Department of Commerce

Student Notes

Income Tax and Tax Planning II

Income Tax

Assessment of Companies

Company's Residence

Resident

- It is an Indian Company, or
- It's place of effective management, in that year is in India

Non Resident

A company which is not resident according to the above conditions are said to be a non-resident company

- Important points regarding the assessment of companies
- Computation of tax on companies

Assessment of Companies

- File return u/s 139(1)
- The principal officer of the company files the return on behalf of the company
- Assessing officer follows the same assessment procedure

80 G, 80GGA, 80 GGB, 80 IA, 80 IAB, 80 IAC, 80 IB, 80 IBA, 80 IC, 80 IE, 80 JJA, 80 JJAA, 80 LA and 80PA

4. The balance is Total Income

Computation of Total Income

1. Ascertain the taxable income under different heads after adjusting losses and allowances brought forward.
2. The total of each head is known as GTI
3. Deduct the following deductions from GTI

INCOME TAX AND GST

Levy and collection of Cess

- Cess will be levied on for purpose of providing compensation to States for loss of revenue arising due to implementation of GST
- Levied on
  – Intra states supplies of goods and services or both, as per section 9 of CGST
  – Inter states supplies of goods and services or both, as per section 5 of IGST

LEVY AND COLLECTION OF TAX UNDER GST

Every inter state supply will be liable to tax

- There is a supply either of good or services or both, even when a supply involves goods or services or both the law provides that such supply would be classifiable only as goods or services in terms of schedule II of the Act
- The supply is an inter - state supply ordinarily, the location of the supplier and the place of supply are in different states
- The tax shall be payable by a' taxable person ' as explained in section 2(107) read with sec 22 and sec 24 of the CGST Act

Levy of tax - in three parts

- In the hands of supplier
- In the hands of recipient - reverse charge mechanism
- In the hands of electronic commerce operator - specified service

Rates

- Rates are notified by government on recommendation of GST Council
- Rates - 5%,12%,18%,28%
- IGST is the sum total of CGST and SGST /UTGST
- Maximum rate of CGST is 20%and that of IGST is 40%
- GST on petroleum crude, high speed diesel, motor spirit, natural gas, aviation turbine fuel, shall be levied only with effect from date notified by Government on recommendation of the council.

Government notifies specific categories of services, the tax on intra-
state supplies - tax shall be paid by electronic commerce operator, i
service supplied through it

If ECO	
Located in taxable territory	ECO is liable to pay tax
No physical presence in taxable territory	Person representing ECO is liable to pay tax
Has neither physical presence nor any representative in taxable territory	Person appointed by ECO for this purpose, is liable to pay tax

LEVY AND COLLECTION OF GST

- CGST, SGST, UTGST

  As per sec 9(1) levied on all intra state supplies of goods or services or both and shall be collected in such manner as prescribed and paid by taxable person

- IGST
  - Levied on all inter state supplies of goods or services or both
  - Tax benefited to consumers state/consumption based destination

Swaps

- Swap literally means exchange
- It refers to exchange a thing in return for another
- It is an agreement to exchange one stream of cash flows for another in future
- One cash flow is generally fixed and another is variable or floating

Features of Swap Contracts

1. Swap is an agreement between 2 or more parties to exchange sets of cash flows over a period of future
2. Swap requires two parties with equal and opposite needs come into contact with each other.i.e.,counter parties
3. Swaps deals are customised, tailor made and OTC derivatives.They are non-standardised
4. It is in the nature of long-term agreement. It is just like long dated forward contract
5. Swap agreement are arranged mostly through an intermediary known as swap facilitator.
6. It is a bilateral agreement, therefore there is a problem of potential default by either of the counterparty.
7. Swaps do not involve an upfront payment. Thus they have a zero value at the start.
8. Swaps are contracts that exchange assets, liabilities, currencies, securities, commodities etc.,

Terms used in Swap Contract

- **Parties**: There are 2 parties in swap deal. Intermediaries excluded

- **Swap Facilitators**: The facilitator is a mediator who assists in formation and completion of swap agreement between the interested parties. Swap facilitator is generally a bank. There are two kind of swap facilitator - Swap broker and swap dealer

a) Swap Broker: He is an economic agent. He helps in identifying the potential counter parties in a swap deal. He does not take any individual position in the swap contract. He will charge commission for his services.

