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MY RAMBLINGS

It was one of the most happiest (use of double superlative deliberate) moments in my life when some of the Members of the Tribunal, led by their Vice-President, met me to request for a contribution to the souvenir to be brought out on the Diamond Jubilee celebrations of the Tribunal! Later, the Vice-President wrote to me in confirmation; he also listed some titles for the article, but I did not wish to contain my memories of the days in the Tribunal — that great judicial body to any slot, and so I made a request to him to give this article whatever title he thought fit. Personally, I would have given the title: My Ramblings! At the time of writing this, I do not know what title Mr. Manmohan would eventually give it!

A little less than one-third of my life so far was spent as Member, Vice-President, Senior Vice-President and President of the Tribunal. I will not be speaking the truth if I do not acknowledge that I enjoyed every single day of my stint. I joined in Calcutta in 1991 at a time when there were 9 members and a Vice-President, with about 22,000 appeals pending. Mr. D. S. Meenakshisundaram, my "gurubhai" from the chambers of our senior was the Vice-President. He was quite unhappy that I chose to join on

a day which according to him was not auspicious and when he expressed it to me I asked him whether it was inauspicious for me or for the Tribunal! It may be difficult to believe in the present days, but as a fresh entrant to service with no seniority for purposes of housing, I could get allotment of a type-VI flat in Nizam Palace in the very first month! The accommodation was 5 minutes by walk from the Tribunal office and half-an-hour by the official car, due to the legendary Calcutta traffic! I now see a fly-over spanning the entire distance between Park Circus and the race course.

In Calcutta, my senior colleagues welcomed me warmly and took them under their fold, guiding me through the initiation into the government service - the filling up of property returns, and other numerous forms to be filled in. The tea sessions in the afternoons were not to be missed. There was plenty of camaraderie, mutual leg-pulling and a generally lively, good-natured banter for about 20 or 25 minutes which served to free one of any stress. I cherish the times I spent with Mr. Dongzathang, Mr. Vimal Gandhi (both would later become Presidents), Mr. Jordan Kacchap from the Bihar judiciary, Mr. Pachau and Mr. Pradhan,

both from the 1962 batch of IRS and Mr. S. L. Banerjee, who unfortunately is no more. Those days Calcutta Benches were touring the other centres of the zone-Cuttack, Guwahati and Patna, where there was no bench functioning. Tours were of 3 weeks. The over-all pendency at that time was about 3.5 lakhs appeals, but for a long time we were only 56 members or so managing them and at some point of time it dipped to just 46.

I was treated to some of the finest legal oratory in Calcutta by the stalwarts of the profession. There were many, but I must mention the brilliance of Dr. Debi Pal, Mr. R. N. Bajoria and Mr. Kalyan Roy, all of whom could deal with the nuances with consummate ease. It was quite a learning experience. There were two associations — the ITAT Bar which perhaps is the oldest, having been founded in 1923 and the Accountants Library, composed of members of the accountancy profession.

Calcutta to Bombay (now Mumbai) was another dimension in my experience. Both cities are known to have produced some of the most outstanding lawyers of the country, and tax lawyers in particular. The styles were different, though, and I think it has a lot to do with the general evolution of things in different places and different perspectives and circumstances of life. In Bombay again I enjoyed my stint and learnt quite a few nuances of income-tax law at the hands of some of the finest tax lawyers of the country, with Mr. Soli Dastur leading them with his inimitable clinical and precise arguments. The compilations filed in the course of the proceedings in Bombay were thorough and well-prepared. Requests for adjournments were not a rule, but an exception. The proceedings wore a highly professional

touch. One remarkable thing I could notice was that apart from the seniors like Mr. Dastur, Mr. Dinesh Vyas, Mr. V. H. Patil, Mr. Y. P. Trivedi and Mr. Inamdar, there was a strong second line of upcoming youngsters - both lawyers and chartered accountants - who were no less talented, and waiting for the opportunities. Many of them are now seniors in their own right and I must make particular mention of the assistance of lawyers such as Mr. Percy Pardiwala, Mr. Porus Kaka, Mr. Jehangir Mistry, Mr. Faroukh Irani, Mr. Arvind Sonde, Mr. Thar, Mr. Hiro Rai and Ms. Aarti Vissonji. I had also the good fortune of being assisted by such eminent chartered accountants as Mr. Dalal, Mr. P. N. Shah, Mr. Khare and Mr. Bansi Mehta.

The tea session of the members of the Bombay Bench was immediately after the lunch break, but then it got shifted to the close of the day. During my first stint as Member, we had 5 Benches and 10 members which grew to 10 Benches and 20 members by the time I returned for my second innings as Senior Vice-President & President. Being the head office of the Tribunal and also the headquarters of the President of the Tribunal, the Bombay office was large. When the number of Benches increased, there was dearth of space and we were forced to think in terms of housing the additional benches in a different location, a move which would have caused extreme hardship to all the stakeholders had it materialised. But the ITAT Bar of Bombay came to the rescue and a PIL was promptly filed in the Bombay High Court for securing the space vacated in the same floor of the Old CGO complex (as it was then called) by the I & B Ministry. There was some objection



initially from that Ministry and the Estate Office, but ultimately good sense prevailed and we could get the adjacent space and everything ended happily! There was an inaugural function where the then Law Minister jocularly said that it was ironical that the premises, whose handing over to the Tribunal functioning under the Law Ministry was objected to by the I & B Ministry which was under his charge then, was being inaugurated by him as Law Minister! Many judges of the Bombay High Court were invited, including Justice Kapadia who made a short speech. Alas! At the time of writing this, he is no more.

