

Detailed Contents

Introduction— <i>Mukesh Butani and Kinshuk Jha</i>	1
Chapter 1. Overview of Tax Administration in India— <i>Dhwani Mainkar and Sahil Sharma</i>	9
Introduction	10
1.1 An Ideal Tax Collection Mechanism	11
1.1.1 Existing Tax Collection Mechanism in India	11
1.1.1.1 Tax Deducted at Source [TDS]	13
1.1.1.2 Taxes Collected at Source [TCS]	14
1.1.1.3 Advance Taxes	14
1.1.1.4 Self-Assessment Tax	15
1.1.1.5 Tax Collection through Enforcement	15
1.1.1.6 Monitoring and Evaluation	15
1.1.2 Faceless Assessment Scheme	16
1.1.3 Practical Problems being faced by Taxpayers	17
1.1.3.1 Proliferated Compliance Cost	17
1.1.3.2 Protracted Litigation	18
1.1.3.3 Glitches in the Electronic Infrastructure	20
1.1.3.4 Data Collection and Privacy	22
1.1.3.5 Delayed Refunds	24
1.1.3.6 Lack of Stakeholder Engagement in Formulating Policies	25
1.1.3.7 The perception of Adversarial and Prejudiced Mindset	25
1.1.3.8 Retrospective Amendments and Frequent Changes in the Statutory Requirements	28
1.1.3.9 Challenges of the Faceless Assessment Scheme	28
1.2 Grievance Redressal Mechanism in India	29
1.2.1 Existing Redressal Mechanism in India	29
1.2.2 Prognosis of the Existing Grievance Redressal Mechanism	31
1.2.2.1 Lack of Efficacy at the Grievance Redressal Cells	31

1.2.2.2 Pendency of Cases	31
1.2.2.3 Challenges to the Traditional Appellate Structure	33
1.2.2.4 Restricted Stay of Demand	33
1.2.2.5 Conflicting and Divergent Rulings	34
1.3 Conclusion	35
Chapter 2. Evolution of Taxpayer Rights in India—<i>Mukesh Butani, Sahil Sharma, and Karan Dhanuka</i>	37
Introduction	38
2.1 Constitutional inspiration embedded in taxpayer rights	38
2.1.1 Rights stemming from Principles of Natural Justice	38
2.1.2 Rights guaranteed under Articles 13 and 14	39
2.1.3 Rights guaranteed under Article 19(1)(g)	40
2.1.4 Rights guaranteed under Article 21	40
2.1.5 The State's commitment to respect international law under Article 51	41
2.1.6 Rights guaranteed under Article 265 and 300A	41
2.2 Improvements envisaged by administrative committees	42
2.2.1 Tax Enquiry Committee, 1936	42
2.2.2 Law Commission Report, 1958	43
2.2.3 Direct Taxes Enquiry Committee, 1971	44
2.2.4 Long-term Fiscal Policy, 1985	44
2.2.5 The Tax Reform Committee, 1991 ("TRC")	45
2.2.6 Citizens' Charters 1998	46
2.2.7 Kelkar Task Force, 2002	47
2.2.8 Tax Administration Reform Commission, 2014	48
2.2.9 Citizen's Charter of Income Tax Department, 2014 ('Citizen's Charter')	49
2.3 Taxpayers' Charter, 2020	50
2.3.1 Dissimilarities with previous charters	50
2.3.2 Salient features of the Taxpayers' Charter, 2020	51
2.3.3 Need to amplify India's Charter	52
2.3.3.1 Taxpayer to be presumed honest	52
2.3.3.2 Reduced cost of compliance	53
2.3.3.3 Assistance to taxpayer	53
2.3.3.4 Redressal of grievances	53
2.3.3.5 Enforcing tax collection due as per the law	54