- Notional Principal: It is the underlying amount in a swap contract. It is called notional because this amount does not vary, but the cash flow in the swap are attached to this amount.

- Trade date: It is the date on which both the parties in a swap deal enter into the contract.

- Effective date: It is the date in which initial cash flows in a swap contract begin

- Reset Date: This is the date on which LIBOR rate is determined

- Maturity date: This is the date on which the outstanding cash flows stop in the swap contract.

Structure of Swap Dealing for Risk Management

- A swap is a contract between 2 parties to deliver one sum of money against another sum of money at periodic intervals
- A swap contracts begins when two companies with perfect matching needs
- If matching parties are not located there is a problem for default risk arised
- These difficulties can be reduced through an intermediary or swap dealer (Bank)
- Thus banks facilitates the swap deal and undertakes counterparty risk also
- Most basic form of swap is interest rate swap(the parties exchange interest payment for a certain period of time)
- The familiar type of interest rate swap is a fixed- for-floating rate swap
- Thus fixed rate is known as swap coupon
- The payment are calculated on the notional amount
- A company can enter into a swap agreement can exit from it for some reason
- Any swap which has been sold in the market is known as seasoned swaps

Economic functions of Swap Transactions

1. **Transforming the nature of liabilities:** Swap transform nature of liabilities like fixed or floating liabilities with a view to hedge against adverse movement of interest rates

2. **Transforming nature of assets:** Assets provide income to investing firms base on the interest rate falls. If interest rate falls the firm would like to change the complexion of assets that are on floating rate to fixed rate and if interest rate are high the situation must be vice versa.

3. **Hedging:** swaps can be used to hedge against the adverse interest rate situation. It is also an off balance sheet item

4. **Reducing the cost of funds:** Swap reduce costs for the firms In swap transaction both the parties are able to reduce the cost of funds

- It is a contractual agreement between two counterparties under which each agrees to make periodic payment of interest to the other for an agreed period of time based on the principal amount
- The counter party who pays fixed rate cash flows is known as swap buyer
- One who receives fixed rate cash flows is known as the swap seller
- Thus in any swap, the fixed rate payer is the buyer and the fixed rate receiver is the seller

- Interest rate swap is usually occurs when a person or a
  loan but it is able to get floating rate loan and vice versa
- The two parties are known as counter parties
- They exchange the interest payments and feel as if they are using the loans according to their own choice.
- It is the swap dealer that bring together the two counterparties

parties

2. The periodic payment of interest takes place in the same currency
3. There is a synchronization of interest between the two pirates, i.e., one getting cheaper fixed rate fund and the other getting cheaper floating rate bond
4. Giving rise to the swap is that a Quality Spread Differential exists(QSD)

A QSD is the difference between the default risk premium difference on fixed rate debt and the the default risk premium differential on the floating rate debt

Features of Interest Rate Swaps

1. It allows two parties to exchange fixed and floating cash flows on an interest bearing instrument or loan

2. Life of swaps from 2 to 15 years

3. There is no exchange of principal between the counterparties

4. Buying an interest rate swaps means choosing to pay fixed and receive floating

CORPORATE GOVERNANCE AND BUSINESS ETHICS

Chapter -1

INTRODUCTION TO CORPORATE GOVERNANCE


CORPORATE
GOVERNANCE

WHAT IS CORPORATE GOVERNANCE?

Corporate governance is a system of rules, practices and processes that are used by a corporation to direct and control its actions.