The ITAT Bar, Bombay also questioned the removal of the powers of transfer of Members from the President and giving it to the Law Ministry as an intrusion into the independence of a judicial body. Several other ITAT Bars also joined the proceedings and ultimately the Supreme Court thwarted the move and restored the power to the President with guidelines such as the formation of a collegium and other norms. I shudder to think what would have happened to the Tribunal had the move not been challenged, and full credit should go to the ITAT Bar of Bombay which took the lead in the matter. The Tribunal is also beholden to the late Nani Palkhivala who initially appeared in the matter before the Bombay High Court, in one of his last appearances on account of his failing health, to Mr. Iqbal Chagla who took over from him later and to the late Mr. T. V. Rajagopala Rao, then President of the Tribunal, who placed a 90-page affidavit before the High Court making out a strong defence against the usurpation of the powers. I understand that he was advised by some against filing the affidavit as (according to them)

it may annoy the Government which may not augur well for him, but he took no notice of that and did what he thought was his duty. I doff my hat to his sense of duty and moral courage. I want the members of the Tribunal who have joined recently and not perhaps aware of this phase in the evolution of the Tribunal they serve, to reflect upon the courage and moral conviction that are required to take such a position with nothing but the independence of the Tribunal in mind. Mr. Rajagopala Rao had this in abundance and went on undeterred. Please spare a thought for him. The full independence you enjoy now is because of his action.

From Bombay to Delhi was again different. The premises at Lok Nayak Bhawan is cramped and is starved of space. Here I got my promotion as Vice-President. The lawyers and chartered accountants appearing before the Tribunal had a style of addressing arguments which was different from Calcutta and Bombay: variety is of course the spice of life! The more the merrier. The winters in Delhi were enjoyable, though where I come from there is no such thing as winter! Our children had started to get settled and I and my wife were left alone in a 4-bedroomed accommodation in which we did not even enter some rooms for days together! I then moved to Bangalore where I stayed for just 9 months, in an uneventful stint, and moved to Ahmedabad, again for a short 9-month period. Fortunately, by that time the Tribunal had been able to find new premises for its office and benches - the shabby state of the earlier premises was a sore point always. The ITAT Bar in Ahmedabad is a strong body, led by stalwarts of the legal profession like

Mr. K. C. Patel, Mr. J. P. Shah, Mr. S. N. Soparkar and leaders of the accountancy profession like Mr. Shah.

The transfers give Members a wide exposure to different cultures, languages, life-styles and opportunities to listen to and learn from the professionals from all over the country. If the children of the members are in school or college, they imbibe the cultural and linguistic differences easily and stand benefitted. The postings at different places, though not without difficulties, ultimately help the members develop into a well-rounded person. With huge strides in communication and commuting facilities, the impact of staying away from one's hometown has become much less these days.

I worked under several Presidents – Mr. Ch. G. Krishnamurthy, Mr. T. V. Rajagopala Rao, Mr. V. Dongzathang and Mr. Vimal Gandhi. Each had a different style of functioning. Only Mr. Rajagopala Rao functioned from Bombay, the official headquarters of the President. All of them were in different degrees, sympathetic to the difficulties faced by the members and would take steps within the rules and regulations to alleviate them. They all were well aware of the fact that the well-being and happiness of the members meant the well-being and efficient functioning of the Tribunal and did whatever they could to ensure this. Nevertheless, the transfers always created some flutter and it was good that the Supreme Court put down certain guidelines to be followed.

The Tribunal unquestionably has acquitted itself well in all these 75 years. There were of course a few turbulent periods and it would be well to learn from them and see that they do not recur. The orders of the Tribunal generally command respect for the manner in which the facts are articulated and found. I have heard good words about the work of the Tribunal from my colleagues in the Delhi High Court during my tenure there. It is doing a commendable job in the field of treaty-interpretation and transfer-pricing issues. Many of its orders are being cited in international forums and by Tribunals and Courts in other tax jurisprudences. With the talented youngsters and the experienced and mature seniors constituting the benches, there need be no doubt that the good work hitherto done will be sustained in future.

The Tribunal has given me so much and I stand before it with all humility, basking in its glory. It was an important part of my life and career. The gentlemen in the Tribunal with whom I shared almost 20 years gave me nothing except kindness and indulgence. They were generous to me to a fault. They had good words about my work, but chided me when I slipped; they shared my happy moments, stood by me and consoled me during my not-so-good days; they never hurt me or said a harsh word to me and they did all this to me without expecting anything in return. That was the atmosphere in the Tribunal! I am sure it continues to be the same. With all reverence, I bow my head to that great judicial institution!

JAI HIND.

