VVR
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GENERAL STUDIES

(Pre-cum-Main)

ECONOMY

SET-11

(Part - 2)

India's Economic Interactions *with* the World

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SOME IMPORTANT ASPECTS

DUMPING

In international trade, the export by a country or company of a product at a price that is lower in the foreign market than the price charged in the domestic market. As dumping usually involves substantial export volumes of the product, it often has the effect of endangering the financial viability of manufacturers or producers of the product in the importing nation. Dumping is also a colloquial term that refers to the act of offloading a stock with little regard for its price.

While the World Trade Organization reserves judgment on whether dumping is unfair competition, most nations profess to be against the practice. Dumping is legal under World Trade Organization rules unless the foreign country can reliably show the negative effects of the exporting firm on the domestic producers. In order to counter dumping, most nations use tariffs and quotas to protect their domestic industry from the negative effects of predatory pricing.

In an increasingly global economy, consumers in a nation that has been the target of dumping activity may have few qualms about consuming products that have been dumped, as long as they are of comparable quality to local merchandise but are priced much lower. Over time, dumping may have a negative impact on the local economy by driving domestic producers out of business, which would result in job losses and a higher rate of unemployment.

If a company exports a product at a price lower than the price it normally charges on its own home market, it is said to be "dumping" the product. Is this unfair competition? Opinions differ, but many governments take action against dumping in order to defend their domestic industries. The WTO agreement does not pass judgement. Its focus is on how governments can or cannot react to dumping — it disciplines anti-dumping actions, and it is often called the "Anti-Dumping Agreement". (This focus only on the reaction to dumping contrasts with the approach of the Subsidies and Countervailing Measures Agreement.)

The legal definitions are more precise, but broadly speaking the WTO agreement allows governments to act against dumping where there is genuine ("material") injury to the competing domestic industry. In order to do that the government has to be able to show that dumping is taking place, calculate the extent of dumping (how much lower the export price is compared to the exporter's home market price), and show that the dumping is causing injury or threatening to do so.

GATT (Article 6) allows countries to take action against dumping. The Anti-Dumping Agreement clarifies and expands Article 6, and the two operate together. They allow countries to act in a way that would normally break the GATT principles of binding a tariff and not discriminating between trading partners — typically anti-dumping action means charging extra import duty on the particular product from the particular exporting country in order to bring its price closer to the "normal value" or to remove the injury to domestic industry in the importing country.

There are many different ways of calculating whether a particular product is being dumped heavily or only lightly. The agreement narrows down the range of possible options. It provides three methods to calculate a product's "normal value". The main one is based on the price in the exporter's domestic market. When this cannot be used, two alternatives are available — the price charged by the exporter in another country, or a calculation based on the combination of the exporter's production costs, other expenses and normal profit margins. And the agreement also specifies how a fair comparison can be made between the export price and what would be a normal price.

Calculating the extent of dumping on a product is not enough. Anti-dumping measures can only be applied if the dumping is hurting the industry in the importing country. Therefore, a detailed investigation has to be conducted according to specified rules first. The investigation must evaluate all relevant economic factors that have a bearing on the state of the industry in question. If the investigation shows dumping is taking place and domestic industry is being hurt, the exporting company can undertake to raise its price to an agreed level in order to avoid anti-dumping import duty.

Detailed procedures are set out on how anti-dumping cases are to be initiated, how the investigations are to be conducted, and the conditions for ensuring that all interested parties are given an opportunity to present evidence. Anti-dumping measures must expire five years after the date of imposition, unless an investigation shows that ending the measure would lead to injury.

Anti-dumping investigations are to end immediately in cases where the authorities determine that the margin of dumping is insignificantly small (defined as less than 2% of the export price of the product). Other conditions are also set. For example, the investigations also have to end if the volume of dumped imports is negligible (i.e. if the volume from one country is less than 3% of total imports of that product — although investigations can proceed if several countries, each supplying less than 3% of the imports, together account for 7% or more of total imports).

The agreement says member countries must inform the Committee on Anti-Dumping Practices about all preliminary and final anti-dumping actions, promptly and in detail. They must also report on all investigations twice a year. When differences arise, members are encouraged to consult each other. They can also use the WTO's dispute settlement procedure.

FEMA

The Foreign Exchange Management Act (1999) or in short FEMA has been introduced as a replacement for earlier Foreign Exchange Regulation Act (FERA). FEMA became an act on the 1st day of June, 2000. FEMA was introduced because the FERA didn't fit in with post-liberalisation policies. A significant change that the FEMA brought with it, was that it made all offenses regarding foreign exchange civil offenses, as opposed to criminal offenses as dictated by FERA.

The main objective behind the Foreign Exchange Management Act (1999) is to consolidate and amend the law relating to foreign exchange with the objective of facilitating external trade and payments. It was also formulated to promote the orderly development and maintenance of foreign exchange market in India.

FEMA is applicable to all parts of India. The act is also applicable to all branches, offices and agencies outside India owned or controlled by a person who is a resident of India.

The FEMA head-office, also known as Enforcement Directorate is situated in New Delhi and is headed by a Director. The Directorate is further divided into 5 zonal offices in Delhi, Mumbai, Kolkata, Chennai and Jalandhar and each office is headed by a Deputy Director. Each zone is further divided into 7 sub-zonal offices headed by the Assistant Directors and 5 field units headed by Chief Enforcement Officers.

When a business enterprise imports goods from other countries, exports its products to them or makes investments abroad, it deals in foreign exchange. Foreign exchange means 'foreign currency' and includes:- (i) deposits, credits and balances payable in any foreign currency; (ii) drafts, travellers' cheques, letters of credit or bills of exchange, expressed or drawn in Indian currency but payable in any foreign currency; and (iii) drafts, travellers' cheques, letters of credit or bills of exchange drawn by banks, institutions or persons outside India, but payable in Indian currency.

In India, all transactions that include foreign exchange were regulated by Foreign Exchange Regulations Act (FERA),1973. The main objective of FERA was conservation and proper utilisation of the foreign exchange resources of the country. It also sought to control certain aspects of the conduct of business outside the country by Indian companies and in India by foreign companies. It was a criminal legislation which meant that its violation would lead to imprisonment and payment of heavy fine. It had many restrictive clauses which deterred foreign investments.

In the light of economic reforms and the liberalised scenario, FERA was replaced by a new Act called the Foreign Exchange Management Act (FEMA),1999.The Act applies to all branches, offices and agencies outside India, owned or controlled by a person resident in India. FEMA emerged as an investor friendly legislation which is purely a civil legislation in the sense that its violation implies only payment of monetary penalties and fines. However, under it, a person will be liable to civil imprisonment only if he does not pay the prescribed fine within 90 days from the date of notice but that too happens after formalities of show cause notice and personal hearing. FEMA also provides for a two year sunset clause for offences committed under FERA which may be taken as the transition period granted for moving from one 'harsh' law to the other 'industry friendly' legislation.

Broadly,the objectives of FEMA are: (i) To facilitate external trade and payments; and (ii) To promote the orderly development and maintenance of foreign exchange market. The Act has assigned an important role to the Reserve Bank of India (RBI) in the administration of FEMA. The rules,regulations and norms pertaining to several sections of the Act are laid down by the Reserve Bank of India, in consultation with the Central Government. The Act requires the Central Government to appoint as many officers of the Central Government as Adjudicating Authorities for holding inquiries pertaining to contravention of the Act. There is also a provision for appointing one or more Special Directors (Appeals) to hear appeals against the order of the Adjudicating authorities. The Central Government also establish an Appellate Tribunal for Foreign Exchange to hear appeals against the orders of the Adjudicating Authorities and the Special Director (Appeals). The FEMA provides for the establishment, by the Central Government, of a Director of Enforcement with a Director and such other officers or class of officers as it thinks fit for taking up for investigation of the contraventions under this Act.

FEMA permits only authorised person to deal in foreign exchange or foreign security. Such an authorised person, under the Act, means authorised dealer,money changer, off-shore banking unit or any other person for the time being authorised by Reserve Bank. The Act thus prohibits any person who:-

- Deal in or transfer any foreign exchange or foreign security to any person not being an authorized person;
- Make any payment to or for the credit of any person resident outside India in any manner;
- Receive otherwise through an authorized person, any payment by order or on behalf of any person resident outside India in any manner;
- Enter into any financial transaction in India as consideration for or in association with acquisition or creation or transfer of a right to acquire, any asset outside India by any person is resident in India which acquire, hold, own, possess or transfer any foreign exchange, foreign security or any immovable property situated outside India.

FOREX

Foreign-exchange reserves (also called forex reserves or FX reserves) in a strict sense are 'only' the foreign currency deposits and bonds held by central banks and monetary authorities. However, the term in popular usage commonly includes foreign exchange and gold, special drawing rights (SDRs), and International Monetary Fund (IMF) reserve positions. This broader figure is more readily available, but it is more accurately termed official international reserves or international reserves. These are assets of the central bank held in different reserve currencies, mostly the United States dollar, and to a lesser extent the euro, the pound sterling, and the Japanese yen, and used to back its liabilities, e.g., the local currency issued, and the various bank reserves deposited with the central bank, by the government or financial institutions.

Item	As on November 2, 2012	
	Rs. Bn.	US$ Mln.
	1	2
Total Reserves	15,808.3	294,340.5
(a) Foreign Currency Assets	13,923.7	259,459.0
(b) Gold	1,525.5	28,189.3
(c) SDRs	237.6	4,428.4
(d) Reserve Position in the IMF	121.5	2,263.8

This crisis must leave Indian policy-makers shaken, not just stirred. Unlike the Asian crisis of ten years ago, the financial impact of this crisis has been severe (we are yet to see the full effects on the trade and real sides). The stock market has lost about half its value, the rupee has depreciated by 25 per cent, reserves have declined by about $60 billion, and the successive waves of liquidity scrambles have been unprecedented.

Stages of Economic Integration

As international trade and investment levels continue to rise, the level of economic integration between various groups of nations is also deepening. The most obvious example of this is the European Union, which has evolved from a collection of autarkical nations to become a fully integrated economic unit. Although it is rare that relationships between countries follow so precise a pattern, formal economic integration takes place in stages, beginning with the lowering and removal of barriers to trade and culminating in the creation of an economic union. These stages are summarized below.

1.PREFERENTIAL TRADE AGREEMENTS

A trade pact between countries that reduces tariffs for certain products to the countries who sign the agreement. While the tariffs are not necessarily eliminated, they are lower than countries not party to the agreement. A Preferential trade area (also Preferential trade agreement, PTA) is a trading bloc which gives preferential access to certain products from the participating countries. A PTA can be established through a trade pact. It is the first stage of economic integration . The line between a PTA and a Free trade area (FTA) may be blurred, as almost any PTA has a main goal of becoming a FTA in accordance with the General Agreement on Tariffs and Trade.

Preferential Trading Agreements preferential trading agreements under which the participating countries, lower tariffs with respect to each other but not the rest of the world. The GATT-WTO prohibits such agreements. The formation of preferential trading agreements is allowed if they lead to free trade between the agreeing countries.

2.FREE TRADE AGREEMENTS

The first level of formal economic integration is the establishment of free trade agreements (FTAs) or preferential trade agreements (PTAs). FTAs eliminate import tariffs as well as import quotas between signatory countries. These agreements can be limited to a few sectors or can encompass all aspects of international trade. FTAs can also include formal mechanisms to resolve trade disputes. The North American Free Trade Agreement (NAFTA) is an example of such an arrangement.

Aside from a commitment to a reciprocal trade liberalization schedule, FTAs place few limitations on member states. Although FTAs may contain provisions in these areas if the signatory countries agree to do so, no further harmonization of regulations, standards or economic policies is required, nor is the free movement of capital and labour a necessary part of a free trade agreement. FTA signatory countries also retain independent trade policy with all countries outside the agreement.

However, in order for an FTA to function properly, member countries must establish rules of origin for all third-party goods entering the free trade area. Goods produced within the free trade area (and subject to the agreement) may cross borders tariff-free, but rules of origin requirements must be met to prove that the good was in fact produced in the exporting country. In the absence of rules of origin, third-party countries seeking trade access to the FTA area will choose the path of least resistance – the country where they face the lowest opposing tariff – in order to gain effective entry to the entire FTA region.

3.CUSTOMS UNION

A customs union (CU) builds on a free trade area by, in addition to removing internal barriers to trade, also requiring participating nations to harmonize their external trade policy. This includes establishing a common external tariff (CET) and import quotas on products entering the region from third-party countries, as well as possibly establishing common trade remedy policies such as anti-dumping and countervail measures. A customs union may also preclude the use of trade remedy mechanisms within the union. Members of a CU also typically negotiate any multilateral trade initiative (such as at the World Trade Organization) as a single bloc. Countries with an established customs union no longer require rules of origin, since any product entering the CU area would be subject to the same tariff rates and/or import quotas regardless of the point of entry.

The elimination of the need for rules of origin is the chief benefit of a customs union over a free trade area. To maintain rules of origin requires extensive documentation by all FTA member countries as well as enforcement of those rules at borders within the free trade area. This is a costly process and can lead to disputes over interpretation of the rules as well as other delays. A CU would result in significant administrative cost savings and efficiency gains.

