now if you see the definition of agricultural income it's quite complicated here they say agricultural income without any condition is exempt then number two any sum received under life insurance policy including the sum allocated by way of bonus i.e. the nature of the income when will it be exempt subject to the fulfilment of the conditions which are required in which are set out in column C, similarly each schedule deals with different types of income and the conditions subject to which all these were earlier put in the form of a section, where long sentences were used, provisos were used subsections, explanations very difficult to make sense out of it and, there was often litigation therefore this is one and then the tables, the schedules have tables, below in the table these conditions, the nature of the income and the type of the assessee, they all set out it is easy on the eyes and easy to

understand also, so this is probably one of the best in the innovations in format in the new tax bill and what is suggested we are not used to this that other style of the other things which are recommended under the topic innovations in format because we don't have the practice of using footnotes for making cross references that we don't have so rightly that has not been introduced, we don't have the practice of using examples.

#### **19. International Practices in Legislative Drafting :**

He stated that in the Australian tax enactment of 1997 they have illustrations below each section to explain what the section actually conveys what their section actually means just as we have illustrations in the IPC the penal code they have the income tax act in Australia illustrations but I don't know whether it's a good or bad feature because if you have illustrations and if you don't fall precisely under the illustration then there is scope for litigation so fortunately we don't have the practice of using illustrations in the income tax act out of tables and graphics we have not used graphics anywhere tables we have used under the schedules. What I understand is some of the Commonwealth countries for example Canada the income tax act uses a lot of graphics I think we have not rightly entered that then the placement of definitions traditionally in all our Indian enactments all the definitions are at the beginning section two or section three of any enactment is the interpretation clause it always starts with the thing that subject unless the context requires otherwise or subject to a context and all that so the definitions are always subject to the context occasionally.

#### **20. Placement of Definitions :**

We also have definitions in a particular section the definitions which have words which have not been defined in the interpretation clause sometimes take, go to the section itself we do have a few but there are some enactments which are in other countries what I understand is that the definition, interpretation clause or the definition clause, is placed at the

end, I do not understand any particular advantage in this except kind of a legislative practice but in India as far as I know subject to correction we have interpretation clause of the definition clause right at the beginning and it is not as if a reader of the enactment reads the interpretation clause first what he does is he goes to the section which he wants to understand and then the words used in that section if they have been defined he goes back to the definition clause, this is how we normally do, no nobody reads as if it is a novel, nobody reads chronologically, we always read the section, which we want to understand.

## **21. Conclusion :**

In Conclusion Hon'ble Justice Easwar stated that, If I am asked to give an overview of the Income Tax Bill, which I have attempted to give, I'm positive about it, there are good features which need to be appreciated and the Government did not claim that they will change the whole concepts, they will bring a new legislation in the sense of bringing new ideas, new definitions of income and all that no, nothing, those concepts are all the same in any case, judicially no there's not going to be a different kind of interpretation of the terms used, the concepts and ideas are not going to be changed. They have changed, there's no more an assessment year nothing much turns on that because we all understand the tax year is different and then comes the assessment they don't use the word assessment here but then the assessment comes later we understand that no difficulty, the use of formats innovative formats such as schedules and tables is a very welcome measure, elimination of the provisos and explanation, these are two very important things which will cut down the litigation hopefully and, schedules of course I already mentioned so, I think it is overall a positive package. By and large this is a welcome tax bill and let us see how it turns out and the reactions of the judiciary is more important than the opinions of all of us and reasonable expectation is that there is not going to be any drastic change in the interpretations and there are minor changes in the words such as irrespective notwithstanding and

all that I think we need not bother much about that, that's my humble opinion.

**Vote of Thanks:-** At the end vote of thanks was given by AIFTP Secretary General Santosh Gupta.

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Mr. Rajesh Mehta (Former Secretary General AIFTP)