TAX EVASION AND CORPORATE GOVERNANCE IN MODERN TAX REGIME IN INDIA

[1] Mr. H. P. Sachin, [2] Dr. T. S. Devaraja
[1]Research Scholar, [2]Associate Professor and Co-ordinator
[1 and 2]Department of Studies in Commerce, Hemagangotri,
[1 and 2]Post Graduate Centre, University of Mysore, Hassan- 573226, Karnataka, India.

ABSTRACTL: This paper highlights the concept of governance and evasion of tax and it's technical & practical imbalances in practice. It's major focus on conceptual base of study with committee reviews and recommendations. The tax evasion and accumulation of black money has interrelated and not a new issue. During the period of 1940-50's the tax evaded incomes finding their place especially in the Swiss Bank Accounts, later on in different countries financial collaborations with benami transactions.

CBDT (Central Board of Direct Taxes) is a statutory authority functioning across India. The study has made an attempt to evaluate the process of black money, tackle of black money, techniques to avoid tax evasion to reduce black market transactions.The government of India already introduced various commissions for estimating black economy but estimation reports are not same. The paper recommends some important steps and guidelines to tackle and reduce the effect of black economy.

Corporate governance is an integral part of everyday business life and its importance expanded to global context. Corporate governance is unconditionally mandatory to the company itself, to directors, shareholders and other stakeholders and to an entire business community. The economic Impact on local and international communities affected through the corporate collapses. As a corporate entity it should get responsibility of collect taxes from its concerned parties and should remit taxes to tax authority without evading to the department.

Index Terms— Tax Evasion, Tax Avoidance, Governance, Committees.

I. INTRODUCTION

"A tax is a fine for doing right. A fine is a tax for doing wrong."

The confederation of Indian Industries published a "Desirable Code of Corporate Governance" in 1998 and a number of forward looking companies took its recommendations on board. The poor governance practices leads to financial reporting, their accountability and proper payment of due in terms of tax liability. Any company or corporate major responsibility is to make economy very productive and serving economy in a well manner to get boost. So, in this way the corporate body should hold its responsibility over its society. Any corporate can fulfill its responsibility through paying taxes properly and it should not to be avoid/evasion. Corporate governance comes to prominence in the business world as a new phenomenon of the last 2 decades. Even corporate governance includes a complex area including legal, cultural, ownership and other structural differences and focusing on share holder value and approach, interest of diverse groups like employees, creditors, suppliers, customers and local community.

Tax evasion has always been one of the most difficult challenges for government all round the world. Tax evasion is done by individuals belonging to different strata of the society in different ways. As per the surveys and reports, there are many people who provide false income details to the tax authorities to reduce the amount of liability considered as tax evasion. Tax evasion is one of the basic causes to generate the black income. Therefore, various measures were undertaken to plug the loopholes in tax evasion.

The corporate governance framework also depends on the legal, tax, regulatory, and institutional environment. In addition, factors such as business ethics and corporate awareness of the environmental and societal interests of the communities in which a company operates can also have an impact on its reputation and its long-term success. Corporate governance is an integral part of everyday business life and its importance expanded to global context. Corporate governance is unconditionally mandatory to the company. Tax management is a value-maximizing activity, given that the benefit is only realized in the long run and can be uncertain.

Over the past two decades of experience to address the problem of low tax revenue collected from profitable companies. The concept of Minimum Alternative Tax (MAT) was first introduced in 1983 in India. In the direct tax system MAT came to make sure that companies having large profits and declaring substantial dividends to shareholders, but not paying tax to the concerned government, by getting benefit from several incentives, deductions and exemptions available in Income Tax Act. Preparation of Financial statements as per the provisions of parts II & III of schedule VI of the Companies Act, 1956 and the proposed DTC is very clear that to continue with MAT. MAT not applicable on or after 1-4-2006 to any SEZ under section 115JB (6) of IT Act.

The base issues of this paper are pointed out as –

1. To investigate the need of governance and ethics in taxation.
2. To identify the evading of tax payment {Income tax, GST(excise duty, sales tax, stamp duty, etc)}
3. To measure evade of tax payment on ethical practice.
4. To study the relationship between corporate governance in case of taxes and economic development.
5. To study the need of corporate governance in proper payment of taxes.