In order to gain the benefits of a customs union, member countries would have to surrender some degree of policy freedom – specifically the ability to set independent trade policy. By extension, because of the increased importance of trade and economic measures as foreign policy tools, customs unions place some limitations on independent foreign policy as well.

4.COMMON MARKET

A common market represents a major step towards significant economic integration. In addition to containing the provisions of a customs union, a common market (CM) removes all barriers to the mobility of people, capital and other resources within the area in question, as well as eliminating non tariff barriers to trade, such as the regulatory treatment of product standards.

Establishing a common market typically requires significant policy harmonization in a number of areas. Free movement of labour, for example, necessitates agreement on worker qualifications and certifications. A common market is also typically associated – whether by design or consequence – with a broad convergence of fiscal and monetary policies due to the increased economic interdependence within the region and the effect that one member country's policies can have on other member countries. This necessarily places more severe limitations on member countries' ability to pursue independent economic policies.

The principal advantage of establishing a common market is the expected gains in economic efficiency. With unfettered mobility, labour and capital can more easily respond to economic signals within the common market, resulting in a more efficient allocation of resources.

5.ECONOMIC UNION

The deepest form of economic integration, an economic union adds to a common market the need to harmonize a number of key policy areas. Most notably, economic unions require formally coordinated monetary and fiscal policies as well as labour market, regional development, transportation and industrial policies. Since all countries would essentially share the same economic space, it would be counter-productive to operate divergent policies in those areas.

An economic union frequently includes the use of a common currency and a unified monetary policy. Eliminating exchange rate uncertainty improves the functioning of an economic union by allowing trade to follow economically efficient paths without being unduly affected by exchange rate considerations. The same is true of business location decisions.

Supranational institutions would be required to regulate commerce within the union to ensure uniform application of the rules. These laws would still be administered at the national level, but countries would abdicate individual control in this area.

Basic Elements of the Stagesof Economic Integration

Free Trade Agreement (FTA)	Zero tariffs between member countries and reduced non tariff barriers
Customs Union (CU)	FTA + common external tariff
Common Market (CM)	CU + free movement of capital and labour, some policy harmonization
Economic Union (EU)	CM + common economic policies and institutions

BLURRING THE LINES

Because countries are free to negotiate economic integration agreements as they see fit, in practice, formal agreements rarely fall neatly into one of the five stages discussed above. This can lead to some confusion of terminology and also confusion as to the state of economic integration in some parts of the world. In the case of Canada, for example, the country is part of a free trade area with the

United States and Mexico. However, the North American Free Trade Agreement also includes provisions that partially liberate the flow of labour and capital in the region – an element of a common market. In addition, Canada has in the past pushed to curtail the use of trade remedy measures within North America. While this represents a desire to advance one aspect of North American integration, the next formal step – a customs union – does not appear to be a policy priority at this time.

CEPA AND CECA

Countries that make agreements about economic cooperation make pacts with each other. These pacts are either CECA or CEPA. CECA is an acronym for Comprehensive Economic Cooperation Agreement and CEPA is an acronym for Comprehensive Economic Partnership Agreement. Just recently India signed a CEPA with Japan and a CECA with Malaysia. It also has a CECA with Korea and Singapore.

These terms are significant in terms of bilateral economic cooperation. These agreements are very similar, but the major difference is in the words "cooperation" and "partnership". In CECA, the focus is on gradually reducing and eliminating tariffs on all items that are listed tariff rate quota items. In CEPA, there is an additional focus on trade in the areas of investments and services. Therefore CEPA is a much broader term than CECA.

Another difference is the manner in which they occur. First two countries sign a CECA and then they start moving toward eventually signing a CEPA. An example of this can be seen in the CECA agreement signed between India and Sri Lanka in 1998, which was called the Free Trade Agreement to gradually remove tariffs. When this goal was achieved in 2008, talks began about signing a CEPA to cover trade and investments.

Summary

1. Economic agreements between countries are CECA and CEPA.
2. CECA occurs first for the reduction of tariffs and CEPA follows.
3. CEPA has a much broader scope than CECA.

The objectives of CEPA Agreement are:

(a) to strengthen and enhance the economic, trade and investment cooperation between the Parties;

(b) to liberalise and promote trade in goods in accordance with Article XXIV of the General Agreement on Trade and Tariffs;

(c) to liberalise and promote trade in services in accordance with Article V of the General Agreement on Trade in Services, including promotion of mutual recognition of professions;

(d) to establish a transparent, predictable and facilitative investment regime;

(e) to improve the efficiency and competitiveness of their manufacturing and services sectors and to expand trade and investment between the Parties, including joint exploitation of commercial and economic opportunities in non-Parties;

(f) to explore new areas of economic cooperation and develop appropriate measures for closer economic cooperation between the Parties;

(g) to facilitate and enhance regional economic cooperation and integration, in particular, to form a bridge between India and the Association of Southeast Asian Nations ("ASEAN") region and serve as a pathfinder for the India-ASEAN free trade agreement; and

(h) to build upon their commitments at the World Trade Organization.

The objectives of CECA Agreement are to:

(a) liberalise and facilitate trade in goods and services between the Parties;

(b) increase investment opportunities and strengthen protection for investments and investment activities in the Parties;

(c) ensure protection of intellectual property and promote cooperation in the field thereof;

(d) promote cooperation for the effective enforcement of competition laws in each Party;

(e) improve business environment in each Party;

(f) establish a framework to enhance closer cooperation in the fields agreed in this Agreement; and

(g) create effective procedures for the implementation and application of this Agreement and for the resolution of disputes.

India's Free Trade Agreements

Free trade agreements are normally made between two countries. Many governments, throughout the world have either signed FTA, or are negotiating or contemplating new bilateral free trade and investment contracts.

However, there are two types of free trade agreements: namely, bilateral and multilateral. Every customs union, trade common market, economic union, customs and monetary union also has a free trade area.

India looks at regional trading arrangements (RTAs) as "building blocks" towards the overall objective of trade liberalization. Therefore, it is participating in a number of RTAs which include structures such as free trade agreements (FTAs), preferential trade agreements (PTAs), and comprehensive economic cooperation agreements (CECAs).

Free Trade Agreement

A free trade agreement among two countries or group of countries agrees to abolish tariffs, quotas and preferences on most of the goods (if not all) between them. Countries choose an FTA if their economical structures are complementary, not competitive.

Trade Agreements

It is a bilateral or multilateral treaty or any other enforceable compact which commits two or more nations to specified terms of commerce, most of time involving mutually beneficial concessions.

Framework Agreement

A framework agreement is one which sets the period for future substantive liberalization by defining the scope and provisions of orientation for some new area of discussions. List of countries with which India enjoys a framework agreement with are as mentioned under:

- GCC states i.e. the member states of the Cooperation Council for the Arab States of the Gulf
- The Association of South East Asian Nations
- Chile

Regional Agreement

South Asia Free Trade Agreement (SAFTA) with Pakistan, Nepal, Sri Lanka, Bangladesh, Bhutan and the Maldives.

Preferential Trade Agreement

This trade gives preferential right of entry to only certain products. It is done by dropping tariffs, but it does not abolish them completely. PTA is established through trade pact and it is the weakest form of economic integration. India enjoys PTA with the following countries:

- Afghanistan
- Chile
- MERCOSUR – It is a trading community in Latin America comprising Brazil, Argentina, Uruguay and Paraguay. It has Chile and Bolivia as its associate members. MERCOSUR was formed in 1991 with the objective of facilitating the free movement of goods, services, capital and people among the four member countries

Benefits of businesses under India's FTA

- Under free trade agreements, duties are slashed or eliminated on various items, which may have a bearing on the domestic industry

- Greater coordination and cooperation in customs administration, and banking relationships would also be highly beneficial
- An evident appeal of an FTA is that members obtain preferred access to the markets of other members
- Members of trade agreements can also secure agreements in FTAs for rules that bestow advantages upon their trading partners and decrease trade irritants and limitations that could not otherwise be secured from multilateral trade agreements
- Accord and augment long term market access opportunities for Indian products and services
- FTAs would enable Indian industries to source inputs at more competitive prices
- FTAs would offer trade facilitation measures for industries to expand trade, as well as capacity building to improve and enhance their competitiveness

BILATERAL AND REGIONAL COOPERATION

India has always stood for an open, equitable, predictable, non-discriminatory, and rule-based international trading system. Considering that regional and bilateral trade and economic cooperation agreements serve as building blocks towards achieving the multilateral trade liberalization objective, India is actively engaging in regional and bilateral negotiations with her trading partner countries/blocs to diversify and expand the markets for its exports. Some of the recent developments related to major Free Trade Agreements (FTAs) are the following:

1.India-Japan Comprehensive Economic Partnership Agreement (CEPA)

The India-Japan CEPA was signed on 16 February 2011 and has come into force on 1st August 2011. CEPA is a single undertaking covering goods, services, investment, and other areas of cooperation. The agreement covers more than 90 per cent of the trade, a vast gamut of services, investment, IPR, customs, and other trade-related issues. This is India's third CEPA (after Singapore and Korea) and first with a developed country.

2. India-Malaysia Comprehensive Economic Cooperation Agreement (CECA)

The India-Malaysia CECA was signed on 18 February 2011 and it has come into force on 1 July 2011. It is a single undertaking covering goods, services, investment, and other areas of cooperation. Taking into account the India- ASEAN Trade in Goods Agreement that was implemented from January 2010 between India and Malaysia, both sides have offered 'ASEAN Plus' market access in goods.

3. India-ASEAN Trade in Goods Agreement

A Framework Agreement on Comprehensive Economic Cooperation was signed between India and ASEAN on 8 October 2003. The India- ASEAN Trade in Goods Agreement has come into force on 1 January 2010 in respect of India and Malaysia, Singapore, Thailand; on 1 June 2010 in respect of India and Vietnam; 1 September 2010 in respect of India and Myanmar; 1 October 2010 in respect of India and Indonesia; 1 November 2010 in respect of India and Brunei; 24 January 2011 in respect of India and Laos; 1 June 2011 in respect of India and the Philippines; and 1 August 2011 in respect of India and Cambodia. Negotiations on the India-ASEAN CECA covering Trade in Services and Investment are under way.

4. India-EU Trade and Investment Agreement Negotiations

A High Level Trade Group (HLTG) was set up as mandated by the India-EU Summit in New Delhi on 7 September 2005. Negotiations for a Broad-based Bilateral Trade and Investment Agreement (BTIA) between India and the EU have commenced in June 2007 and are continuing.

5. India – European Free Trade Association (EFTA) BTIA (Iceland, Norway, Liechtenstein, and Switzerland)

Thirteen rounds of negotiations have so far been held alternately in Brussels and New Delhi. The thirteenth round was held from 31 March to 6 April 2011 in New Delhi. A meeting of the Commerce Secretary and EU's Director General (DG) Trade was held on 25 October 2011 at Delhi. A Chief Negotiator's Meeting was held in Brussels from 5–6 December 2011. Apart from these meetings, sector-specific inter-sessionals and digital video conferences (DVCs) have also frequently been held between the two sides.

Both sides have intensified negotiations with a view to finalizing them in early 2012. Areas covered in the negotiations include trade in goods, SPS and TBT, trade in services, investment, IPRs and GIs, rules of origin, competition policy, customs and trade facilitation, trade defence, dispute settlement, mediation mechanism, government procurement, and sustainable development.

6. India-Canada CEPA

Both countries have agreed to initiate negotiations towards a CEPA covering trade in goods, services, and other areas of economic cooperation. Four Rounds of negotiations have been held.

7. India-New Zealand FTA/ CECA

Seven Rounds of the India–New Zealand FTA/ CECA negotiations have so far been held and negotiations are continuing.

8.India-Australia CECA

In April 2008, a Joint Study Group (JSG) was constituted to examine the feasibility for establishing an FTA between India and Australia. Based on the recommendations of the JSG, India and Australia are negotiating a CECA covering trade in goods, services, investment, and IPR related issues. Two Rounds of negotiations have so far been held.

DECOUPLING THEORY

The decoupling theory holds that Emerging economies have broadened and deepened to the point that they no longer depend on the United States or Europe for growth. Emerging markets (EMs) are nations with social or business activity in the process of rapid growth and industrialization Goldman Sachs and Morgan Stanley first proposed the theory of decoupling, an economic state, wherein equity markets exist without correlating itself with other markets or insulated from external factors.

REER & NEER

REER

The weighted average of a country's currency relative to an index or basket of other major currencies adjusted for the effects of inflation. The weights are determined by comparing the relative trade balances, in terms of one country's currency, with each other country within the index.

This exchange rate is used to determine an individual country's currency value relative to the other major currencies in the index, as adjusted for the effects of inflation. All currencies within the said index are the major currencies being traded today: U.S. dollar, Japanese yen, euro, etc.

This is also the value that an individual consumer will pay for an imported good at the consumer level. This price will include any tariffs and transactions costs associated with importing the good.

NEER

The unadjusted weighted average value of a country's currency relative to all major currencies being traded within an index or pool of currencies. The weights are determined by the importance a home country places on all other currencies traded within the pool, as measured by the balance of trade.

