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THE INCOME TAX APPELLATE TRIBUNAL (ITAT): A SUCCESS STORY

1. I am very happy and grateful to the Honourable President and other organizers for having invited me to join in Platinum Jubilee celebrations of the Income Tax Appellate Tribunal completing 75 glorious years. I have also been asked to write a message for the Souvenir to be released on the auspicious day. I take it as my proud privilege.
2. Before the constitution of the tribunal in 1941, there was no separation of administrative and appellate functions, and the very Assistant Commissioners and Commissioners, under whose supervision and guidance tax assessments were done by the Income tax officer, were the first and second Appellate Authorities. Order of the commissioner was final subject to a reference to a High Court. Whether reference was to be made or not was to be decided by the Commissioner. There was thus a clear clash of interest between the administrative and appellate functions of the tax authorities. This system of grievance redressal of the taxpayer was costly, unsatisfactory and unfair. There was so much resentment against
3. this oppressive system that the Government was forced to amend Income Tax Act, 1939 to constitute the Appellate Tribunal which came into existence in 1941.
3. The setting up of the ITAT brought about a paradigm shift in the grievance redressal system. ITAT ensured complete functional independence of the institution, a high degree of legal and technical expertise of the members manning the Benches, user friendly, simple and informal procedures and inexpensive and quick delivery system. Naturally, with above characteristics particularly of delivery of quick and easy justice with openness in its working, made Tribunal very popular right from the start. It was able to win confidence of the people as also of Revenue because everything became easy and less time consuming. Over the period, the Tribunal streamlined its procedure by formulating rules and by evolving conventions to make its working smooth and friction free. This good working raised Tribunal's image higher and higher.

4. Late Shri N. A. Pakhivala, the most brilliant lawyer this country has produced was associated with the Tribunal for several decades. While complimenting the role of the Tribunal, he had said that if given a choice, he would either like to argue in the Tribunal or in the Supreme Court of India. In the speech, delivered in Golden Jubilee function of the Tribunal, he remarked as under: -

"Let me say without any exaggeration that I regard Income Tax Appellate Tribunal as one of the finest institutions which are working in this country. You have men of great ability and care of judge, men of extending intelligence and knowledge and the type of work which they have been doing has nothing, but my deep admiration for four & half decades."

5. Similarly the Tribunal has been praised and glorified by other highly placed dignitaries in India (through their speeches and messages) like President of India, Prime Ministers of India, Chief Justices and other judges of the Supreme Court and High Courts, Attorney Generals, Solicitor Generals, Ministers, Legal luminaries, Jurists, etc. Reference to what these great personalities had said about the Tribunal is glorious. However as I wish to lay emphasis on an equally important aspect of the working of the Tribunal, I am not quoting from the speeches of above personalities.
6. I have already mentioned how the Tribunal earned great reputation in

India right from the beginning, but how it became known internationally is also interesting and is briefly narrated below. The Tribunal's reputation traveled beyond national boundaries somewhere in the year 2005-06, when matters relating to Double Taxation and Transfer Pricing were decided by the Tribunal. I was often asked by foreign tax experts whether the members of ITAT were given any formal training to cope up with difficult and complex cases arising under Transfer Pricing. I reluctantly answered 'No' which surprised them. Shri Palkivala, in one of his speeches, narrated an interesting incident on training when capital gain tax was introduced in England. He had said that our officers were good enough; the members of the tribunal were good enough to ask for no monetary compensation. Like a school child they had to re-learn law, forget all that they had learnt before. In England you could not do such a thing. When they introduced capital gains tax, the Members of the Inland Revenue refused to work. They said, unless we are given compensation, we are not going to administer the law because administrators were asking them to relearn the whole law as school children. This way they got, compensation. But here, in India, people are so good and represent, human raw material which is finest in the world.

7. In the initial years of International Tax litigation several matters had to be disposed of by the ITAT at the earliest living by its motto



"*Sulabh Nyay and Satwar Nyay*"; after all justice delayed is justice denied. The Members had to put in extra efforts to decide several heavy and complex appeals on double taxation treaties. Many of these decisions were reported in popular international journals and thus the Income Tax Appellate Tribunal in India had acquired international stature. People all over the world appreciated the decisions rendered by the Tribunal. During the same period the Tribunal was also able to bring down its dockets of pendency from 3 lakhs to less than seventy thousand appeals. The good work done by the Tribunal was recognized internationally and in proof of the fact, the President received an **invitation from the United Nations to present a paper on 'Successful practices in the Tribunal in New York'**.

8. Invitation Letter dated March 19, 2008 from U.N.D.P was to participate in an international meeting on topic, "Revenue's Role in the Quest for Inclusive Development : What Works and What can Work Better: South-South Sharing of Successful Practices."
9. In the conference, experts of each participating country presented a paper and explained the best and successful practices being followed in that country. Whereas I and my colleague explained how we tackled surmounting problems of arrears of pendency and dealt with difficult cases of transfer pricing. Nigeria was concerned with role of extractive

industries. Chile, on the other hand, highlighted use of electronic means to improve compliance and assist taxpayers. Learning of different practices, in different countries, was very interesting and educative experience. After the conference UN published a handbook of best practices in which prominent place was given to ITAT with graphs of reduction of figures of appeals from year to year. The handbook allocated an exclusive section 2 with headlines **"Ensuring an Effective and Independent Tax Judiciary"** to the tribunal

10. Other prominent International experts on tax laws have also spoken highly on the decisions of the Tribunal. It is sufficient to quote Late Prof Klaus Vogel who after considering decisions of the Tribunal had this to say in IBFD bulletin:

"Readers may have observed that more and more decisions by Indian Courts have been reported in these columns. This may have surprised those who assumed that case laws from developing countries cannot be very relevant to the sophisticated field of double taxation. But it is a prejudice and it is certainly not true for India. The country has a highly qualified judiciary educated in common law system which in particular since liberalisation of India's trade around 1991, increasingly has to deal with cases involving cross border situations. Those cases, therefore, and the reasons given by the courts for their holding so, are as appropriate

for demonstrating and discussing the problems of tax treaty law as are decisions by Courts of other countries, and they are a voice worth to be heard in International dialogue of courts and experts recent cases (from ITAT) demonstrate this"

11. In the invitation dated March 19, 2008, U.N.D.P described the tribunal as "**One of the most respected tax tribunal.**" This reputation world over has not been acquired in a day, but is the result of persistent, dedicated and untiring efforts of

brilliant members of the Tribunal in all these 75 years. These members took reputation of the tribunal as divine and did everything possible to raise it to the highest level. The Tribunal cannot afford to remain complacent. All Members have to make a team effort to maintain the glory.

12. I, on this occasion, wish the Tribunal a glorious future.