II. REPORT REVIEWS:

Rangnekar's estimate

Dr. D.K. Rangnekar, a member of the Wanchoo Committee, dissented from the estimates made by the Wanchoo Committee. According to him, tax evaded income for 1961-62 was of the order of Rs.1,150 crore, as compared to Wanchoo Committee's estimate of Rs. 811 crore. For 1965-66, it was Rs.2,350 crore, against Rs.1,000 crore estimated by the Wanchoo Committee.

In 1973-74 - Chopra's estimate

Mr. O.P. Chopra, a noted Economist, published a series of papers on the subject of unaccounted income. He prepared a series of estimates of unaccounted income (black income) for a period of 17 years, i.e., 1960-61 to 1976-77. Chopra's methodology marked a significant departure from the Wanchoo Committee approach and as a consequence. The broad underlying assumptions of his methodology are:

(i) Only non-salary income is concealed.

(ii) Taxes other than income-tax are evaded and the study is restricted to only that part of income which is subject to income-tax. Thus, tax evasion which may be due to

(a) Non-payment or underpayment of excise duty,

(b) Sales-tax,

(c) Customs duties,

(d) Substituting agricultural income for non-agricultural income is not captured.

(iii) The efficiency of the tax administration remains unchanged.

In 2011 - Study commissioned by Government of India

The Government has commissioned fresh study on unaccounted income / wealth both inside and outside the country, bringing out the nature of activities engendering money 'laundering' and its ramifications on national security to be conducted by three national-level institutes, viz. National Institute of Public Finance and Policy (NIPFP), National Institute of Financial Management (NIFM) and National Council of Applied Economic Research (NCAER).

III. EVASION AND GOVERNANCE OF TAX

Good corporate governance is fundamental to good business. The importance of good corporate governance and greater transparency is highlighted by the current global financial crisis. How a large business manages tax risk can affect its financial performance and reputation. CEOs and Boards of large businesses are increasingly considering tax risk management as part of their overall corporate governance.

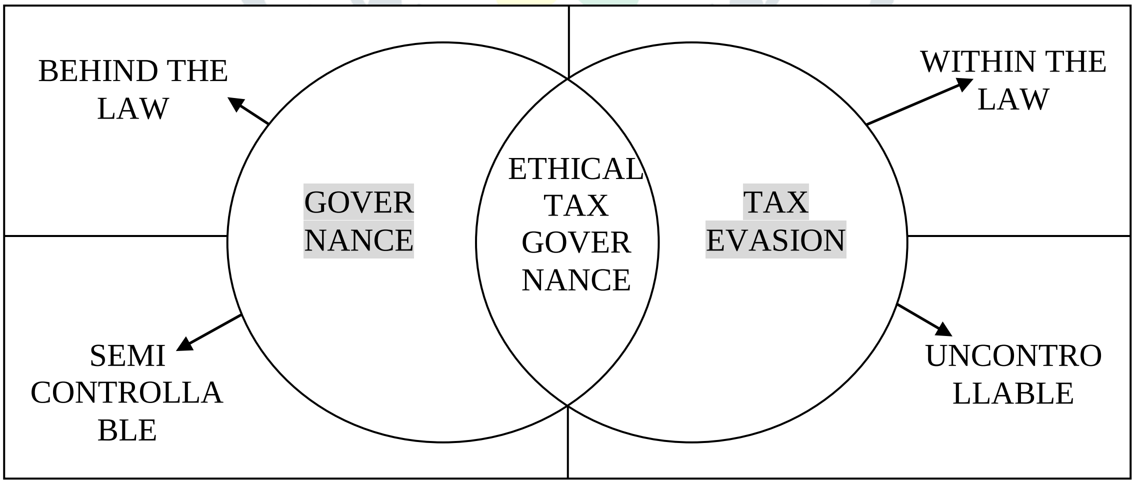
According to Shri Kumar Mangalam Birla "fundamental objective of corporate governance is the enhancement of the long term share holder value while at the same time protecting the interests of their stakeholders".

Milton Friedman, "Corporate governance is to conduct the business in accordance with owner or share holders' desire, which generally will be to make as much money as possible, while conforming to the basic rules of the society embodies in law and local customs".