The NEER represents the relative value of a home country's currency compared to the other major currencies being traded (U.S. dollar, Japanese yen, euro, etc.). A higher NEER coefficient (above 1) means that the home country's currency will usually be worth more than an imported currency, and a lower coefficient (below 1) means that the home currency will usually be worth less than the imported currency. The NEER also represents the approximate relative price a consumer will pay for an imported good.

DOUBLE TAXATION AVOIDANCE AGREEMENTS

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To finance the welfare and the administrative expenditure, governments around the world impose certain taxes on their subjects. The taxation system helps in collecting revenue besides it also provides direction to the economic growth and also brings economic equilibrium amongst various classes. In any taxation system, the residential status of the taxpayer is of crucial significance. Residential status confirms the jurisdiction and the application of taxation accountabilities.

However, in cases, where cross country economic activity is carried out, it is a tricky affair to identify and justify the appropriate jurisdiction of tax authorities. In order to mitigate the hardships of multiple jurisdictions, the Governments enter into bilateral arrangements, which are commonly denoted as "Double Taxation Avoidance Agreements" (DTAA). DTAA refers to an accord between two countries, aiming at elimination of double taxation. These are bilateral economic agreements wherein the countries concerned assess the sacrifices and advantages which the treaty brings for each contracting nation. It would promote exchange of goods, persons, services and investment of capital among such countries.

Indian Government is actively pushing DTAA negotiations with several countries to help its residents in understanding their tax jurisdictions and accountability towards the appropriate authorities. So far India has signed DTAA with 81 countries and discussion is on with many others. The natures of DTAA's entered by India are greatly diverse in their nature and contents.

OECD and DTAAs

The first international initiative regarding DTAA was taken by the Organization for Economic Co-operation and Development. OECD presented the first draft of DTAA in 'Model Tax Convention on Income and on Capital'. DTAA was proposed as a tool of standardization and common solutions for cases of double taxation to the taxpayers who are engaged in industrial, financial or other activities in other countries. The double tax treaties are negotiated under international law and governed by the principles laid down under the Vienna Convention on the Law of Treaties.

Objectives

DTAA treaties must help in avoiding and alleviating the burden of double taxation prevailing in the international arena. The tax treaties must clarify the taxpayer to know with certainty of his potential tax liability in the country, where he is carrying on economic activities. Tax Treaties must ensure that there is no prejudice between foreign tax payers who has permanent enterprise in the source countries and domestic tax payers of such countries. Treaties are made with the aim of allocation of taxes between treaty nations and the prevention of tax avoidance. The treaties must also ensure that equal and fair treatment of tax payers having different residential status, resolving differences in taxing the income and exchange of information and other details among treaty partners.

Classification

Double taxation avoidance agreements may be classified into comprehensive agreements and limited agreements based on the scope of such agreements. Comprehensive Double Taxation Avoidance Agreements provide for taxes on income, capital gains and capital investments whereas Limited Double Taxation Avoidance Agreements denote income from shipping and air transport or legacy and gifts. Comprehensive agreements ensure that the taxpayers in both the countries would be treated on equitable manner in respect of the issues relating to double taxation.

Active & Passive Income

Passive Income refers to income derived from investment in tangible / intangible assets eg. Immovable property, dividend, interest, royalties, capital gains, pensions etc. Active income is the income derived from carrying on active cross border business operations or by personal effort and exertion in case of employment eg. Business profits, shipping, air transport, employment etc.

Current Scenario in India

The Indian Income Tax Act, 1961 administrates the taxation of income accrued in India. As per Section 5 of the Income Tax Act, 1961 residents of India are liable to tax on their global income and non-residents are taxed only on income that has its source in India. The Provisions of DTAA override the general provisions of taxing statute of a particular country. It is now well settled that in India the provisions of the DTAA override the provisions of the domestic statute. Moreover, with the insertion of

Sec.90 (2) in the Indian Income Tax Act, it is clear that assessee have an option of choosing to be governed either by the provisions of particular DTAA or the provisions of the Income Tax Act, whichever are more beneficial. Further if Income tax Act itself does not levy any tax on some income then Tax Treaty has no power to levy any tax on such income. Section 90(2) of the Income Tax Act recognizes this principle.

Govt. of India has entered into DTA agreement with the following countries:

Armenia, Australia, Austria, Bangladesh, Belarus, Belgium, Botswana, Brazil, Bulgaria, Canada, China, Cyprus, Czech Republic, Denmark, Egypt, Finland, France, Germany, Greece, Hashemite Kingdom of Jordan, Hungary, Iceland, Indonesia, Ireland, Israel, Italy, Japan, Kazakstan, Kenya, Korea, Kuwait, Kyrgyz Republic, Libya, Luxembourg, Malaysia, Malta, Mauritius, Mongolia, Montenegro, Morocco, Mozambique, Myanmar, Namibia, Nepal, Netherlands, New Zealand, Norway, Oman, Philippines, Poland, Portuguese Republic, Qatar, Romania, Russia, Saudi Arabia, Serbia, Singapore, Slovenia, South Africa, Spain, Sri Lanka, Sudan, Sweden, Swiss Confederation, Syrian Arab Republic, Tajikistan, Tanzania, Thailand, Trinidad and Tobago, Turkey, Turkmenistan, UAE, UAR (Egypt), UGANDA, UK, Ukraine, United Mexican States, USA, Uzbekistan, Vietnam, Zambia.

Tax Havens

OECD (Organization for Economic Co-operation and Development) has blacklisted over 25 nations for tax relaxations they offer for parking funds. These include Mauritius, Cyprus, Switzerland and the Netherlands. Tax havens allow easy parking of money either through investments or deposits. They may offer a range of incentives including a nominal capital gains tax for companies to complete financial secrecy of accounts held by individuals and corporate.

Treaty Models

There are different models developed over a period of time based on which treaties are drafted. These models assist in maintaining uniformity in the format of tax treaties. They also serve as checklist for ensuring exhaustiveness or provisions to the two negotiating countries. Some of the popular models are known as OECD Model, UN Model, the US Model and the Andean Model. Of these the first three are the most prominent and often used.

OECD Model – The OECD Model was issued in Double Taxation Convention on Income and Capital in 1977 and amended thereafter in 1992 and 1995. OECD Model is essentially a model treaty between two developed nations. This model advocates residence principle, that is to say, it lays emphasis on the right of state of residence to tax.

UN Model - The UN Model of 1980 gives more weight to the source principle as against the residence principle of the OECD model. As a correlative to the principle of taxation at source the articles of the Model Convention are predicated on the premise of the recognition by the source country that (a) taxation of income from foreign capital would take into account expenses allocable to the earnings of the income so that such income would be taxed on a net basis, that (b) taxation would not be so high as to discourage investment and that (c) it would take into account the appropriateness of the sharing of revenue with the country providing the capital. In addition, the United Nations Model Convention embodies the idea that it would be appropriate for the residence country to extend a measure of relief from double taxation through either foreign tax credit or exemption as in the OECD Model Convention. Most of India's treaties are based on the UN Model.

Relief to the tax payer

In order to prevent the hardship of double taxation, relief is provided to the tax payer. Such relief is provided by two ways:

Bilateral Relief

Bilateral relief is provided in section 90 and 90A of the Indian Income Tax Act. Bilateral relief is provided through following methods:

(i) Exemption Method

One method of avoiding double taxation is for the residence country to altogether exclude foreign income from its tax base. The country of source is then given exclusive right to tax such incomes. This is known as complete exemption method and is sometimes followed in respect of profits attributable to foreign permanent establishments or income from immovable property. Indian tax treaties with Denmark, Norway and Sweden embody with respect to certain incomes.

(ii) Credit Method

This method reflects the underline concept that the resident remains liable in the country of residence on its global income, however as far the quantum of tax liabilities is concerned credit for tax paid in the source country is given by the residence country against its domestic tax as if the foreign tax were paid to the country of residence itself.

(iii) Tax Sparing

One of the aims of the Indian Double Taxation Avoidance Agreements is to stimulate foreign investment flows in India from foreign developed countries. One way to achieve this aim is to let the investor to preserve to himself/itself benefits of tax incentives available in India for such investments. This is done through "Tax Sparing". Here the tax credit is allowed by the country of its residence, not only in respect of taxes actually paid by it in India but also in respect of those taxes India forgoes due to its fiscal incentive provisions under the Indian Income Tax Act.

Unilateral Relief

Unilateral Relief is provided in section 91 of the Income Tax Act. The aforesaid method is depending on bilateral activity of both the countries. However, no country will have such an agreement with every country in the world. In order to avoid double taxation in such cases, country of residence itself may provide relief on unilateral basis.

Apart from relief to persons of a country where India has entered in Double Taxation Avoidance Agreement, there is relief given even in cases where the Government of India has not entered into DTA agreement with any foreign country. In such cases if any resident Indian produces evidences to show that, he has paid any tax in any country with which the Government of India has not entered into a DTA agreement, tax relief on that part of his income which suffered taxation in the foreign country, to the extent of tax so paid in such foreign country, or the tax leviable in India under the Income Tax Act on such income whichever is less shall be allowed as deduction u/s 91 while calculating his tax liabilities on such income.

General Features of a Model DTAA

1) Language used by Treaties - Tax Treaties employ standard International language and standard terms. This is done in order to understand and interpret the same term in the same manner by both assessee as well as revenue. Language employed is technical and stereotyped. Some of the terms are explained below:

I. Contracting State – country which enters into Treaty.

II. State of Residence- Country where a person resides.

III. State of Source- Country where income arises.

IV. Enterprise of a Contracting State- Any taxable unit including individuals.

V. Permanent Establishment – A fixed base of an enterprise

Components of DTAA

1) The date of DTAA.

2) DTAA applies to all individual / person who is resident of either of countries entering into DTAA. The definition of resident is differently composed in different countries.

Definitions – Article 3 of DTAA generally covers definitions of various terms used in DTAA. eg. person, company, contracting state, enterprise of contracting state, immovable property, dividend, business profits, royalty, technical fees, salaries etc.

The nature and category of taxes to be considered under DTAA as different countries use different descriptions for defining tax levies in their revenue system. Tax treaties may cover income taxes, inheritance taxes, value added taxes, or other taxes.

3) DTAA contains a clause to describe permanent establishment. PE means the place from where the business of the enterprise is carried on. PE includes place of management, branch, office, factory, workshop, mine, quarry, an oil or gas well, a construction site for long duration, a service location for a long duration etc.
4) Tax-sharing method / depending upon the residential statute, permanent establishment, fixed base.
5) Method of relief either by way of exempting income or where it is taxable, taxing it at stipulated rate.
6) Exchange of information about associated enterprises principally to deal with diversion of income to avail treaty benefit or evasion.
7) Proviso for removal of double taxation.
8) Proviso for non- discrimination etc.
9) Other clauses may be added as per the specific requirements of the participating countries.

Indian Income Tax Act and DTAA

It has come to the notice of the Board that sometimes effect to the provisions of double taxation avoidance agreement is not given by the Assessing Officers when they find that the provisions of the agreement are not in conformity with the provisions of the Income-tax Act, 1961. The correct legal position is that where a specific provision is made in the double taxation avoidance agreement, that provisions will prevail over the general provisions contained in the Income-tax Act. In fact that the double taxation avoidance agreements which have been entered into by the Central Government under section 90 of the Income-tax Act, also provide that the laws in force in either country will continue to govern the assessment and taxation of income in the respective countries except where provisions to the contrary have been made in the agreement.

Thus, where a double taxation avoidance agreement provides for a particular mode of computation of income, the same should be followed, irrespective of the provisions in the Income-tax Act. Where there is no specific provision in the agreement, it is basic law, i.e., the Income-tax Act that will govern the taxation of income.

Harmonization of Tax Rates

Tax treaties usually specify the same maximum rate of tax that may be imposed on some types of income. As an example, a treaty may provide that interest earned by a nonresident eligible for benefits under the treaty is taxed at no more than five percent (5%). However, local law in some cases may provide a lower rate of tax irrespective of the treaty. In such cases, the lower local law rate prevails.

Resolving of Disputes in Interpretation

If there are any disputes in the interpretation/ implementation of the terms of DTA Agreements, normal remedies of appeal etc. provided in the Income-tax Act are available to the aggrieved party. The DTA Agreements also contain mutual agreement procedure. The aggrieved party may approach the Competent Authority of the contracting State wherein he is a resident, who, if he is unable to resolve the dispute by himself will approach the competent Authority of the other Contracting State to arrive at a solution after mutual discussion.

Advance Ruling

In respect of interpretation of terms contained in DTA Agreement the Indian Income-tax Act contains a special provision which is offered to those Non- residents who would like to have advance ruling on a matter of law or fact in relation to a transaction undertaken/proposed to be undertaken by them. The facilities available in such provision can be availed of by the Non-residents in the matters regarding Double Taxation of income also.

Tax Information Exchange Agreement

The purpose of this agreement is to promote international co-operation in tax matters through exchange of information. It was developed by the OECD Global Forum Working Group on Effective Exchange of Information ("the Working Group"). The Working Group consisted of representatives from OECD Member countries as well as delegates from Aruba, Bermuda, Bahrain, Cayman Islands, Cyprus, Isle of Man, Malta, Mauritius, the Netherlands Antilles, the Seychelles and San Marino. The Agreement grew out of the work undertaken by the OECD to address harmful tax practices. The lack of effective exchange of information is one of the key criteria in determining harmful tax practices. The mandate of the Working Group was to develop a legal instrument that could be used to establish effective exchange of information. The Agreement represents the standard of effective exchange of information for the purposes of the OECD's initiative on harmful tax practices. This Agreement, which was released in April 2002, is not a binding instrument but contains two models for bilateral agreements. A number of bilateral agreements have been based on this Agreement.

