Efect Of Two Pillar Tax Regime

Nimmy Saira Zachariah, Saloni Kumari

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Abstract
Tax is a complex subject which was implemented in earlier time to add on to the revenue of the government. Different countries follow different tax system according to their convenience. Recently there was a proposal to bring globalization to the system of corporate taxation. The paper is about the implementation and effect of the global taxation regime on Indian Economy. The new regime will be a water shed event in the history of economic laws. The paper analysis the advantages and disadvantages of this regime in the growth of Indian economy.

Introduction
When the U.S Treasury Janet Yellen, proposed the concept of Global Corporate Tax regime as an upcoming G-20 agenda, the international economic forum looked forward to it with speculations. Recently, 90% of the OECD countries have accepted to the proposal of two-pillar tax regime, that is around 130 countries. The final decision as to the amendments to international tax rules is yet to take placer. According to OECD Secretary General, the package is to ensure payment of fair share of tax by MNC's to the respective countries**.**
Corporate tax is the amount of tax paid by the companies from the annual net profit collected by it in a financial year. In India, till 2019 the tax rate was 30% which was reduced to 22% by the end of 2019. But any new company established afterwards will have to pay an amount of 15% as corporate tax.
The penultimate purpose of taxation by a country is to raise revenue. In an economy the 3 major ways of revenues will be borrowings, selling out government stakes in government owned companies and taxes. In the last 30 years, there has been high and competitive addressing towards tax reduction mechanism. Around 88 countries in between 2000-2020 reduced the corporate tax rate while in 6 jurisdiction there was tax appraisal.
Most of the companies tries to establish their head quarters at tax haven countries to escape from heavy duties. The main reason behind it is that the tax rate is menial especially the corporate tax. For example, countries such as Bahamas, Bermuda, Cayman, Ireland, Hungary. Such countries keep a low corporate tax to attract foreign investment to cater to their economic development. But other payable rates such as licensing, registration, renewal will be charged heavily to compensate.

I. TAX EVASION AND IT'S EFFECT ON INDIA

Tax evasion is not illegal but tax avoidance is an illegal act. Most of the companies in order to pay less amount of tax at the base country they shift the profit to another tax haven country, thus getting less revenue to the originalcountry. India is losing over $10.3 billion (about Rs 75,000 crore) in taxes every year owing to the owing to global tax abuse byand evasion by private individuals. The magnitude of loss is so high that India ranks 2nd in Asia among the victims of abuse by giant MNCs. The loss of $10.3 billion (about Rs 75,000 crore) in taxes annually is equivalent to the annual salary of 4.23 million nurses.
The issue of tax abuse by big giant MNCs has been a matter of concern since a very long time. Therefore, introduction of Global Tax regime is a much awaited step to control and regularize the actions of Multi-National Companies.
In order to curb this, Base Erosion and Profit Sharing action plan was introduced where India is also a signatoryarea which India has dreaded loss are :

II. BASE EROSION PROFIT SHARING

It means a set of measures or methods taken by corporates across global market, where they are shifting their profits from high tax countries to low tax countries.

<u>Examples of Methods Used By MNC's For BEPS</u>

a) <u>**Intellectual property Restructuring**</u>- In this case, the company will shift the profits earned via intellectual property to another company owned by it which is in a different jurisdiction which has comparatively less tax rate.

Illustration:

There is a country 'C', which has a corporate tax of 20% and second country 'C1' which has a corporate tax of 1%. Initially, company A had its head quarters a 'C'. The company started receiving profits from its IP holdings. In order to gain profits, company 'A' established a new company 'B' under the jurisdiction of 'C1'and transferred all Intellectual Property Rights to 'B' and it will be allowed to use it all. This process can be called as 'IP Migration'. Thus, large amount of revenue made by 'A' will be transferred to 'B', which will only pay 1% corporate tax. Hence, ultimately company A will not have to pay tax at C1 which leads to evasion of tax.

b) **Thin Capitalization**- Here, the parent company will establish a new company and avail loans from the second company, saving it's money from taxation.

