



Summary

21st October, 2020

ROAD TO RECOVERY - TAX PLANNING

‘Uncertainty’ is the apt word for the year 2020. A declared pandemic and nationwide lockdown has completely changed the way businesses are done, and tax costs, being an integral part of overall cash management, is not left untouched. In the second webinar of the series “Road to Recovery” on the subject of “Tax Planning – Gearing up for the future”, accomplished tax panelists comprising Mr. Sanjiv Choudhary - Member IESBA, Mr. Raj Gandhi - Varun Beverages, Mr. Somyajit Mallick - Airbus Group, Mr. Arvind Singal - RBS Services India and Mr. Sunil Arora - Tax Partner ASA, shared insightful views on various tax impact areas including Transfer Pricing, Vivad Se Vishwas Scheme, Faceless Assessments and Tax Technology.

Sanjiv kicked off the discussion with his views on how the entire business and tax environment has undergone drastic changes over past six months, forcing organizations to evolve adequate survival and revival strategies. On this, Raj highlighted that his company had primarily survived due to effective cost reductions coupled with prudent market supplies (with zero write-offs) and revival plans including liquidity management through renegotiated lending terms. Sunil shared that over the past six months, the tax clients grappled with mixed issues ranging from tax residency of stranded expats, Forced PE, PoEM, Dividend tax, Equalization Levy etc.

Sanjiv took up **Transfer Pricing** (“TP”) as a major focus area due to business disruption. Arvind concurred that TP policies should be relooked considering issues such as revision of mark-up for captive centers, revisiting intra group credit terms, absence of reliable comparable data and need for renegotiation of APAs to capture the pandemic impact. Somyajit highlighted on adoption of cost containment measures to avoid business existence risks, a relook upon the entire supply chain management and careful examination of the “force majeure” clause even between related entities. Sunil emphasized that the MNEs must re-examine their TP policies / inter-company arrangements

and maintain robust documentation to safeguard against future tax scrutiny. He also suggested that the companies should outline the impact of Covid-19 on the FAR and profitability in their TP documentation.

Somyajit mentioned that the recent dispute resolution mechanism i.e. **VSVS** can be resorted by companies aiming to achieve amnesty and respite from long drawn uncertain tax litigation, achieving certainty over tax costs, immunity from prosecution and penalty. In Sunil’s view, VSVS has attained popularity owing to Finance Ministry’s ambitious initiatives and attractive incentives to tax-payers in the form of cleaning up of balance sheets, release of blocked tax litigated amounts and a fast-track mechanism to buy peace and avoid protracted litigation.

Faceless Assessments is a paradigm shift from the traditional revenue audit process. Arvind applauded the initiatives taken by the Indian Govt., towards technology driven assessment with objectives of greater transparency and efficiency. However, he expressed apprehensions on complexities arising on the handling of high-pitched tax assessments by multiple tax officers which may result into unintended litigation. Taking a cue from this, Raj also endorsed the view and suggested that the Finance Ministry should come out with proper FAQs and clarifications on this matter. He also advised that there is a need for agile tax teams who could coordinate with various finance / business functions and also remain abreast with the fast-changing tax / regulatory developments.

This pandemic has accelerated the **use of technology** in every aspect of business functioning and tax cannot be an exception. The panelists unanimously agreed that considering the changing business dynamics, and the Government’s digital thrust, it is imperative for businesses to embrace technology in the tax functions, not just to sail through compliances but to derive value of the tax function in mainstream decision making.