Salient general Features of DTA agreements between India & others countries

A typical DTA Agreement between India and another country covers only residents of India and the other contracting country who have entered into the agreement with India. A person who is not resident either of India or of the other contracting country cannot claim any benefit under the said DTA Agreement. Such agreement generally provides that the laws of the two contracting states will govern the taxation of income in respective states except when express provision to the contrary is made in the agreement.

A situation may arise when originally the tax provision in the other contracting state gave concessional treatment compared to India at a particular time but Indian laws were subsequently amended to bring incidence of tax to a level lower than the tax rate existing in the other contracting state. Since the tax treaties are meant to be beneficial and not intended to put tax payers of a contracting state to a disadvantage, it is provided in Sec. 90 that beneficial provisions under the Indian Income Tax Act will not be denied to residents of contracting state merely because the corresponding provision in tax treaty is less beneficial. Some Double Taxation Avoidance agreements provide that income by way of interest, royalty or fee for technical services is charged to tax on net basis.

This may result in tax deducted at source from sums paid to Non-residents which may be more than the final tax liability. The Assessing Officer has therefore been empowered u/s 195 to determine the appropriate proportion of the amount from which tax is to be deducted at source. There are instances where as per the Income-tax Act, 1961 tax is required to be deducted at a rate prescribed in tax treaty. However this may require foreign companies to apply for refund. To obviate such difficulties Sec. 2(37A) provides that tax may be deducted at source at the rate applicable in a particular case as per section 195 on the sums payable to non-residents or in accordance with the rates specified in D.T.A. Agreements.

SOME ILLUSTRIOUS DTAA'S

European Union savings taxation

In the European Union, member states have concluded a multilateral agreement on information exchange. This means that they will each report (to their counterparts in each other jurisdiction) a list of those savers who have claimed exemption from local taxation on grounds of not being a resident of the state where the income arises. These savers should have declared that foreign income in their own country of residence, so any difference suggests tax evasion.

Cyprus double tax treaties

Cyprus has concluded 34 double tax treaties which apply to 40 countries. The main purpose of these treaties is the avoidance of double taxation on income earned in any of these countries. Under these agreements, a credit is usually allowed against the tax levied by the country in which the taxpayer resides for taxes levied in the other treaty country and as a result the tax payer pays no more than the higher of the two rates. Further, some treaties provide for tax sparing credits whereby the tax credit allowed is not only with respect to tax actually paid in the other treaty country but also from tax which would have been otherwise payable had it not been for incentive measures in that other country which result in exemption or reduction of tax.

German taxation avoidance

If a foreign citizen is in Germany for less than a relevant 183-day period (approximately six months) and is tax resident (i.e. and paying taxes on his or her salary and benefits) elsewhere, then it may be possible to claim tax relief under a particular Double Tax Treaty. The relevant 183 day period is either 183 days in a calendar year or in any period of 12 months, depending upon the particular treaty involved. So, for example, the Double Tax Treaty with the UK looks at a period of 183 days in the German tax year (which is the same as the calendar year); thus, a citizen of the UK could work in Germany from 1 September through the following 31 May (9 months) and then claim to be exempt from German tax (whilst still paying the UK tax).

United States

The U.S. requires its citizens to file tax returns reporting their earnings wherever they reside. However, there are some measures designed to reduce the international double taxation that results from this requirement. First, an individual who is a bona fide resident of a foreign country or is physically outside the United States for an extended time is entitled to an exclusion (exemption) of part or all of their earned income (i.e. personal service income, as distinguished from income from capital or investments.) That exemption is $91,400 for 2009, pro-rated. Second, the United States allows a foreign tax credit by which income taxes paid to foreign countries can be offset against U.S. income tax liability attributable to foreign income. This can be a complex issue that often requires the services of a tax advisor. The foreign tax credit is not allowed for taxes paid on earned income that is excluded under the rules described in the preceding paragraph (i.e. no double dipping).

DTAA - India and Mauritius

India has comprehensive Double Taxation Avoidance Agreements (DTAA) with 81 countries. This means that there are agreed rates of tax and jurisdiction on specified types of income arising in a country to a tax resident of another country. Under the Income Tax Act 1961 of India, there are two provisions, Section 90 and Section 91, which provide specific relief to taxpayers to save them from double taxation. Section 90 is for taxpayers who have paid the tax to a country with which India has signed DTAA, while Section 91 provides relief to tax payers who have paid tax to a country with which India has not signed a DTAA. Thus, India gives relief to both kinds of taxpayers.

A large number of foreign institutional investors who trade on the Indian stock markets operate from Mauritius. According to the tax treaty between India and Mauritius, capital gains arising from the sale of shares are taxable in the country of residence of the shareholder and not in the country of residence of the company whose shares have been sold. Therefore, a company resident in Mauritius selling shares of an Indian company will not pay tax in India. Since there is no capital gains tax in Mauritius, the gain will escape tax altogether.

The Indian and Cypriot tax treaty is the only other such Indian treaty to provide for the same beneficial treatment of capital gains. It must be noted that India has and is making attempts to revise both the Mauritius and Cyprus tax treaties to eliminate this favorable treatment of capital gains tax. The Indian government periodically checks for its DTAA with many countries and come up with amendments.

The VODAFONE Case

Hutchison Essar is an Indian Company, the controlling interest of Hutchison Essar is held by a SPV of Cayman Island (CGP Investments Holding Ltd.). CGP is owned by Hutchison Telecommunications International Ltd (HTIL), Hongkong. In this manner the controlling interest of Hutchison Essar is held by HTIL, Hongkong through an intermediary Cayman Island company (CGP). Vodafone International Holdings, Netherland entered into an agreement with HTIL, Hongkong to buy the shares of CGP (Cayman Island). Since CGP is holding directly and indirectly 67% shares of Hutchison Essar (India), the above transaction results in transfer of shares and controlling interest of Hutchison Essar(India) from HTIL, Hongkong to Vodafone International Holding, Netherland. The consideration for transfer is stated to be USD 11.1 Billion.

The Income-tax Department issued a notice to Vodafone to show cause as to why it should not be treated as assessee in default for not withholding the Indian Capital Gain Tax on the payment made by it to HTIL for the transaction of sale of share of CGP (which in turn holds controlling interest of HTIL). Vodafone challenged the show cause notice by way of writ. The Hon'ble Bombay High Court dismissed the writ.

The High Court held that "the very purpose of entering into agreements between the two foreigners is to acquire the controlling interest which one foreign company held in the Indian Company, by other foreign company. This being the dominant purpose of the transaction, the transaction would certainly be subject to municipal law of India, including the Indian Income-tax Act". The Indian Law does not permit use of any "colourable" device by any tax payer for perpetuating tax evasion in India. The High Court remarked that "the present is a case of tax evasion and not tax avoidance".

Thereafter Vodafone approached the Supreme Court for stay of Mumbai High Court's decision. The Supreme Court on 27/09/2010 ordered that Vodafone has to deposit a part of the amount in dispute before its case is heard by the Court. Finally, the Supreme Court gave its verdict on 20.01.2012 and has decided the issue in favour of Vodafone. The Hon'ble Apex Court has held as under:

"Applying the look at test in order to ascertain the true nature and character of the transaction, we hold, that the Offshore Transaction herein is a bonafide structured FDI investment into India which fell outside India's territorial tax jurisdiction, hence not taxable. The said Offshore Transaction evidences participative investment and not a sham or tax avoidant preordained transaction. The said Offshore Transaction was between HTIL (a Cayman Islands company) and VIH (a company incorporated in Netherlands). The subject matter of the Transaction was the transfer of the CGP (a company incorporated in Cayman Islands). Consequently, the Indian Tax Authority had no territorial tax jurisdiction to tax the said Offshore Transaction."

A careful legal analysis of the aforesaid judgment will show that the following important issues were considered by the Hon'ble Apex Court in deciding the case in favour of Vodafone.

Whether the situs of shares of a foreign company holding controlling interest in Indian company can be said to be in India?

In the instant case of Vodafone, the Cayman Island company, CGP, was owning controlling interest in the Indian HEL. Therefore, it was revenue's contention that the situs of shares of CGP shall be deemed to be in India and accordingly the transaction of sale of CGP shares will be liable for tax in India.In this regard, the Hon'ble Supreme Court at para 82 and para 127 has held that situs of shares situates at the place where the company is incorporated and / or the place where the shares can be dealt with by way of transfers. In the instant case, the transfer took place in respect of shares of CGP. CGP is a company incorporated in Cayman Island and the transfer also took place outside India. Therefore, the situs of shares of CGP is not in India.

What principles should be applied to treat a transaction as sham and bogus?

The Hon'ble Apex Court has dealt with this issue in detail and has held that every foreign direct investment coming to India, as an investment destination, should be seen in a holistic manner. In this regard, the following factors should be kept in mind on the facts of the instant case:

- the concept of participation in investment
- the duration of time during which the Holding Structure exists
- the period of business operations in India
- the generation of taxable revenues in India
- the timing of the exit
- the continuity of business on such exit.

The Hon'ble Court examined the above facts. After a detailed analysis, the Hon'ble Court found that the aforesaid factors are in favour of Vodafone and therefore, held the entire transaction as not a sham and bogus transaction.

"Whether even an indirect transfer of property located in India will be covered under section

9(1)(i) of the Income-tax Act so as to render the same as liable for tax?

In the instant case, CGP held shares of an India company. It was the contention of the revenue that the transfer of shares of CGP outside India resulted into indirect transfer of shares of Indian company. Therefore, the transfer is liable for tax in India.

The Hon'ble Apex Court has dealt with this issue at para 71 and 165 of the order. It has been held that Section 9 covers only income arising from a transfer of a capital asset situated in India; it does not purport to cover income arising from the indirect transfer of capital asset in India. If the word indirect is read into Section 9(1)(i), it would render the express statutory requirement of the 4th sub-clause in Section 9(1)(i) nugatory. Therefore, Vodafone's transaction cannot be covered under section 9(1)(i) of the Income-tax Act.

Whether section 195 which casts obligation to deduct tax at source is applicable to non-residents also?

The Hon'ble Apex Court has dealt with this issue at para 178 to 187 of its order. It has been held that section 195 would apply only for payments made from a resident to a non-resident, and not between two non-residents situated outside India.

In the instant case, the Hon'ble Court observed that the transaction was between two non-resident entities through a contract executed outside India. Consideration also passed outside India. The transaction has no nexus with the underlying assets in India. In order to establish a nexus, the legal nature of the transaction has to be examined and not the indirect transfer of rights and entitlements in India. Therefore, the provisions of section 195 relating to deduction of tax at source will not apply.

Whether the Mcdowell case [154 ITR 148] in relation to permissible and impermissible tax planning is watered down by Azadi Bachao Andolan [263 ITR 706] case?

The Hon'ble Apex Court held that the observations made in the case of Mcdowell are clearly in the context of artificial and colourable devices. In cases of treaty shopping and / or tax avoidance, there is no conflict between the Mcdowell (supra) and Azadi Bachao (supra).

Further, it has been held that revenue's stand that the ratio laid down in Mcdowell is contrary to what has been laid down in Azadi Bachao Andolan (supra) is unsustainable and therefore, calls for no reconsideration by a larger bench.

Whether the Indian Tax Authorities have the territorial jurisdiction in respect of transaction entered into by two non-residents in respect of shares of a company incorporated outside India.

The Hon'ble Supreme Court in the instant case has observed that the entire transaction has been carried out outside India and in relation to property which is situated outside India.

It involves transaction between two non-residents in respect of shares of a company incorporated outside India. Therefore, the Indian Tax Authorities have no territorial tax jurisdiction over the said transaction.

HIGHLIGHTS OF FOREIGN TRADE POLICY 2009-2014

Higher Support for Market and Product Diversification

1. Incentive schemes have been expanded by way of addition of new products and markets.
2. 26 new markets have been added under Focus Market Scheme. These include 16 new markets in Latin America and 10 in Asia-Oceania.
3. The incentive available under Focus Market Scheme (FMS) has been raised from 2.5% to 3%.
4. The incentive available under Focus Product Scheme (FPS) has been raised from 1.25% to 2%.
5. A large number of products from various sectors have been included for benefits under FPS. These include, Engineering products (agricultural machinery, parts of trailers, sewing machines, hand tools, garden tools, musical instruments, clocks and watches, railway locomotives etc.), Plastic (value added products), Jute and Sisal products, Technical Textiles, Green Technology

products (wind mills, wind turbines, electric operated vehicles etc.), Project goods, vegetable textiles and certain Electronic items.