Illustration:

Company 'A' is established in country 'C' where the corporate tax is 21%. The company established another company in country 'B' where the corporate tax is just 2%. Company started availing loans from company 'B'. Thus, on records revenue of 'B' will go up while revenue of 'A' will shrink and thus paying minimal amount of tax. But in B's case the profit will be high and taxable amount will be less.

c) **Double Irish with a Dutch Sandwich**- It is considered as an aggressive tax payment methodology by multinational companies. Two companies will be involved and taking advantage of the Irish taxation law the profits will be transferred to the second company which will be head quartered at minimum taxation country. This is called double Irish. If any transfer is made to Netherland's jurisdiction company and then to the second Irish company. The two Irish company will be treated a 'bread' while the Netherland company will be treated as the 'cheese'.

Illustration

Company 'A', is under the jurisdiction of country 'C' where tax rate is 12.5%. Any purchase payment to company 'A' will be transferred to the shell company of 'A', that is 'B'. From there the money is transferred to the tax heaven registered company.

This is how Google used to escape taxation and was heavily fined for the same.

Few other methods are Green Jersey, Panama Scoot, Single Malt.

III. CONCEPT OF TWO-PILLAR TAX REGIME

The two-pillar tax regime proposal, according to OECD data has two agendas, firstly, to bring equality as to distribution of tax among the countries involved with a company. Secondly, to curb the competition in reduction corporate tax to attract foreign investments amongst companies thus to avoid unethical practices. Around USD100 billion of profit earned by companies will added to annual corporate taxation and the 130 countries has successfully negotiated to keep 15% as global minimum corporate tax rate. Currently, countries loose 100 to 24 billion dollars due to tax evasion

IV. INDIAN PERSPECTIVE

In India the history of taxation was before 1990's the corporate tax rate was 40% while from1993-1994 it was reduced to 35% and post 2019 it became 22%. India loose up to 41.2 billion from corporate tax evasion.

One method opted by India to cease tax evasion was equalization levy at 2%. The UBER company was following the tax evasion methodology depriving India of its legitimate tax amount.

One pertinent point to be noted is there is considerable change in investment even if the tax rate was reduced, 2007-2008 private sector investment was 28% while recently when it was reduced to 22% it came to 23.4% of GDP. Thus there was no higher investment despite the reduction.

Data of corporate tax collected in India

Period	% of GDP
Before 1990's	1
2007-2008	3.5
2018-2019	2.4

Methods Taken ByIndia To Curb Tax Evasion

a. **Equilzation levy-** Through finance act(2016), 6% was imposed on online advertising companies which is now extended to e-commerce companies as 2%.
b. **Mutually Agreed Procedure –** Where in it is an alternative platform created to solve tax related disputes, it forms the part of double taxation agreement.
c. **CBC-** India signed a pact with USA to exchange report which is related to companies seated in USA which have subsidiary company in India and vice-versa.

EXAMPLE OF TAX EVADING COMPANY -UBER

The company 'UBER' was founded on 2010, Uber Technologies Inc. It started as a start up company in San Francisco which quickly spread to 854 cities and 84 countires. The company in 2013, sophisticated its taxing regime by creating a complex tax model ' Double Dutch' to cut down its tax liabilities. The agenda behind this was to increase the company's profut from 330million to 3.5 billion. The U.K VAT case of UBER is an example of tax evasion. Uber have around 50 shell companies which it used to invade tax. These shell companies were at Singapore, Bermuda, Netherland etc. Report have stated if India could recover the evaded money, it would have been used to reduced the draw back of Indian economy's achilles heel.

Recent judgment of Income tax appellate tribunal(ITAT), where the company Leena Power Tech Engineers received as lumpsum amount of money from a shell company. The ruling has stated that the entire onus will shift to assessee to prove the genuinity of the entire transaction.

V. CONCLUSION: EFFECT OF GLOBAL CORPORATE TAX REGIME ON INDIA

As per the above analyzed data, despite reduction in tax rates, there were no considerable changes in investment in India. There is a speculation that future investments may reduce if the new tax regime is implemented but Indian economy may not be highly affected as corporate tax only forms a menial amount of India's GDP and moreover the precedent of earlier reduction has not caused any significant changes in foreign investments. But if the tax evasion can be curbed,that would aid as an instrument to cater economic growth. As after the COVID-19 pandemic the economy of India had shrunk down to minimum. The revenue which the nation is expected to generate out of this tax mechanism can be used for better healthcare facilities, growth in educationsector and in several other ways to contribute to the growth and development of not just India but all the developing nations across the globe.

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Author Information

NIMMY SAIRA ZACHARIAH
Academic Tutor And Trips Fellow
O.P Jindal Global University

Saloni Kumari
Academic Tutor And Trips Fellow
O.P Jindal Global University