The Companies Act of 2013 of India
defines a company as “A registered
association which is an artificial legal person,
naving an independent legal, entity with a
perpetual succession, a common seal for its
signatures, a common capital comprised of
ransferable shares and carrying limited
iability

Definition

According to Milton Friedman ,"corporate governance is to conduct the business in accordance with owners of shareholders' desires, while conforming to the basic rules of the society embodied in law and local customs".

Features and characteristics of a company

- Incorporated association
- Artificial legal person
- Separate legal entity
- Perpetual succession
- Common seal
- Limited liability

Features or characteristics of corporate governance

- Systematic
- Universal application
- Management
- Power and influence
- Transparency
- Protection of shareholders rights
- Accountability
- Based on ethics

Objectives of corporate governance

- *Transparency and full disclosure*
- *Accountability*
- Equitable treatment of shareholders
- Self evaluation
- Increasing shareholders wealth

Major stakeholders of a Corporate body and their goals

The primary goal of a corporate governance is to provide appropriate mechanisms for ensuring shareholder value creation while protecting the interests of other stakeholders.

Need and importance of corporate governance

- *Corporate scams*
- *Wide spread of shareholders*
- *Changing ownership structure*
- *Greater expectations of society of the Corporate sector*

Employees and corporate governance

- Protection through other laws
- Encourage shareholder power
- Support of trade unions
- Employees voice within corporations
- Changes in corporate culture and norms

Shareholders duties

- Changes to the constitution of the company
- Declaring a dividend
- Approving the financial statements of the company
- Winding up of the company by way of voluntary liquidation

The interest of employees can be protected through the following

- Trade unions
- Co-determination
- Profit sharing
- Equity sharing

Benefits of corporate governance

- *Safeguards the money of investor*
- *Ensures success of the corporate*
- *Easy availability of funds*
- *Improves the company's reputation*
- *Enhances sustainability*
- *Minimises waste, risks,corruption and mismanagement*
- *Build good corporate citizenship*
- *Global attraction*

Role of shareholder in corporate governance

- Voting rights
- Right to transfer ownership
- Right to inspect
- Right to information
- Right to dividends
- Right to sue
- Appointment of directors
- Right to get copies of financial statements

- *Takeovers and mergers*
- *Huge increase in management compensation*
- *Globalization*
- *Social responsibility*
- *Securities and exchange board of India (SEBI)*

Methods of Entry into International Business

International market provides a wide range of opportunities compared to the domestic market. But global business is inherently more risky than domestic business. The following are different modes of entry to international business.

1) Exporting

Exporting is the simplest and widely used method of entering foreign markets. With exporting company can enter international market with comparatively less financial resources. Further exporting involves less risks as the company understands the culture, customer and the market of the host country. exporting can take the form of direct exporting, indirect exporting and intra corporate transfers. Direct exporting is selling of the product in a foreign country directly through its distribution arrangement or through a host country's company. Indirect exporting is exporting the product either in their original form or in the modified form to a foreign country through another domestic company. On the other hand, intra-corporate transfers refers to selling of products by a company to its affiliated company in the host country.

2) Licensing

Licensing is a popular method of entering foreign market. The cost of entering foreign market through this mode is less costly. Under the licensing method, the domestic manufactures leases the right to use its intellectual property, that is, technology, work methods, patterns, copy rights, brand names, trademarks etc to the manufacturer in a foreign country for a fee. Here the manufactures in the domestic country is called 'licensor' and the manufacturer in the foreign country is called 'licensee'.

3) Franchising

Franchising is a form of licensing. Under franchising, an independent organisation called the 'franchisee' operates the business under the name of another company called the 'franchiser'. Under this agreement, the franchisee pays a fee to the franchiser. The franchisor can exercise more control over the franchised company compared to that in licensing. The main advantage

United Nations Conference on Trade and Development (UNCTAD)

United Nations Conference on Trade and Development (UNCTAD) was established in 1964 following the growing dissatisfaction with operation of international institutions like IMF and WTO. UNCTAD is a permanent organ of UN General Assembly with the headquarters in Geneva. It is permanent intergovernmental body with 195 member states. It is the part of UN's secretariat dealing with trade, investment and development issues and is founded by UN General Assembly.