6. Market Linked Focus Product Scheme (MLFPS) has been greatly expanded by inclusion of products classified under as many as 153 ITC(HS) Codes at 4 digit level. Some major products include; Pharmaceuticals, Synthetic textile fabrics, value added rubber products, value added plastic goods, textile madeups, knitted and crocheted fabrics, glass products, certain iron and steel products and certain articles of aluminium among others. Benefits to these products will be provided, if exports are made to 13 identified markets (Algeria, Egypt, Kenya, Nigeria, South Africa, Tanzania, Brazil, Mexico, Ukraine, Vietnam, Cambodia, Australia and New Zealand).
7. MLFPS benefits also extended for export to additional new markets for certain products. These products include auto components, motor cars, bicycle and its parts, and apparels among others.
8. A common simplified application form has been introduced for taking benefits under FPS, FMS, MLFPS and VKGUY.
9. Higher allocation for Market Development Assistance (MDA) and Market Access Initiative (MAI) schemes is being provided Technological Upgradation
10. To aid technological upgradation of our export sector, EPCG Scheme at Zero Duty has been introduced. This Scheme will be available for engineering & electronic products, basic chemicals & pharmaceuticals, apparels & textiles, plastics, handicrafts, chemicals & allied products and leather & leather products (subject to exclusions of current beneficiaries under Technological Upgradation

    Fund Schemes (TUFS), administered by Ministry of Textiles and beneficiaries of Status Holder Incentive Scheme in that particular year). The scheme shall be in operation till 31.3.2011.
11. Jaipur, Srinagar and Anantnag have been recognised as 'Towns of Export Excellence' for handicrafts; Kanpur, Dewas and Ambur have been recognised as 'Towns of Export Excellence' for leather products; and Malihabad for horticultural products.

EPCG Scheme Relaxations

12. To increase the life of existing plant and machinery, export obligation on import of spares, moulds etc. under EPCG Scheme has been reduced to 50% of the normal specific export obligation.
13. Taking into account the decline in exports, the facility of Re-fixation of Annual Average Export Obligation for a particular financial year in which there is decline in exports from the country, has been extended for the 5 year Policy period 2009-14.

Support for Green products and products from North East

14. Focus Product Scheme benefit extended for export of 'green products'; and for exports of some products originating from the North East.

Status Holders

15. To accelerate exports and encourage technological upgradation, additional Duty Credit Scrips shall be given to Status Holders @ 1% of the FOB value of past exports. The duty credit scrips can be used for procurement of capital goods with Actual User condition. This facility shall be available for sectors of leather (excluding finished\ leather), textiles and jute, handicrafts, engineering (excluding Iron & steel & non-ferrous metals in primary and intermediate form, automobiles & two wheelers, nuclear reactors & parts, and ships, boats and floating structures), plastics and basic chemicals (excluding pharma products) [subject to exclusions of current beneficiaries under Technological Upgradation Fund Schemes (TUFS)]. This facility shall be available upto 31.3.2011.
16. Transferability for the Duty Credit scrips being issued to Status Holders under paragraph 3.8.6 of FTP under VKGUY Scheme has been permitted. This is subject to the condition that transfer would be only to Status Holders and Scrips would be utilized for the procurement of Cold Chain equipment(s) only.

Stability/ continuity of the Foreign Trade Policy

17. To impart stability to the Policy regime, Duty Entitlement Passbook (DEPB) Scheme is extended beyond 31-12- 2009 till 31.12.2010.
18. Interest subvention of 2% for pre-shipment credit for 7 specified sectors has been extended till 31.3.2010 in the Budget 2009-10.
19. Income Tax exemption to 100% EOUs and to STPI units under Section 10B and 10A of Income Tax Act, has been extended for the financial year 2010-11 in the Budget 2009-10.
20. The adjustment assistance scheme initiated in December, 2008 to provide enhanced ECGC cover at 95%, to the adversely affected sectors, is continued till March, 2010.

Marine sector

21. Fisheries have been included in the sectors which are exempted from maintenance of average EO under EPCG Scheme, subject to the condition that Fishing Trawlers, boats, ships and other similar items shall not be allowed to be imported under this provision. This would provide a fillip to the marine sector which has been affected by the present downturn in exports.
22. Additional flexibility under Target Plus Scheme (TPS) / Duty Free Certificate of Entitlement (DFCE) Scheme for Status Holders has been given to Marine sector.

Gems & Jewellery Sector

23. To neutralize duty incidence on gold Jewellery exports, it has now been decided to allow Duty Drawback on such exports.
24. In an endeavour to make India a diamond international trading hub, it is planned to establish "Diamond Bourse (s)".
25. A new facility to allow import on consignment basis of cut & polished diamonds for the purpose of grading/ certification purposes has been introduced.
26. To promote export of Gems & Jewellery products, the value limits of personal carriage have been increased from US$ 2 million to US$ 5 million in case of participation in overseas exhibitions. The limit in case of personal carriage, as samples, for export promotion tours, has also been increased from US$ 0.1 million to US$ 1 million.

Agriculture Sector

27. To reduce transaction and handling costs, a single window system to facilitate export of perishable agricultural produce has been introduced. The system will involve creation of multi-functional nodal agencies to be accredited by APEDA.

Leather Sector

28. Leather sector shall be allowed re-export of unsold imported raw hides and skins and semi finished leather from public bonded ware houses, subject to payment of 50% of the applicable export duty.
29. Enhancement of FPS rate to 2%, would also significantly benefit the leather sector.

Tea

30. Minimum value addition under advance authorization scheme for export of tea has been reduced from the existing 100% to 50%.
31. DTA sale limit of instant tea by EOU units has been increased from the existing 30% to 50%.
32. Export of tea has been covered under VKGUY Scheme benefits.

Pharmaceutical Sector

33. Export Obligation Period for advance authorizations issued with 6-APA as input has been increased from the existing 6 months to 36 months, as is available for other products.
34. Pharma sector extensively covered under MLFPS for countries in Africa and Latin America; some countries in Oceania and Far East.

Handloom Sector

35. To simplify claims under FPS, requirement of 'Handloom Mark' for availing benefits under FPS

has been removed.

EOUs

36. EOUs have been allowed to sell products manufactured by them in DTA upto a limit of 90% instead of existing 75%, without changing the criteria of 'similar goods', within the overall entitlement of 50% for DTA sale.
37. To provide clarity to the customs field formations, DOR shall issue a clarification to enable procurement of spares beyond 5% by granite sector EOUs.
38. EOUs will now be allowed to procure finished goods for consolidation along with their manufactured goods, subject to certain safeguards.
39. During this period of downturn, Board of Approvals (BOA) to consider, extension of block period by one year for calculation of Net Foreign Exchange earning of EOUs.
40. EOUs will now be allowed CENVAT Credit facility for the component of SAD and Education Cess on DTA sale.

Thrust to Value Added Manufacturing

41. To encourage Value Added Manufactured export, a minimum 15% value addition on imported inputs under Advance Authorization Scheme has now been prescribed.
42. Coverage of Project Exports and a large number of manufactured goods under FPS and MLFPS.

Flexibility provided to exporters

44. Payment of customs duty for Export Obligation (EO) shortfall under Advance Authorisation / DFIA / EPCG Authorisation has been allowed by way of debit of Duty Credit scrips. Earlier the payment was allowed in cash only.
45. Import of restricted items, as replenishment, shall now be allowed against transferred DFIAs, in line with the erstwhile DFRC scheme.
46. Time limit of 60 days for re-import of exported gems and jewellery items, for participation in exhibitions has been extended to 90 days in case of USA.
47. Transit loss claims received from private approved insurance companies in India will now be allowed for the purpose of EO fulfillment under Export Promotion schemes. At present, the facility has been limited to public sector general insurance companies only.

Waiver of Incentives Recovery, On RBI Specific Write off

48. In cases, where RBI specifically writes off the export proceeds realization, the incentives under the FTP shall now not be recovered from the exporters subject to certain conditions.

Simplification of Procedures

49. To facilitate duty free import of samples by exporters, number of samples/pieces has been increased from the existing 15 to 50. Customs clearance of such samples shall be based on declarations given by the importers with regard to the limit of value and quantity of samples.
50. To allow exemption for up to two stages from payment of excise duty in lieu of refund, in case of supply to an advance authorisation holder (against invalidation letter) by the domestic intermediate manufacturer. It would allow exemption for supplies made to a manufacturer, if such manufacturer in turn supplies the products to an ultimate exporter. At present, exemption is allowed upto one stage only.
51. Greater flexibility has been permitted to allow conversion of Shipping Bills from one Export Promotion scheme to other scheme. Customs shall now permit this conversion within three months, instead of the present limited period of only one month.
52. Automobile industry, having their own R&D establishment, would be allowed free import of reference fuels (petrol and diesel), upto a maximum of 5 KL per annum, which are not manufactured in India.

53. Acceding to the demand of trade & industry, the application and redemption forms under EPCG scheme have been simplified.

Indian Trade Composition

Export composition

Great changes in the sectoral composition of India's export basket seen in the 2000s decade have accelerated in the beginning of this decade. While the share of petroleum crude and products increased by 11.8 percentage points during the 10-year period from 2000-1 to 2009-10, it further increased by 4.8 percentage points from 2009-10 to the first half of 2011-12. The share of the other two sectors, i.e. manufactures and primary products fell almost proportionately by 11.6 and 1.1 percentage points respectively during 2000-1 to 2009-10 and 1.4 and 2.2 percentage points from 2009-10 to the first half of 2011-12.

The inter-sectoral composition changes within manufactures exports have also been great with the biggest losers being labour-intensive manufactures like textiles, leather and leather manufactures, and handicrafts from 23.6, 4.4, and 2.8 per cent respectively in 2000-1 to 8.7, 1.6, and 0.3 per cent in the first half of 2011-12. The biggest gainer is the engineering goods sector with its share increasing from 15.7 per cent in 2000-1 to 22.2 per cent in the first half of 2011-12. Another sector is electronics, the share of which increased from 2.5 per cent to 3.5 per cent in 2010-11, but fell to 2.9 per cent in the first half of 2011-12.

While the share of chemicals and related products increased marginally from 10.4 per cent to 11.6 per cent, that of gems and jewellery fell marginally from 16.6 per cent to 16.1 per cent during 2000-1 to the first half of 2011- 12 .

A point to be noted is that most of the petroleum exports of India are refined exports and qualify for the category of manufactures. Similarly there are many items in the agricultural and allied sector like marine exports and processed foods which are manufactured items. If these are included under the definition of manufactures, then the share of manufactures in total exports has not fallen.

Export growth was high in 2010-11 and the first half of 2011-12 in case of agriculture and allied products due to export growth in cereals, meat preparations, oil meals, and coffee. Among manufactured exports, engineering goods, gems and jewellery, and chemicals and related products registered high growth, while textiles export growth was moderate (Box 7.1). Export growth of petroleum, crude, and products was also very high due to the high prices of crude oil and also due to increase in refining capacity. Ores and minerals is the only item with negative growth in the first half of 2011-12 due to a ban on export of iron ore by the state governments of Karnataka and Odisha.

The compositional change from 2000-1 to the first half of 2011-12 can also be seen in the destination-wise exports of major items. While the gain in share of petroleum, crude and products in India's export to the EU has been higher than to US with an increase of around 17 percentage points, the decrease in share of manufactured goods in India's exports to the EU is also high at around 13.7 percentage points. However, there has been a dramatic rise in the share of petroleum, crude and products in India's exports to China. The share of ores & minerals has started falling in India's exports to China since 2008-09 reaching 30 per cent in the first half of 2011-12 resulting in rise in share of manufactured goods.

Among manufactures, the fall in share of textiles to EU and US and 'Others' from 2000-1 to the first half of 2011-12 has been more or less the same at above 10 percentage points. There has been a rise in share of India's exports of engineering goods to all the four markets. While there has been a big jump in the share of this item in India's export to China in 2010-11 and then a moderation, in the case of the other three markets, the share is at a uniform 21-22 per cent range in the first half of 2011-12. While the share of gems and jewellery exports to the US and EU markets have fallen, it has increased in the case of 'Others'.

China's share is insignificant in this item. The share of chemicals and related products in India's exports registered a near 10 percentage point increase to the US market and around 3.5 percentage point increase to the EU market.

Export diversification

Similar to 2009, India had a global export share of 1 per cent or more in 48 out of a total of 99 commodities.However, its share of 5 per cent or more in 12 items in 2009 has declined to 10 items with the categories 'bird skin, leather, artificial flowers, human hair' and 'ores, slag, and ash' moving out of the list .Except pearls, precious stones, metals, coins, etc. all the other nine items witnessed an increase in global share in 2010 over 2009, with cotton being at the top of the list. However, most of these 10 items except pearls, precious stones, metals, coins, etc. have a very small share in total world exports.

While India has made major strides in its diversification of export markets, a lot needs to be done to not only diversify the export basket but also have a perceptible share in the top items of world trade.

Import composition

In case of imports, there are no major compositional changes other than the sudden rise in share of gold and silver imports from 9.3 per cent in 2000-1 to 13.3 per cent in the first half of 2011-12 and fall in the share of pearls, precious, and semiprecious stones from 9.6 per cent in 2000-1 to 6.0 per cent in the first half of 2011-12. The share of capital goods imports which increased from 10.5 per cent in 2000-1 to 15.5 per cent in 2008-9 started declining again to reach 11.6 per cent in the first half of 2011-12. The share of POL imports, which fell from 31.3 per cent in 2000-1 to 28.6 per cent in 2010- 11 rose again to 31.4 per cent in the first half of 2011-12 due to high prices of crude oil Direction of Trade

India is a success story in terms of diversification of export and import markets. The share of Asia and ASEAN in total trade increased from 33.3 per cent in 2000-1 to 57.3 per cent in the first half of 2011-12, while that of Europe and America fell from 42.5 per cent to 30.8 per cent respectively.

