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MINIMUM ALTERNATE TAX:BOOK PROFIT BASED TAX OR ASSET BASED TAX?

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ABSTRACT

Minimum Alternate Tax is a tax paid by every company applicable to zero tax companies. In Income Tax Act, Sec 115JB explains about the zero tax companies. This paper discuss about the issues relating to the concept of MAT. The companies' obligation is to calculate tax under the provision of 115JB and as per the normal provision. The impact of book profit on companies and tax as per normal provision has huge variance, considered as zero tax companies. The paper focused on the controversial issue that imposing of tax on companies is discussed. The upcoming DTC discussion paper as expressed that the tax on companies should be based on its assets and not on book profits. In this paper secondary data has been used for the study. At present MAT was calculated as a percentage of book profit. The percentage was changed and revised from time to time to match the changing circumstances. Even though, after MAT there is no proper remedy to tax evasion. Some of the major challenges, precautionary measures and recommendations have been suggested.

KEYWORDS : Assets Tax, Book Profit, DTC, MAT, Tax Evasion, Zero Tax Companies.

Introduction:

Tax is imposition financial charge or other levy upon a taxpayer by a state or other the functional equivalent of the state. It is the amount of tax levied / collected etc. by the Government. **Taxation** is the process of tax collection. It covers all of the following: passing of the law by the parliament, making of rules by the Government, entire set of people appointed as tax commissioners, assessment; the appellate authorities & so on.

Minimum Alternate Tax is the tax paid by the companies even when they have zero or negative income as per the income tax provisions. The companies pay tax on the income calculated as per the provisions of the Income Tax Act. Because of this difference, there were many companies which had book profits as per their profit and loss account but were not paying any tax because income computed in accordance with the Income Tax Act provisions was either nil or negative or insignificant. Therefore, to tackle such companies the concept of Minimum alternate Tax was introduced in the Direct Tax system to ensure that the companies taking advantage of the incentives and exemptions under the Income Tax Act pay a fixed percentage of book profits as minimum alternate tax.

The study based on conceptual ground and the data has been collected through the secondary sources. The main objective of the study is to know the history of MAT in India and different provisions for the corporate assessee in tax payment. Every year company required to compute the tax under the both methods and required to pay higher of those. This MAT was calculated as a percentage of book profit. The percentage was changed and revised from time to time to match the changing circumstances. DTC discussion paper expressed about assets tax concept, instead of tax on book profit.

2. Literature Review:

The following literatures have been reviewed both from national and international context:

2.1 Kelkar Reports' Proposals (2002) The report proposed changes to the taxation of capital income, specifically exempting dividends from Indian companies and long-term capital gains on equity. The rate would be reduced from 35 percent (net of 2 percent surcharge) to 30 percent for domestic companies and from 40 percent to 35 percent for foreign companies. The minimum alternate tax would be eliminated.

2.2 Feenberg D.R., (2003) The paper examines the impact of the Alternative Minimum Tax on the weighted average marginal tax rates that apply to various components of taxable income. The study also shows the impact of several AMT reform proposals on the number of AMT taxpayers, the total revenue collected from the AMT, and the weighted average marginal tax rates that apply to wages, capital income, and deductions such as state and local taxes and charitable gifts.

2.3 Poirson. H., (2006) This paper assesses the effects of India's tax system on growth, through the level and productivity of private investment. Comparison of India's indicators of effective tax rates and tax revenue productivity with other countries shows that the Indian tax system is characterized by: (1) a high dependence on indirect taxes, (2) low average effective distortions on investment and financing decisions.

2.4 Kamashetty S. B., (2010) Income Tax Act was amended several times to reduce "Complexity in tax laws" and now the original DTC Bill deal with a number of subjects; i.e., DDT, WT, STT, etc., special provisions on NPO, deduction at source, advance tax, payment of. India has a progressive rate of income tax.

2.5 Kumar. S (2011) Companies earning more profits and declaring dividends, but come to the point of tax payments low or no taxes to the concerned government. The author theoretically express the provisions of the MAT history, its objectives, section (115JB), MAT credit, problems, MAT under DTC Bill 2010 and also highlighted some points relating to the MAT. MAT credit is a tool for companies based on principles of equity.

2.6 Velmurugan G., (2012) In this paper a detailed history of MAT and its way of growth was highly concentrated. The paper discussed about the method of computation of Book Profit for MAT calculation, MAT credit and Applicability of Minimum Alternate Tax to foreign companies. In the proposed Direct Taxes Code Bill, 2010 the carry forward of credit of MAT paid has been increased to 15 years from the present 10 years.

3. Need for the study:

Tax is the major source of revenue to the government, especially direct tax. In India the corporate tax rate is very high compare to other countries rate of tax. After the study of above literatures there is a gap in theoretical settings and difficulties in implementing practically. There is no study has been conducted on assets tax proposed under DTC. So the following objectives have been set to fill the gap. The present study is focusing on the study of background of MAT and its development in India.