The above definitions brings significant role of corporate governance even in modern corporatization. Adoption of corporate governance is needful to all areas viz., like marketing, finance, banking, insurance and so on. The one more area is that (taxation) tax governance. The recommendations of the Raja Chelliah in Chelliah Committee Report (1992), Presumptive tax schemes were start in India by finance Act – 1997. It is difficult for the tax authorities to measures verity, monitor and helps in combating tax avoidance or evasion. Corporate governance is all about ethical conduct of business.

Corporate governance is beyond the law. It deals with culture and mindset of the persons who engaged in the business activity. It deals with conducting the affairs of a company and there is fairness to all stakeholders. On the one side corporate governance is openness, integrity and accountability and on the other side taxation is a transparent, growth oriented and gather to gather with all aspects in the society. The past resulted scandals, crisis, recession and soon may also affects on development of the economy adversely for nonpayment of tax on the one side and several loop sticks in the tax regime.

FIGURE-1: GOVERNANCE AND EVASION OF TAX.



IV. ETHICS, GOVERNANCE AND TAX

In general, the effect of tax rules can be either to increase or lighten the after-tax cost of certain types of conduct, depending on the structure of the rules. The tax rules can thus have an implicit regulatory function which is similar in some respects to rules which are directly focused on corporate governance issues. This can happen in a number of different situations. Some tax rules are aimed directly at corporate governance issues.

Ethical issues in tax payment have several problems. Ethical problems are in two context overt and covert problems. Whether untaxed amount by a company or else deals with overt or convert problems in ethical background overt E P deals bribery, theft, collusion with transparent, clear and reprehensible, covert deals in corporate acquisitions, capital investments, market and personnel policies with clear, complex and have ethical solutions.

Corporate governance assures that corporations operate the benefit of society as a whole. Large profits can be made taking advantage of the asymmetry between stake holders in the shorefront, balancing the interests of all stakeholders alone will ensure survival growth and development in the long ran, so welfare and the environment accounts societal concern as C.S responsibility globalization is being derivers by the private sector and not by the public sector by companies and not by governments.

Corporate governance to serve all stake holders and society, nation, high level of accountability, clear transparency, values and best ethical practices, tax is the subject matter of transparent, value addition and accountability. The recent attention to corporate governance questions has raised some important issues concerning the interaction of corporate governance and taxation issues. There has been relatively little attention paid until recently to the relation between corporate governance and tax rules. This means that tax and governance principles can sometimes be operating in an incoherent fashion.

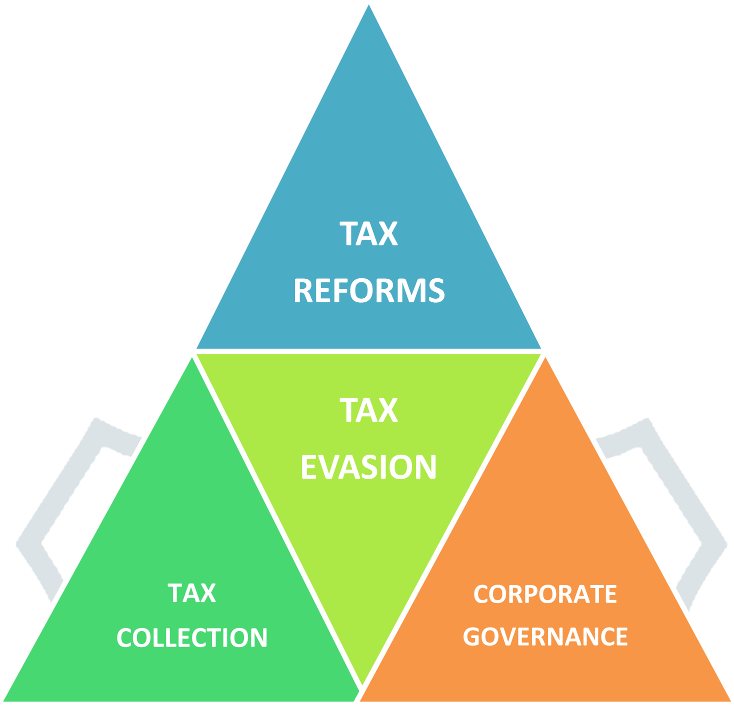


FIGURE-2: COMBINATION OF REFORMS, COLLECTION AND GOVERNANCE OF TAX TO TACKLE TAX EVASION.