This has helped India weather the global crisis emanating from Europe and America. In fact, today we have only five advanced western countries among the top 15 trading partners while in 2000-1 we had seven countries. While the top 15 countries still hold a share of around 60 per cent in 2010-11 and 2011-12 (April-September),the top 15 countries themselves have changed over the years. The major changes are the entry of Indonesia, Korea, Iran, and Nigeria in the new list in place of Italy, Malaysia, France, and Australia. If we see the share of the top 15 countries of 2000-1 today it is 59.6 per cent while the share of today's top countries in 2000-1 was 55.5 per cent. An interesting development in the direction of India's trade is that the USA which was in first position in 2007-8 has been relegated to third position in the following years, with the UAE becoming India's largest trading partner, followed by China. This position continued from 2008-9 to 2010-11.

India's trade deficit as a per cent of GDP at 5.7 percent in 2010, is one of the highest. Among major countries, only two trading nations Hong Kong and UK have higher ratio than India. Export-import ratios reflecting bilateral trade balance show that among its top 15 trading partners, India had bilateral trade surplus with five countries, namely the UAE, USA, Singapore, the UK, and Hong Kong in 2008-9, 2009-10, and 2010-11. An interesting point to be noted is that India has trade surplus with the UAE from which it imports large quantities of oil, while it has a high trade deficit with similar oil exporters like Saudi Arabia, Iran, and Nigeria.

However, in the first half of 2011-12 (April-September), India's trade surplus with the UAE has turned into deficit, though very low, due to the rising oil prices.

Another important trend is the high trade deficit of India with China and Switzerland which increased from US$ 19.2 billion and US$14.1 billion in 2009-10 respectively, to US$ 23.9 billion and US$ 24.1 billion in 2010-11 and further to US$ 20 billion and US$ 14.8 billion in the first half of 2011-12. The reasons for this are the rising imports of machinery from China and gold from Switzerland. The above analysis indicates the need for a more focused strategy with respect to bilateral balance of trade.

Region-wise, India's diversification in exports is evident from the fact that the share of Asia and ASEAN increased from 38.7 per cent in 2000-1 to 56.2 per cent in 2010-11, while the share of Europe and the USA fell from 46.9 per cent to 30.8 per cent during the same period. The UAE has displaced the USA as the topmost destination of India's exports in 2008-9 and continues to be in the top position in 2009-10, 2010-11, and first half of 2011-12 with export shares of 13.4 per cent, 13.7 per cent, and 11.9 per cent respectively. India's exports to all the top three destinations, i.e. the UAE followed by the USA and China, registered growth of 43.3, 30.8, and 69.1 per cent in 2010-11 and 21.9 per cent, 40.7 per cent, and 34.2 per cent in the first half of 2011-12 respectively.

Asia and ASEAN continued to be the major source of India's imports. The composition of imports in the first half of 2011-12 compared to 2000-1 shows a rise in share of Asia and ASEAN from 28.6 per cent to 61.5 per cent and fall in share of Europe and the USA from 27.5 and 5.7 per cent to 18.6 and 4.7 per cent respectively. Country-wise, China remained the largest source with an 11.7 per cent share in India's total imports followed by the UAE (7.6 per cent), Switzerland (6.6 per cent), Saudi Arabia (6 per cent), and the USA (4.7 per cent) in 2011-12 (April-September). Among the top 15 trading partners, India's imports from Nigeria, Switzerland, and Indonesia registered a growth of above 60 per cent in 2011-12 (April-September) due to imports of crude oil, gold and silver, and edible oils along with crude oil respectively. However, India's imports from Iran, the USA, the UAE, and Belgium registered low growths.

INDIA'S SERVICES TRADE

For more than a decade, Indian growth story has been dominated by the services sector. This domination was also evident from the trend in export of services (receipts) which grew at a CAGR of 23.4 per cent during 2000-1 to 2010-11 while merchandise exports grew at a CAGR of 18.6 per cent during the same period. Having recorded a contraction of 9.4 per cent in 2009-10 due to the global financial crisis, services exports bounced back to grow by 38.4 per cent to US$ 132.9 billion in 2010-11.

However, growth in exports of services moderated during the first half of 2011-12 to 17.1 per cent compared to 32.7 per cent during the first half of 2010-11. While growth in exports of travel, transportation, and insurance services was higher 2010-11, overall growth moderation in services exports in the first half of 2011-12 was due to low export growth (10.7 per cent) of miscellaneous services which accounted for nearly 72 per cent of total services exports.

Within miscellaneous services, non-software services exports had negative growth of - 6.3 per cent. Growth in exports of business services, which are the major component of nonsoftware services, registered a sharp deceleration in export growth from 111.4 per cent in the first half of 2010-11 to 0.3 per cent in the first half of 2011-12 reflecting the slowdown in business activity in the world economy. Exports of financial services declined by 6.7 per cent in the first half of 2011-12 as against an increase of 64.9 per cent in the first half of 2010- 11, which is again a reflection of the impact of the current financial crisis in European countries.

However, software exports which account for nearly 45 per cent of total services exports, continued to remain buoyant at US$ 30.8 billion and grew by 24.1 per cent in the first half of 2011-12. As per NASSCOM, software exports are likely to grow at 11-14 per cent in 2012-13. Going forward, if the euro zone debt crisis remains unresolved and the contagion impact spreads to other advanced countries, companies in the US and EU countries could reduce their information technology (IT) budgets which can affect the prospects of India's software exports.

Foreign Trade Policy Measures in 2011-12

Some important Trade Policy and facilitation measures are the following:

Trade Policy Measures

- The Duty Entitlement Pass Book (DEPB) scheme was discontinued with effect from 30-09-2011. Since a Duty Drawback Scheme was already in existence, the erstwhile DEPB products were incorporated in the Duty Drawback Schedule (DDS) 2011-12 with effect from 01-10-2011. Approximately 1100 additional entries were made in the DDS for those erstwhile DEPB products that were not already specifically mentioned in the DDS. Appropriate rates of duty drawback were provided across the DDS. These range from 1 per cent to 17 per cent of FOB value. Many of the export goods with duty drawback rates more than 3 per cent have been provided with drawback caps.

- Special Bonus Benefit Scheme, within the Focus Product Scheme, covering 49 products in Engineering, Pharmaceutical and Chemical sectors, was introduced to provide special assistance @1 per cent of FOB value of exports for 6 months from 1.10.2011 to 31.3.2012.
- Special Focus Market Scheme, within the Focus Market Scheme, for exports to 41 countries. (12 from Latin American region, 22 from African region and 7 from CIS region) introduced with a view to increase the competitiveness of exports with a geographical targeting. The scheme provides additional 1 per cent duty credit when exports are made to these countries resulting in total duty credit scrip @4 per cent of the FOB value of exports.
- To help Apparel exports, MLFPS has been extended to all items covered under Chapters 61 and 62 of ITC HS Classification entitling them with duty credit @ 2 per cent of FOB value of exports when these products are exported to USA and EU during 2011-12.
- About 130 additional items mainly from Chemical/ Pharmaceuticals, Textiles, Handicrafts, Engineering and Electronics sectors have been included in the FPS for duty credit scrip @ 2 per cent of FOB value of exports for exports made with effect from 1.4.2011.
- The list of items under MLFPS has been extended to cover new items to specified countries and entitled to get duty credit scrip @ 2 per cent of FOB value of exports. These include Agricultural tractors> 1800cc capacity to Turkey and
- sugar machinery & high-pressure boilers to Brazil, Kenya, South Africa, Tanzania and Egypt. The scheme has also been extended to all existing MLFPS Countries for printing inks, writing ink, etc.
- Status Holders Incentive Scrip extended for 2012-2013.
- The towns of Firozabad for glassware, Bhubaneswar for marine products and Agartala for bamboo and cane
- products have been notified as towns of export excellence.

Trade facilitation measures:

- Filing of applications for various authorizations through EDI mode has been made mandatory in almost all schemes.
- 24 out of 37 EPCs have registered on DGFT's website for uploading of Registration cum Membership Certificate (RCMC) data. This would avoid repetitive filing of RCMC hard copies, eliminate redundancy and reduce transaction cost.
- Two additional banks namely (i) Bank of Baroda (ii) United Bank of India, have been included for Electronic Fund Transfer (EFT) facility for DGFT users in addition to the existing 11 banks.
- An offline data entry module has been provided for Advance Authorization and EPCG applications in August, 2010 to provide flexibility in filing applications by exporters, and reducing online server time which would improve efficiency and reduce cost.
- 'On-line' filing of Importer Exporter Code (IEC) application and processing has been initiated with effect from 1.1.2011. The linkage of on-line IEC filing and issuance system with the PAN data base through National Securities Depository Limited (NSDL) for on-line PAN validation is being integrated.
- As of now the message exchange with Customs is implemented for advance authorization, EPCG and Duty Free Import Authorization (DFIA). The message exchange is being extended to other schemes also i.e. annual advance authorization, annual EPCG, SFIS and SHIS.
- A Software system for 'on-line' filing of Policy Relaxation Committee (PRC) cases, it's processing and status tracking has been developed.
- A web based Tracking and Monitoring package for advance authorization and EPCG authorization has been uploaded on the DGFT's website, the access of which will be available to all Regional Licencing Authorities (RLAs) for monitoring of export obligation.
- DGFT has also become India's first digital signature enabled department in government of India, which has introduced a higher level of Encrypted 2048 bit Digital Signature. The 2048 bit DSC's

have been issued to all offices.

General Anti Avoidance Rules- GAAR

Tax Avoidance is an area of concern across the world. The rules are framed in different countries to minimize such avoidance of tax. Such rules in simple terms are known as " General Anti Avoidance Rules" or GAAR. Thus GAAR is a set of general rules enacted so as to check the tax avoidance.

News for GAAR has been in prominence in last few years as Indian Government has taken initiative to introduce GAAR or General Anti Avoidance Rules with a view to increase tax collections.

Background for GAAR :

Lord Tomlin has said "Every man is entitled to order his affairs so that tax attaching under the appropriate Acts is less than it otherwise would be" (IRC v Duke of Westminster). People adopt various methods so that they can reduce their total tax liability.

The methods adopted to reduce their tax liability can be broadly put into four categories : "Tax Evasion"; "Tax Avoidance", "Tax Mitigation" and "Tax Planning". The difference between these four methods some times becomes blurred owing to the perception of the tax authorities and / or tax payer.

Tax Evasion : Tax Evasion term is usually used to mean 'illegal arrangements where liability to tax is hidden or ignored i.e. the tax payer pays less than he is legally obligated o pay hy hiding income or information from tax authority. Thus, here the tax liability is reduced by "illegal and fraudulent" means.

Tax Avoidance : Tax Avoidance refers to the legal means so as to avoid or reduce tax liability, which would be otherwise incurred, by taking advantage of some provision or lack of provision in the law. Thus, in this case tax payer tries to reduce his tax liability but here the arrangement will be legal, but may not be as per intent of the law. Thus, in this case, tax payer does not hide the key facts but is still able to avoid or reduce tax liability on account of some loopholes or otherwise.

Tax Mitigation : "Tax Mitigation" is a situation where the taxpayer takes advantage of a fiscal incentive afforded to him by the tax legislation by actually submitting to the conditions and economic consequences that the particular tax legislation entails. A good example of tax mitigation is the setting up of a business undertaking by a tax payer in a specified area such as Special Economic Zone (SEZ).

Tax Planning : Tax Planning is defined as "arrangement of a person's business and / or private affairs in order to minimize tax liability".

Conclusion : The above four terms certainly cover four different set of situations, but can be a bit confusing for a person who is not well versed in tax issues and legal matters. Sometimes there is a very thin line between these two terms, and in view of the perceptions of tax authorities and tax payer, there may be confrontation as perception of tax authorities that it is matter of tax avoidance and not tax mitigation or planning can lead to much higher taxes. In view of such thin line, GAAR has been under fire from the tax payers as tax authorities could misuse the provisions to harass the tax payers by including even the genuine cases of tax mitigation / planning to be methods for tax avoidance.

GAAR refers to the second category i.e. tax avoidance.

Difference between GAAR and SAAR :

Anti Avoidance Rules are broadly divided into two categories namely "General" and "Specific". Thus, legislation dealing with "General" rules are termed as GAAR, whereas legislation dealing with "Speicifc avoidnace are termed as "SAAR"

In India till recently SAAR was in vogue i.e. laws were amended to plug specific loopholes as and when they were noticed or were misused enmasse. However, now Indian tax authorities wants to move towards GAAR but are facing severe opposition as tax payers fear that these will be misused by tax authorities by giving arbitrary and wide interpretations. We can say SAAR being more specific provide certainty to taxpayers where as GAAR being general in nature can be misused and is subject to arbitrary interpretation by tax authorities.