Functions

The UNCTAD is expected to perform the following functions as laid down by the UN General Assembly.

1. To promote international trade between countries especially for accelerating economic development of less developed countries
2. To formulate principles and policies of international trade and related problems of economic development
3. To make proposals for putting the said principles and policies into effect
4. To review and facilitate the coordination of activities of other institutions within the UN systems in the field of international trade and related problems of economic development
5. To be available as a centre for harmonious trade related development policies of government and regional economic groupings

Achievements

a. Trade in Primary Commodities

The UNCTAD has been active in the international commodity arrangements since its inception. There has been continuous deterioration of terms of trade of developing countries. UNCATD proposed International Commodity Agreements (ICA) to stabilise

Currency convertibility is defined as the freedom to convert one currency into other internationally accepted currencies. It implies the absence of restrictions on foreign exchange transactions or absence of exchange control.

There are two forms of convertibility, namely, convertibility for current international transactions (current account convertibility) and the convertibility for international capital movement (capital account convertibility). In number of countries, elimination of exchange controls for capital movement has been much slower than the current account. In the 1980s, the pace of reforms quickened and my mid 1990s, industrial economies had eliminated virtually all exchange restrictions with respect to capital movements, making their currencies fully convertible.

India has made Rupee convertible on current account on August 19, 1994. Current account convertibility has been defined as the freedom to buy or sell foreign exchange for

- International transactions consisting of payment due in connection with foreign trade, other current business including services and normal short term banking and credit facilities.
- Payment due as interest on loans and as net income from other investments
- Payment of moderate amounts of amortization of loans for depreciation of direct investments
- Moderate remittances for family living expenses.

More relaxations were affected by the Reserve Bank of India with effect from July 5, 1995, permitting authorized dealers to provide exchange facilities to their customers without prior approval of RBI for purposes such as business travel, participation in overseas conferences, seminars, studies and study tours abroad, medical treatment and check up etc.

There has been strong pressure from various corners to make the Rupee fully convertible. Currency convertibility is supposed to provide a signal to international community that the country intends to manage its affairs without exchange restrictions which would enhance international confidence in the country's policies. It is pointed out that elimination of exchange restrictions would also lead to a turnaround in capital inflows. Further, it is pointed out that elimination of capital controls would not hurt in the case of India as those who wish to draw out capital from India have already done so irrespective of controls on capital movements.

Broadly the case for capital account convertibility is on three grounds. Firstly, exchange restrictions are an inefficient and ineffective method to protect Balance of Payments (BoP). Secondly, viability of BoP is achieved by flexibility and realism in exchange rate and macro economic policies. Thirdly, empirical evidence suggests that elimination of exchange restrictions increases capital inflows in the short run and promotes efficiency in the allocation of these inflows.

RBI setup a committee on capital account convertibility under the chairmanship of Dr S S Tarapore which has recommended the full convertibility of the Rupee in a phased manner, after meeting certain preconditions. These conditions are low fiscal deficit, low inflation, efficient financial system and a healthy foreign exchange position. The main idea in moving from one phase to another is the completion of different tasks of fiscal, monetary and financial sector consolidation that have been assigned in each phase.

To sum up, it should be said that, in India, full convertibility should be the last stage of reforms. The preconditions should be reckoned with only after passing the check post of competitiveness. An economy which is internationally competitive alone can initiate the process of full convertibility. The preconditions enumerated by the Committee which are financial do not impart much competitive strength to the economy. It is the real factors that strengthen India's competitiveness and render the exchange rate resilient. If the country rushes into full convertibility without reforming its production base and trade, India will become fully vulnerable to free movement of foreign capital. Such capital movement will worsen country's macro economic imbalances. The high interest rates would be an open invitation to the inflow of capital which will result in an appreciation of the Rupee and a fall in exports. Banks and financial institutions in the country are weak and their base are not financially strong to cope with the complications of full convertibility.