V. MEASURES TO CHECK TAX EVASION

Dealing with tax evasion has always been one of the most difficult challenges for governments all round the world. The income tax evasion penalties can help the government recover maximum amounts in the form of tax and utilize the money for the benefit of the common public. Tax evasion is one of the basic causes to generate the black income. Therefore, various measures were undertaken to plug the loopholes in tax evasion. Most of these measures were based on the recommendations of various committees and commissions *viz* Taxation Enquiry Commission (1953), Administrative Reforms Commission (1969), Direct Tax Enquiry Committee (1971) etc. Most of these recommendations were an upgrading in tax laws (Charlie, 2010).

Government of India introduced commissions under Kaldor, Wanchoo, Rangnekar, Chopra, M C Joshi and Gupta, etc., for estimating black economy. But their estimations were not static and universe. Importantly all the committees focus on tax evading attitudes and highlighted on reducing tax evasion.

These issues have recently been highlighted by a series of corporate scandals in the US and Europe and by the aggressive promotion of tax shelters by some large accounting and law firms. Tax and corporate governance issues can intersect in several different contexts. One set of issues is how to ensure that tax does not encourage behaviour that is contrary to the interest of the company and/or of its shareholders. Another set of issues is how to ensure transparency and quality of management decisions in the tax area.

The so-called black box between governance and performance needs to be studied to determine how companies can improve performance. Examining the link between governance and tax planning is interesting for two reasons:

- First, tax planning can be complex and opaque. This possibly allows for managerial opportunism. Understanding the role that governance plays when there is an opportunity for managers to covertly take actions that benefit themselves versus shareholders can provide insight into how governance works.
- Second, tax planning involves significant uncertainty, and may not immediately benefit a company's performance. By understanding how governance is related to tax management, we garner a better understanding of how governance works in the long term as well as the short term.

VI. MAJOR FINDINGS

A good governance approach in relation to tax might include the following:

- Effective detection tools to identify black money
- Declare black money as national money.
- Create awareness of negative effects of black money to public.
- Fixation of Lower Income Tax rates.
- Rationalization of Tax rates.
- Tax exemption schemes for money brought back.
- Reduce tax rates and tax spending instead of income.
- Implementation of Voluntary Disclosure Schemes (VDS).
- A sound framework to manage tax risks and comply with tax obligations.
- A well resourced in-house tax capability.

- Capacity to regularly evaluate the effectiveness of tax governance systems.
- An effective tax risk mitigation capability including the business relationship with the applicable tax jurisdictions.

VII. RECOMMENDS

Corporate governance in case of taxes is to pay its dues in time to facilitate economic growth in a well-manner. Taxes may be direct or indirect. There are many factors like Controls and Licensing System, Higher Rates of Taxes, Ineffective Enforcement of Tax Laws, Inflation, Funding of political parties etc. that influence on the economy. There are many other interconnections of tax and governance issues to make clear that any serious consideration of corporate governance must take into account the tax dimension. As a corporate entity it should get responsibility of collect taxes from its concerned parties and should remit taxes to tax authority without evading to the department.

Income tax evasion is common in India. The reasons for it are high tax rates, corruption in public sector units, multiple tax rates and inefficient tax authorities. Finally the steps to tackle, measures and strategy for controlling and reducing black money reduction in tax rates, simplifications of tax laws, remove loopholes in the tax system for improving Indian tax compliance. So, there is a need for creating transparent, friendly and less discriminatory administrative system.

VIII. CONCLUDING REMARKS

Corporate governance is an area that has grown rapidly in the last few years. The effectiveness of any tax schedules and scheme depends on its comprehension and acceptance. India is one of the rapidly growing countries. Tax Revenue is the major source to India. But the taxpayer's percentage is very less. Even though, escaping from payment of tax by assesses results negatively impact on the economy and for revenue collection. Income Tax system has failed in fulfilling the needs and requirements. The reasons are high tax rates, insufficient disclosure procedures, unscientific methods while introducing new systems, etc.

The corporate line by MAT slim and beautiful in successfully running and even the new system will also do the same thing in different pattern. The problems of companies are that declaring high returns, but low or no tax payments (zero-tax companies). The scope of this study has been limited to understanding the awareness and perception of persons engaged in the business world on governance and tax. The defaults in the awareness practices about tax to the payers highlight their perceptions regarding the system and lead to suggestive policy measures for better impact on tax stream.

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