2.3.3.6 Confidentiality and privacy	54
2.3.3.7 Mechanism for accountability	54
2.4 Conclusion	54
Chapter 3. Framework of the Taxpayers' Charter—<i>Sahil Sharma, Karan Dhanuka, and Dhvani Mainkar</i>	57
Introduction	58
3.1 Broad Framework	58
3.2 Taxpayer Rights enumerated in Taxpayers' Charter	61
3.2.1 Right to a fair and just system	61
3.2.2 Right to be treated as honest	62
3.2.3 Right to be represented	62
3.2.4 Right to pay no more than the correct amount of tax	63
3.2.5 Right to the mechanism of appeal and review	64
3.2.6 Right to timely decisions	66
3.2.7 Right to published service standards and periodic reports	67
3.2.8 Right to complete and accurate information (right to be informed)	68
3.2.9 Right to privacy and confidentiality	69
3.2.10 Right to having the authorities held accountable and to be provided a mechanism of complaint	72
3.2.11 Right to reduced cost of compliance	73
3.2.12 Right to fair, courteous, and reasonable treatment	74
3.3 Taxpayer Obligations enumerated in Taxpayers' Charter	75
3.3.1 Obligation to "be honest and compliant"	75
3.3.2 Obligation to "be informed"	76
3.3.3 Obligation to "know what the representative does on his behalf"	76
3.3.4 Obligations to "keep accurate records"	77
3.3.5 Obligation to "pay in time" and "respond in time"	78
3.4 Other Rights and Obligations	78
3.4.1 Right to be heard	79
3.4.2 Right to certainty	79
3.4.2.1 Right against oppressive retrospective taxation	80
3.4.2.2 Other Obligations	81
3.4.3 Obligation to be co-operative	81
3.4.4 Obligation to avoid tax evasion	82

3.5 Interplay Between Rights and Obligations	84
3.6 Conclusion	88
Chapter 4. Taxpayer Rights: A Global Perspective—Kinsbuk Jha and Dhwani Mainkar	91
Introduction	92
4.1 Recommendation on Taxpayer Rights by International Institutions	93
4.1.1 Organisation for Economic Co-operation and Development (OECD)	93
4.1.1.1 OECD Tax inspectors without borders	93
4.1.1.2 Benefits	94
4.1.1.3 TIWB and India	94
4.1.2 International Monetary Fund (IMF)	95
4.1.3 World Bank	95
4.1.4 United Nations (UN)	96
4.1.5 International Bureau of Fiscal Documentation (IBFD)	97
4.2 Position of Taxpayer Rights in Developed Jurisdictions	100
4.2.1 Taxpayer Rights in the United States of America	100
4.2.1.1 Taxpayer's Bill of Rights, 2014	100
4.2.1.2 Taxpayer Advocate Service (TAS)	101
4.2.1.3 Tax Advocacy Panel (TAP)	101
4.2.1.4 Low-income Tax Clinics	102
4.2.2 Taxpayer Rights in United Kingdom	102
4.2.3 Taxpayer Rights in the European Union	103
4.2.3.1 European Taxpayers' Code	103
4.2.3.2 Package for Fair and Simple Taxation, 2020	105
4.2.4 Taxpayer Rights in the Netherlands	106
4.2.4.1 The Dutch Model of Horizontal Monitoring	106
4.2.5 Taxpayer Rights in Australia	107
4.2.6 Taxpayer Rights in Canada	108
4.2.6.1 Taxpayers' Ombudsman	109
4.2.7 Taxpayer Rights in Singapore	110
4.2.8 Taxpayer Rights in Sweden	111
4.2.9 Taxpayer Rights in Japan	111

4.2.10.1 Ombudsman's Office	113
4.2.11 Canada, Australia, USA, UK, EU, Sweden, Ireland, and Japan <i>Vis-a-Vis</i> The Protection of Taxpayer Rights In India: A Comparison	113
4.2.11.1 Statutory Recognition	113
4.2.11.2 Commitment to Small Businesses	113
4.2.11.3 Expectations of the Taxpayers	114
4.2.11.4 Language	114
4.3 Position of Taxpayer Rights in Developing Jurisdictions	121
4.3.1 Taxpayer Rights in Colombia	121
4.3.2 Taxpayer Rights in Russia	121
4.3.3 Taxpayer Rights in China	122
4.3.4 Taxpayer Rights in South Africa	123
4.3.5 Taxpayer Rights in Brazil	123
4.3.6 Taxpayer Rights in Mexico	124
4.3.7 Taxpayer Rights in South Korea	125
4.3.8 Russia, Columbia, China, Brazil, South Africa, Mexico, South Korea <i>Vis-a-Vis</i> The Protection of Taxpayer Rights In India: A Comparison.	126
4.3.8.1 Statutory Recognition	126
4.3.8.2 Presumption of Honesty	126
4.3.8.3 Expectations of the Taxpayers	126
4.4 Comparison of General Administrative Trends and Practices	131
4.4.1 The distinction between a Financial Year and a Calendar Year	131
4.4.2 Progressive versus Flat Tax Rate for Personal Income Tax	131
4.4.3 Provision or Option to File Joint Returns (Spouses/HUF)	131
4.4.4 Appellate System or the Right to appeal	131
4.5 Conclusion	132