GAAR Definition :

GAAR is a concept which generally empowers the Revenue Authorities in a country to deny the tax benefits of transactions or arrangments which do not have any commercial substance or consideration other than achieving the tax benefit. Whenever revenue authorities question such transactions, there is a conflict with the tax payers. Thus, different countries started making rules so that tax can not be avoided by such transactions. Australia introduced such rules way back in 1981. Later on countries like Germany, France, Canada, New Zealand, South Africa etc too opted for GAAR. However, countries like USA and UK have adopted a cautious approach and have not been aggressive in this regard.

Thus, in nutshell we can say that GAAR usually consists of a set of broad rules which are based on general principles to check the potential avoidance of the tax in general, in a form which can not be predicted and thus can not be provided at the time when it is legislated.

GAAR in India

In India, the real discussions on GAAR came to light with the release of draft Direct Taxes Code Bill (popularly known as DTC 2009) on 12th August 2009. It contained the provisions for GAAR. Later on the revised Discussion Paper was released in June 2010, followed by tabling in the Parliament on 30th August, 2010, a formal Bill to enact the law known as the DirectTaxes Code 2010. The same was to be made applicable wef 1st April, 2012. However, owing to negative publicity and pressures from various groups, GAAR was postponed to at least 2013, and was likely to be introduced alongwith the Direct Tax Code (DTC) from 1st April 2013. Moreover, an Expert Committee has been set by Prime Minister (Manmohan Singh) in July 2012 to vet and rework the GAAR guidelines issued in June 2012. The latest reports (September 2012) indicates, it may not be implemented even for 3 years i.e. this will be postponed for 3 years (2016-17).

Basic Criticism of GAAR

Many provisions of GAAR have been criticised by various people. However, the basic criticism of GAAR provisions is that it is considered to be too sweeping in nature and there was a fear (considering poor record of IT authorities in India) that Assessing Officers will apply these provisions in a routine manner (or read misuse) and harass the general honest tax payer too. There is only a fine distinction between Tax Avoidance and Tax Mitigation, as any arrangement to obtain a tax benefit can be considered as an impermissible avoidance arrangement by the assessing officer. Thus, there was a hue and cry to put checks and balances in place to avoid arbitrary application of the provisions by the assessing authorities. It was felt that there is a need for further legislative and administrative safeguards and at least a minimum threshold limit for invoking GAAR should be introduced so that small time tax payers are not harassed.

Two Examples to Understand GAAR provisions :

Example 1:

Facts:

A business sets up an undertaking in an under developed area by putting in substantial investment of capital, carries out manufacturing activities therein and claims a tax deduction on sale of such production/manufacturing. Is GAAR applicable in such a case ?

Interpretation:

There is an arrangement and one of the main purposes is a tax benefit. However, this is a case of tax mitigation where the tax payer is taking advantage of a fiscal incentive offered to him by submitting to the conditions and economic consequences of the provisions in the legislation e.g., setting up the business only in the under developed area. Revenue would not invoke GAAR as regards this arrangement.

Example 2:

Facts:

A business sets up a factory for manufacturing in an under developed tax exempt area. It then diverts its production from other connected manufacturing units and shows the same as manufactured in the tax exempt unit (while doing only process of packaging there). Is GAAR applicable in such a case ?

Interpretation:

There is an arrangement and there is a tax benefit, the main purpose or one of the main purposes of this arrangement is to obtain a tax benefit. The transaction lacks commercial substance and there is misuse of the tax provisions. Revenue would invoke GAAR as regards this arrangement.

SHOME COMMITTE

In October 2012, the Shome Committee submitted a draft report on retrospective amendments relating to indirect transfers.The Committee was asked to analyze the amended Section 9 of the Finance Act 2012 – which says transactions between non-residents involving underlying assets in India should be taxable in India with retrospective effect from April 1, 1962. This amended Section makes several transactions such as the Hutch-Vodafone one taxable in India.

Summary of Shome Committee Recommendations:

- Retrospective application of tax should occur in exceptional or rarest of rare cases and with particular objectives
- It should not be done to expand the tax base, nor done without stakeholder consultations
- That the retrospective amendments in finance act 2012 - relating to indirect transfers, are not clarificatory and instead an effort to widen the tax base
- These amendments should be applied prospectively after introducing clear definitions
- If the government must impose them retrospectively then they should apply only to the seller and not to the buyer & no interest should be charged nor penalty levied
- The committee has also made recommendations on what types of indirect transfers should be taxed, whether retrospectively or prospectively; for instance
- Only those transactions where at least 50% of the underlying assets are in India should be considered
- Only capital gains attributable to the India assets should be taxed
- Transactions involving the transfer of less than 26% voting power should not be considered
- Foreign companies listed on a recognised stock exchange and whose shares are frequently traded should be exempt
- FII and some types of private equity transactions should be exempt
- And treaty exemptions should be respected

Note: Final decision on GAAR's provision with respect to this committees recommendations are awaited

A short summary of the Eurozone Crisis

The eurozone crisis: The eurozone (a currency union of 17 European countries) has been going through a major crisis which started with Greece but spread rapidly to Ireland, Portugal, and Spain and subsequently Italy. While it got sparked off by fear over the sovereign debt crisis in Greece, it went on to impact the peripheral economies as well, especially those with over-leveraged financial institutions. These economies (especially Greece) have witnessed downgrades in the ratings of their sovereign debt due to fears of default and a rise in borrowing costs.The sovereign debt crisis has made it very difficult for some of these countries to re-finance government debt. The banking sector in these countries also stands adversely affected.

Good times: After the launch of the euro, the eurozone witnessed not only a decline in long-term interest rates (especially from 2002 to 2006), but an increasing degree of convergence in the interest rates of member countries. A common currency, similar interest rates, and relatively strong growth provided a basis for a rise in public and private borrowing with crossborder holdings of sovereign and private debt by banks.

Trigger: In the aftermath of the global financial crisis in 2008, sovereign debt levels started to mount. The revelation that the fiscal deficit in Greece was much higher than stated earlier set off serious concerns in early 2010 about the sustainability of the debt. The downgrade of ratings led to a spiral of rising bond yields and further downgrade of government debt of other peripheral eurozone economies as well, that had high public debt or a build-up of bank lending or both.

How it spread: Concerns intensified in early 2010 as cross-border holdings of sovereign debt and exposure of banks came to light. The financial markets quickly transmitted the shocks which not only led to a sharp rise in credit default swap (CDS) spreads but later impacted capital flows elsewhere.

Underlying weaknesses: The crisis has been difficult to resolve due to certain specificities:

- The eurozone lacks a single fiscal authority capable of strict enforcement;
- Economies with different levels of competitiveness (and fiscal positions) have a single currency;
- These economies cannot adjust through a depreciation of the currency;
- There is no lender of last resort, i.e. a full-fledged central bank.

Steps to resolve it: In May 2010, the European finance ministers agreed on a rescue package worth Euro 750 billion to ensure financial stability by creating the European Financial Stability Facility (EFSF). In October 2011, the eurozone leaders agreed to a package of measures that included an agreement whereby banks would accept a 50 per cent write-off of Greek debt owed to private creditors, an increase in the EFSF to about •1 trillion, and requiring European banks to achieve 9 per cent capitalization. The date for starting the European Stability Mechanism was brought forward to July 2012. To restore confidence in Europe, EU leaders also agreed to a fiscal compact with a commitment that participating countries would introduce a balanced budget amendment. In December 2011, the European Central Bank (ECB) took the step of offering a three-year long-term refinancing operation (LTRO) at highly favourable rates to alleviate funding stress which helped bring down the yields somewhat during January and February 2012. But overall uncertainty about the effectiveness of all these measures and how further resources would be raised, their adequacy, and doubts about sovereign debt levels coming down and the ability of Greece and other economies to undertake further fiscal austerity remain, especially due to the low-growth scenario.

The Euro zone and India: The eurozone, though distinct from the European Union (EU) is a major subset of the EU. The eurozone and EU account for about 19 and 25 per cent respectively of global GDP. The EU is a major trade partner for India accounting for about 20 per cent of India's exports and is an important source of foreign direct investment (FDI). The IMF has forecast that the eurozone is likely to go through a mild recession in 2012. A slowdown in the eurozone is likely to impact the EU and the world economy as well as India.

FDI BASICS (Q & A)

Q.1. What is the objective of FDI?

It is the intent and objective of the Government of India to attract and promote foreign direct investment in order to supplement domestic capital, technology and skills, for accelerated economic growth. Foreign Direct Investment, as distinguished from portfolio investment, has the connotation of establishing a 'lasting interest' in an enterprise that is resident in an economy other than that of the investor.

The Government has put in place a policy framework on Foreign Direct Investment, which is transparent, predictable and easily comprehensible. This framework is embodied in the Circular on Consolidated FDI Policy, which may be updated every year, to capture and keep pace with the regulatory changes, effected in the interregnum. The Department of Industrial Policy and Promotion (DIPP), Ministry of Commerce & Industry, Government of India makes policy pronouncements on FDt

Q.2. Who can invest in India?

A non-resident entity (other than a citizen of Pakistan or an entity incorporated in Pakistan) can invest in India, subject to the FDI Policy. A citizen of Bangladesh or an entity incorporated in Bangladesh can invest only under the Government route.

NRIs resident in Nepal and Bhutan as well as citizens of Nepal and Bhutan are permitted to invest in the capital of Indian companies on repatriation basis, subject to the condition that the amount of consideration for such investment shall be paid only by way of inward remittance in free foreign exchange through normal banking channels.

Q.3. How will FDI in retain sector benefit?

- Entry of global retail giants is likely to see new investment,
- In the short run, it has the potential to add 3-4 million new jobs
- Another 4-6 million jobs could be created in logistics, contract labour, house-keeping and security
- Expected to help develop logistics, cold chains, warehouses
- Government revenues could get an additional $ 24-30 billion through various taxes,
- Help reduce wastage of vegetables and other perishables and help in taming inflation,
- For Consumers it could mean savings of 5-1 0%
- May help farmers get 10-30% higher remuneration
- Add to economic growth

Q.4. What do the new rules say?

What is single Brand retail?

- Government has allowed 100% FDI in single-brand retail
- The foreign investor should be the owner of the brand
- Products to be sold should be of a 'single brand' only
- Products should be sold under the same brand name in one or more countries other than India
- Sourcing of 30 percent of the value of goods purchased will be done from India preferably from small and medium units, village and cottage industries, artisans and craftsmen
- Quantum of sourcing to be self certified, to be checked by statutory auditors.
- Retail trading, in any form, through e-commerce not allowed.

Q.5. What is Multi-Brand retail?

- Government allows 51 % FDI in multi-brand retail
- Minimum amount to be brought in as FDI by the foreign investor would be $100 million
- At least 50% of total FDI to be invested in back-end infrastructure in three years
- At least 30% of the value of procurement of manufactured! processed products shall be sourced from Indian small industries which have a total investment in plant and machinery not exceeding $1 million
- Retail sales outlets may be set up only in cities with a population of more than 10 lakh as per 2011 census and may cover an area of 10 Km around the municipal/urban limits of such cities
- Retail trading in any forms, by means of e-commerce would not be allowed
- Fresh farm produce, including fruits, vegetables, flowers, grains, pulses, fresh poultry, fishery and meat products may be unbranded
- Government will have the first right to procure farm products

Q.6 Why foreign retailers want to enter India?

- Large market, rising disposable incomes and spending power
- The estimated size of the Indian retail market is about $450 billion.

Q.7 What are the advantages and disadvantages of foreign direct investments?

advantages

- causes a flow of money into the economy which stimulates economic activity
- employment will increase
- long run aggregate supply will shift outwards
- aggregate demand will also shift outwards as investment is a component of aggregate demand
- it may give domestic producers an incentive to become more efficient
- the government of the country experiencing increasing levels of FDI will have a greater voice at international summits as their country will have more stakeholders in it

Disadvantages

- inflation may increase slightly
- domestic firms may suffer if they are relatively uncompetitive
- if there is a lot of FDI into one industry e.g. the automotive industry then a country can

become too dependent on it and it may turn into a risk that is why countries like the Czech Republic are "seeking to attract high value-added services such as research and development (e.g.) biotechnology)"

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Questions on India's Economic Interaction with the World (Prelims)

1. Which of the followign would include Foreign Direct Investment in India ? **(2012)**
   1. Subsidiaries of companies in India.
   2. Majority foreign equity holding in Indian companies.
   3. Companies exclusively financed by foreign companies.
   4. Portfolio investment.

   Select the correct answer using the codes given below
   (a) 1, 2, 3 and 4 (b) 2 and 4
   (c) 1 and 3 (d) 1, 2 and 3
2. Consider the following statements **(2012)**
   The price of any currency in international market is decided by the
   1. World Bank
   2. demand for godds/services provided by the country oncerned.
   3. stability of the government of the concerned country.
   4. economic potential of the country in question.