Asian Development Bank (ADB)

The regional financial institution of Asian Development Bank was established under auspices of United Nation's Economic Commission for Asia and Far East (ECAFE) for promoting economic development and cooperation in the Asia and Pacific region. ADB started functioning from December 19, 1966 with Headquarters at Manila. As of now ADB has 67 member countries (within Asia Pacific 48 members and 19 from outside the region) and region served is Asia Pacific

The Objectives

The aim for the establishment of ADB was to supplement the work of the World Bank in Asia. Its objectives are

(1) Mobilization and promotion of investment of private and public capital for productive purposes

(2) Utilisation of resources for financing those development projects which contribute most to the harmonious economic growth

(3) Coordination of plans and policies of member countries to achieve better utilisation of resources

(4) Provision of technical assistance to member countries for preparation, financing and execution of development projects

(5) Cooperate with UN and other international organizations to persuade to invest in the region

(6) To undertake all such activities and provide such services which may fulfill the above objectives

Organisation

Membership is open to members and associate members of ECAFE. The members of United Nations and members of the region can also be members. Any country can become the member of ADB when two third members of the Board of Governors cast their vote in favor.

Financing Policy and Progress

The Bank provides financial assistance in the form of grants and loans. It gives three types of loans, project loans, sector loans and programme loans. The project loans are tied to specific projects. Sector loans are given to a member of related projects in a given sector. The programme loans cover more than one sector and relate to the implementation of a policy or programme for bringing about certain changes.

The Bank advanced loans through the two types of lending operations.

1. Ordinary operations are financed by ordinary capital of ADB like subscription and repayment of loans. These consist of the financing of foreign exchange or local currency component of the cost of specific projects. All these direct loans are 'hard loans' for a period of 20 years repayable within 15 years with a five year grace period.
2. Special Operations are financed out of special funds with low interest rate and liberal terms. Thus these are 'soft loans'. Loans out of the special funds are given for projects of high development priority for longer periods. ADB provides loans for projects in the area of agriculture, industry, transport, communication, power generation, water supply, education etc.

The ADB grants loans on the basis of certain criteria. At the time of evaluating projects that it proposes to finance, the Bank considers their economic, technical and financial feasibility, their effects on the general activity of the concerned country, their ontributions to the removal of the economic bottlenecks and their capacity to repay the loans. The Bank has constituted "Asian Development Fund" in 1974 to provide loans to Asian countries on concessional rate of interest.

India is one of the founder members of ADB. The ADB commenced lending to India in 1986. At present India is second largest subscriber behind Japan.

the prices and markets of primary commodities. Similarly UNCTAD (IV) in 1976 introduced Integrated Programme for Commodities (IPC) and common fund for buffer stock financing.

b. Generalised System of Preferences

GSP is the principal achievement of UNCTAD in 1964. With these Developed countries gave tariff preferences on the manufactured goods exports and some agricultural goods from LDC. The aim was to increase export earnings of LDCs and to promote industrialisation and growth rates of LDCs.

c. Development Finance

UNCTAD III held in 1972 urged IMF to link SDR with development finance of LDCs. It evolved measures to solve the debt problems of LDCs through debt rescheduling and conversion of loans into grants. UNCTAD also called up on the developed countries to provide debt relief to LDCs undertaking economic reforms.

d. Technology Transfer

UNCTAD meeting in 1976 introduced measures that would strengthen technological capability of LDCs for the speedy and self reliant development of LDC. UNCTAD calls for the technological transformation of LDCs by reducing their external technological dependence. It laid down broad principles for transfer of publically funded technologies at the inter-governmental level. Therefore, an international code of conduct on the transfer of technology has been under the negotiations in UNCTAD.