Chapter 5. Digitalization of Tax Administrations—Kinsbuk Jha and Dhwani Mainkar	135
Introduction	136
5.1 Digitalization of Tax Administration in Select Jurisdictions	137
5.1.1 Digitalization of Tax Administration in the United States of America	137
5.1.2 Digitalization of Tax Administration in the United Kingdom	138

5.1.4 Digitalization of Tax Administration in Australia	141
5.1.5 Digitalization of Tax Administration in Canada	143
5.1.6 Digitalization of Tax Administration in Singapore	145
5.1.7 Digitalization of Tax Administration in Sweden	147
5.1.8 Digitalization of Tax Administration in Japan	148
5.1.9 Digitalization of Tax Administration in Ireland	150
5.1.10 Digitalization of Tax Administration in Colombia	151
5.1.11 Digitalization of Tax Administration in Russia	153
5.1.12 Digitalization of Tax Administration in China	155
5.1.13 Digitalization of Tax Administration in South Africa	156
5.1.14 Digitalization of Tax Administration in Brazil	157
5.1.15 Digitalization of Tax Administration in Mexico	158
5.1.16 Digitalization of Tax Administration in South Korea	160
5.2 An Era of Digitization in India	160
5.2.1 Faceless Assessment	162
5.2.2 Faceless Appeal	162
5.2.3 Faceless Tribunal	163
5.2.4 Key Elements for Effective Implementation	164
5.2.5 Comparison of Digitalization Efforts - India and other jurisdictions	166
5.3 Conclusion	168
Chapter 6. Strengthening the bridges between The Taxpayer and Tax Administration—Mukesh Butani and Seema Kejriwal	169
Introduction	169
6.1 Tax and Morality	169
6.2 The Prevalent Mindset	171
6.3 Avenues for the Change in Mindset: From Adversarial to Collaborative	172
6.3.1 Increased Stakeholder Consultation	173
6.3.2 Taxpayer Awareness & Tax Compliance	174
6.3.3 Enhanced Service Quality	174
6.3.4 Wide Discretionary Powers Exercised by Assessing Officers	177
6.3.5 Revenue Targets for Tax Officers	177
6.3.6 Transparent Taxation Platform	178
6.4 Conclusion	179

Chapter 7. Policy Recommendations—Mukesh Butani and Kinshuk Jha	181
Introduction	181
7.1 Recommendations on Taxpayer Charter	182
7.2 Recommendations for Fiscal Policy Reforms	185
7.3 Conclusion	201

ANNEXURES

Annexure 1. Supplement to Policy Recommendations	205
1.1 Legal Enforceability of Charter	205
1.2 International Best Practices on Rewarding Honest Taxpayers	206
1.3 Stakeholder Consultation	208
1.4 International Best Practices strengthened Digital Platform and Robust Technology	209
1.5 Using Blockchain	210
1.6 Ways to Achieve an Effective Tax Administration	212
1.7 Indicative Remedies in case of Failure of Taxpayer Rights	212
1.7.1 Taxpayer Advocate Service (TAS)	212
1.7.1.1 Individual Help	213
1.7.1.2 Systematic Help	213
1.7.2 Apologizing	214
1.7.3 Levying Penalty	216
1.7.3.1 Australia	216
1.7.3.2 Canada	216
1.7.3.3 United States	217
1.7.3.4 The United Kingdom	217
1.7.3.5 Ireland	217
1.7.4 Other Remedies	218
Annexure 2. A Survey on Taxpayer Rights conducted by CCIT and BMR	219
Annexure 3. Covid Related Recommendations	223
Annexure 4. Snapshots of Taxpayers' Charter 2020 and Policy Recommendations	227

ABBREVIATIONS AND TABLE OF CASES

<i>Abbreviations</i>	231
<i>Table of Cases</i>	237