   Which of the statement(s) given above are correct ?
   (a) 1, 2, 3 and 4 (b) 2 and 3
   (c) 3 and 4 (d) 1 and 4
3. Both Foreign Direct Investment (FDI) and Foreign Institutional Investor (FII) are related to investment in a country. Which one of the followign statements best represents an important difference between the two? **(2011)**
   (a) FII helps bring better management skills and technology6, while FDI only brings in capital
   (b) FII helps in increasing capital availability in general, while FDI only targets specific sectors.
   (c) FDI flows only into the secondary market, while FII targets primary market
   (d) FII is considered to be more stable than FDI
4. With reference to the National Investment Fund to which the disinvestment proceeds are routed, consider the following statements: **(2010)**
   1. The assets in the National Investment Fund are managed by the Union Ministry of Finance.
   2. The National Investment Fund is to be maintained within the Consolidated Fund of India.
   3. Certain Asset Management Companies are appointed as the fund managers.
   4. A certain proportion of annual income is used for financing select social sectors.

   Which of the statements given above is/are correct ?
   (a) 1 and 2 (b) 2 only
   (c) 3 and 4 (d) 3 only
5. A great deal of Foreign Direct Investment (FDI) to India comes from Mauritius than from many major and mature economies like UK and France. Why ? **(2010)**
   (a) India has preference for certain countries as regard receiving FDI
   (b) India has double taxation avaoidance agreement with Mauritius
   (c) Most citizens of Mauritius have ethnic identity with India and so they feel secure to invest in India
   (d) Impending dangers of global climatic change prompt Mauritius to make huge investments in India.
6. One of the important goals fo the economic liberalisation policy is to achieve full convertibility fo the Indian rupee. **(1996)**
   (a) convertibility fo the rupee will stabilize its exchange value against major currencies of the world.
   (b) it will attract more foreign capital inflow in India
   (c) it will help to promote exports
   (d) it will help India secure loans from the world financial markets at attractive ter5ms
7. Consider the following items imported by India: **(1996)**
   1. Capital goods
   2. Petroleum
   3. Pearls and precious
   4. Chemicals
   5. Iron and Steel

   The correct sequence of the decreasing order of these items (as per 94-95 figures), in terms fo value is:
   (a) 1, 2, 3, 4, 5 (b) 1, 2, 4, 3, 5
   (c) 2, 1, 3, 4, 5 (d) 2, 1, 4, 5, 3
8. The Capial Account Convertibility of the Indian Rupee implies: **(1998)**
   (a) that the Indian Rupee can be exchanged by the authorized dealers for travel

(b) That the Indian Rupee can be exchanged for any major currency for the purpose of trade in goods and services
(c) that the Indian Rupee can be exchanged for any major currency for the purpose of trading financial assets
(d) None of the above

9. **Assertion (A):** Devaluation of a currency may promote export.
Reason (R): Price of the country's products in the international market may fall due to devaluation. **(1999)**
(a) Both A and R are true and R is the correct explanation of A
(b) Both A and R are true but R is not a correct explanation of A
(c) A is true but R is true
(d) A is false but R is true

10. Economic liberalisation in India started with: **(2000)**
(a) substantial changes in industrial licensing policy
(b) the convertibility of Indian rupee
(c) doing away with procedural formalities for foreign direct investment
(d) significant reduction in tax rates

11. Consider the following statements: **(2000)**
The Indian rupee is fully convertible:
1. in respect of Current Account of Balance of payment
2. in respect of Capital Account of Balance of Payment
3. into gold
Which of these statements is/are correct?
(a) 1 alone (b) 3 alone
(c) 1 and 2 (d) 1, 2 and 3

12. Consider the followign statements: **(2002)**
Full convertibility of the rupee may mean:
1. Its free float with other international currencies
2. Its direct exchange with any other international currency at any prescribed place inside and outside the country.
3. It acts just like any other international currency
Which of these statements are correct ?
(a) 1 and 2 (b) 1 and 3
(c) 2 and 3 (d) 1, 2 and 3

13. Consider the following statements: **(2003)**
1. The maximum limit of shareholding of Indian promoters in private sector banks in Indi is 49 percent fo the paid up capital
2. Foreign Direct Investment upto 49 percent from all sources is permitted in private sector banks in India under the automatic route
Which of these statements is/are correct?
(a) Obnly 1 (b) Obnly 2
(c) Both 1 and 3 (d) Neither 1 nor 2

14. With reference to Government of India's decision regarding Foreign Direct Investment (FDI) during the year 2001-02 consider the following statements: **(2003)**
1. Out of the 100% FDI allowed by India in the tea sector the foreign firm would have to disinvest 33% of the equity in favour of an Indian partner within four year.
2. Regarding the FDI in print media in India, the single largest Indian shareholders should have a holding higher than 26%
Which of these statements is/are correct?
(a) Only 1 (b) Only 2
(c) Both 1 and 2 (d) Neither 1 nor 2

15. Which one of the following statement is correct with reference to FEMA in India? **(2003)**
(a) The Foreign Exchange Regulating Act (FERA) was replaced by Foreign Exchange Management Act (FEMA) in the year 2001
(b) FERA was given a sunset clause of one year till 31st May, 2002 to enable Enforcement Directorate to complete the investigation of pending issues
(c) Under FEMA, violation of foreign exchange rules has ceased to be a criminal offence
(d) As per the new dispensation, Enforcement Directorate can arrest and prosecute the people for the violation of foreign exchange rule

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Questions on India's Economic Interaction with the World (Mains)

Question 1. What are the major components of our total foreign exchange reserves? **(1986)**

Question 2. Are there good reasons behind the suggestion that in the new programme of economic liberalization, India should go slow in the matter of 'exit policy'? (About 250 words) **(1992)**

Question 3. What is Partial Convertibility of rupee? What are its basic objectives ? How is it going to benefit the Indian economy? **(1992)**

Question 4. Discuss the main issues involved in the provisions regarding the Trade Related Intellectual Property Rights in the DUNKEL Draft Text, in relation to India. (About 250 words) **(1993)**

Question 5. What measures have been taken by the Government of India to attract direct foreign investment, as a part of the new strategy of Industrial Development in India? **(1993)**

Question 6. What does SDR stand for ? How are the countries benefited by it ? **(1993)**

Question 7. Explain the concept of 'global village'. **(1994)**

Question 8. What is Marraesh Declaration? **(1994)**

Question 9. What is innovation? What kind of economic compulsions in a country like India, you think, could really stimulate innovations? **(1994)**

Question 10. Differentiate between Trade and Balance of Payments. **(1996)**

Question 11. What is Multilateral Agreement on Investment ? How will it affect the economy of a developing country. like India? (About 250 words) **(1999)**

Question 12. Discuss the reasons for the failure of the Seattle Millennium talks on the WTO (World Trade Organisation). Discuss some implications of this failure for the Indian economy. **(2000)**

Question 13. Liberalisation of the Indian economy since 1991 has led to excessive consumerism and over-production of 'white goods'. Elucidate. **(2001)**

Question 14. What do you understand by "Current Account Convertibility of Rupee"? **(2001)**

Question 15. What is meant by "Most Favoured Nation" policy ? **(2001)**

Question 16. The main thrust of Export-Import Policy 2002 - 07 is on creating a framework for enhancing India's export capability. In the light of this statement outline the salient features of EXIM Policy 2002 07. **(2002)**

Question 17. Outline the main objectives and achievements of the policy of disinvestment in India. **(2002)**

Question 18. Explain RBI's 'Automatic route' in FDIs. **(2002)**

Question 19. What do you understand by 'Capital Account Convertibility' of Rupee? **(2002)**

Question 20. Point out the measures undertaken towards flexibility in capital account transactions during the recent past. **(2003)**

Question 21. Why did India have a surplus in current account balance in 2001-02 after a gap of 24 years? **(2003)**

Question 22. Name the two agencies that have helped to promote Foreign Direct Investment (FDI) in India. **(2003)**

Question 23. What are the major provisions of Agreements on Agriculture in the context of World Trade Organisation? **(2004)**

Question 24.	Elucidate Special Drawing Rights.	**(2004)**
Question 25.	What is Business Process Outsourcing (BPO)?	**(2004)**
Question 26.	Write about: Full convertibility.	**(2005)**
Question 27.	What is the role of external financial assistance in Indian economy?	**(2005)**
Question 28.	What is Euro-control?	**(2005)**
Question 29.	What is the concept of copyleft?	**(2008)**
Question 30.	Explain full convertibility of Indian Rupee.	**(2006)**
Question 31.	Write about Business Process Outsourcing in 20 words.	**(2006)**
Question 32.	Discuss the importance of World Trade Organisation (WTO) to Indian economy in the light of various opportunities and challenges at the global level.	**(2006)**
Question 33.	Examine the effects of globalisation on poverty removal in India.	**(2006)**
Question 34.	What is Agri - Trade ?	**(2006)**
Question 35.	What are non-factor services in India's balance of payments ?	**(2006)**
Question 36.	What is Dumping ? Evaluate the remedial measures taken by Government of India vis-a-vis WTO provisions regarding dumping. (250 words)	**(2007)**
Question 37.	Explain the term Balance on Current Account.	**(2007)**
Question 38.	Explain the term Most Favoured Nations.	**(2007)**
Question 39.	Assess the performance of India in attracting Foreign Direct Investment (FDI). (250 words)	**(2008)**
Question 40.	Discuss: Convertibility of Indian Rupee. (150 words)	**(2008)**
Question 41.	Discuss : India on Global Competitivehess Index - 2007. (150 words)	**(2008)**
Question 42.	Write about the following (answer to each question in about 20 words): (a) Special Drawing Rights (SDRs) (b) NAMA (c) Non-tariff trade barriers (d) Current Account Balance (e) Free Trade Area	**(2008)**
Question 43.	"Foreign investment is far from being critical to India's economic growth:' Comment.	**(2009)**
Question 44.	"The lesson of the current global financial crisis is that India should halt and may be even reverse financial liberalisation." Comment.	**(2009)**
Question 45.	Critically assess the recent Free Trade Agreement entered into by India with AS EA N.	**(2009)**
Question 46.	Bring out the sectoral and state-wise distribution patterns of Foreign Direct Investment (FDI) inflows into the country.	**(2010)**
Question 47.	Bring out the FDI and employment implications of China being a manufacturing hub and India a services hub?	**(2010)**
Question 48.	What is 'Round Tripping' in the context of FDI inflow, and why it has been in the news recently in the case of India?	**(2010)**
Question 49.	Bring out the importance of the 'Small and Medium Enterprises Expo and Conference' held in Dubai last year for Indian business.	**(2011)**

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ANSWERS (PRELIMS)

Answer 1: (d) **Exp:** Foreign investment in Indian companies considered as FDI for the purpose FDI limits of the government only if the foreigners hold both majority ownership of shares and control over management in the company according to the rule changes which were made in 2009. The first three optionss atisfy this condition however in case of portfolio investment the foreign ownership can be as low as 1% and so it is not considered as FDI.

Answer 2: (b) **Exp:** Price of currency in case of floating currency is decided y the inflow and o9utflow of foreign exchange from a country. This depends on the demand for goods/ services of the country which bring in additions foreign exchange as also the stability of the government which can attract or repel foreign investors. The World Bank is a development institution and it has no role in pricing of currency. Economic potential of a country does not tell us anything about inflow and outflow of foreign funds.

World Bank is a development institution andit has no role in currency pricing.

Answer 3: (b)

Answer 4: (c) State Bank of India (SBI), Unit Trust of india (UTI), LIC, AMCs to act as fund managers. These are the assets managementc ompanies appointed as the fund managers by the Government fo India. About 75% of Income from the fund will go to social sector:

Answer 5: (b) India has a double tax avoidance treaty with Mauritius. Investors from Mauritius are exempted from tax in India and the tax rates are very low in Mauritius. So it is fovourable for investors to get registered in Mauritius and than invest in India as an entity from Mauritius. This investment is not from Mauritius but through Mauritius.

Answer 6: (a) The fully convertibility of Indian rupee refers to the capital account convertibility of Indian Rupee Fully convertibility of rupee means that foreign exchange rat would be determined through the market forces of demand and supply. It facilitates the foreign exchange supply through the market forces and it will stablize the exchange value or rupee against other currencies.

Answer 7: (b) **Exp:** The correct sequence of the decreasing order of these items (as per 94-55 figures) in terms of value is:

(1) Capital goods
(2) Petroleum
(3) Chemicals
(4) Pearls and precious stones
(5) Iron and steel

Answer 8: (c) **Exp:** The Capital Account Convertibility of the Indian Rupee implies that the Indian Rupee can be exchanged for any major currency for the purpose of trading Financial assets.

Answer 9: (a) **Exp:** Both Assertion and Reason are correct, and Reason is the correct explanation of Assertion, Devaluation of a currency promote export, because it reduces the price of domestic product in the international market, but it will not successful if there is elastic demand for the domestic product in the international market.

Answer 10: (a) **Exp:** Economic liberalization in India started with the industrial de-licensing, foreign investment, public sector related policy and policy related to the foreign technology and RTP Act.

Answer 11: (a) **Exp:** The Indian rupee is fully convertible in respect of Current Account of the

		Balance of Payment. Tarapor Committee has given the recommendation to make fully convertibility of rupee.
Answer	**12: (a)**	**Exp:** When domestic currency float freely with other international currencies for the foreign exchange transaction it will called fully converliable currency. Tarapoor has given the recommondation for fully covertible rupee. Indian rupee is convertible on only current acount of balance of payment.
Answer	**13: (b)**	
Answer	**14: (c)**	
Answer	**15: (c)**	**Exp:** Statement a, b and d are not correct, but statement 'c' is correct.

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EXTRA NOTES