4. Objectives of the study:

4.1 To know the background and history of MAT concept in India.

4.2 To understand the concept of zero tax companies.

4.3 To evaluate the changes between normal provision and the MAT provision.

4.4 To analyse the tax provisions under different criteria and its effect on minimizing the tax evasion.

5. Sources of data collection:

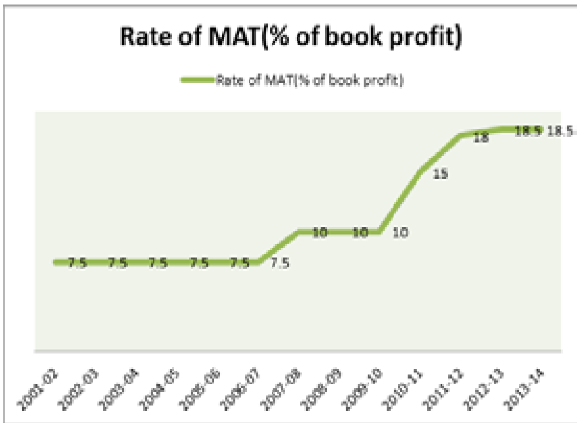
The study based on conceptual ground. The data for the present study has been collected through the secondary sources. The history of MAT has been collected by previous record. The DTC discussion paper was also studied to know the difference between the practices and for interpretation of results.

6. Results:

Objective 1: MINIMUM ALTERNATIVE TAX IN INDIA

Minimum Alternative Tax (MAT) was first introduced in 1983 in India by the way of section 80 VVA in the Income Tax ACT 1961. From 1st April 1988 section 115J was introduced by repealing section 80 VVA, as per this section if the total income of any company is less than 30% of its book profit. This was in operation from the assessment year 1988-89 to 1990-91. Again in the assessment year 1991-92, there was some arrangement for business reconstruction and it was felt that there was no need of any concept like MAT.

CHART 1: HISTORY AND JOURNEY OF MAT IN INDIA



After a long gap in the assessment year 1997-98 section 115 JA was re-introduced. Again, in the next year 115 JAA was introduced, Later on it was again extended to 10 years. In the year 2000, section 115 JB was introduced. Section 115 JA says about the "deemed income" on the other hand section 115 JB says about the concept of "deemed tax."

The DTC committee justifies the re-definition of MAT as an **"assets tax"** saying that this would allow companies to expect to earn a specified average rate of return on their assets which is an **"incentive for efficiency".** Finally, the concept of assets tax has not been applied on companies, instead of that proposed a rate of 20% on book profits.

Objective 2: ZERO-TAX COMPANIES

A company has to pay tax as per Income Tax Act, but profit and loss account of the company is prepared as per provisions of the Company Act. The company had book profits, but they were not paying any tax. That is because of income computed as per provisions of the Income Tax Act was either nil or negative significant. **The companies' shows book profits and paying dividends to shareholders, but not paying any Income Tax to the government. These companies are popularly known as zero-tax companies.**

MAT came to make sure that companies having large profits and declaring substantial dividends to shareholders. Those companies not paying tax to the concerned government, by getting benefit from several incentives, deductions and exemptions available in Income Tax Act.

Objective 3: NORMAL AND MAT PROVISION

Methods of set of accounts

Every company required to compute tax both under the **income tax** and under **section 115JB.**

Profit computed under the income tax is called regular profit and the tax under this method is called Regular Tax.

Profit computed under section 115JB is called Book profit and the tax computed is called MAT.

Every year company required to compute the tax under the both methods and required to pay higher of those. As per the present provisions in the Income Tax Act the minimum alternate tax is payable at the rate of 18.5% of the book profits of the company for the A Y 2013-14.

TABLE 1: CRITERIA FOR COMPUTATION OF BOOK PROFIT AND MAT RATE AS PERCENTAGE OF BOOK PROFIT FOR A Y 2012-13 & A Y 2013-14

	Net profit as per profit and loss account		xxx
Add:	Increased by (if debited to profit and loss account)		
i)	Tax paid/payable/provision for tax (includes dividend distribution tax. Any interest, surcharge, EC and SHEC	xxx	
ii)	Amount credited to reserves by whatever name called, other than a reserve for shipping business u/s. 33AC	xxx	
iii)	Provisions for unascertained liability	xxx	
iv)	Provisions for losses of subsidiary companies	xxx	
v)	Dividends paid/proposed	xxx	
vi)	Expenditure related to any income to which section 10/11/12 apply {except 10 (38)}	xxx	
vii)	The amount of depreciation	xxx	
viii)	Deferred tax including the provision created (w.e.f. AY 2001-02)	xxx	
ix)	Any amount set aside as diminution in value of assets (w.e.f. 2001-02)	xxx	xxxx
Less:	Reduced by (if credited to profit and loss account)		
i)	Amount / withdrawn, from any reserves/ provisions xxx	xxx	
ii)	Exempt income under sections 10/11/12 {except 10 (38),] xxx	xxx	
iii)	Brought forward loss (other than depreciation) or unabsorbed depreciation whichever is less, as per books of accounts	xxx	
iv)	No deduction in case either brought forward loss or unabsorbed depreciation is nil	xxx	
v)	Amount of deduction as computed under section 80HHC / 80HHE / 80HHF	xxx	
vi)	Profits derived from sick industrial undertaking	xxx	
vii)	Depreciation debited excluding depreciation on account of revaluation of asset	xxx	
viii)	Withdrawal from revaluation reserve to the extent it does not exceed the amount of depreciation on account of revaluation	xxx	
ix)	Profits of a Tonnage Tax Company (as per book)	xxx	
x)	Income from business in/services rendered	xxx	xxx
	BOOK PROFIT		xxxx

COMPANY	If Book Profit does not exceed Rs. 1 crore			If Book Profit exceeds Rs. 1 crore			
	IT %	EC and SHEC	Total	IT	SC	EC and SHEC	Total
Domestic company	18.5	0.555	19.055	18.5	0.925	0.58275	20.00775
Foreign company	18.5	0.555	19.055	18.5	0.37	0.5661	19.4361
Marginal Relief – If book profit of a company for the assessment year 2012-13 & 2013-14 exceeds Rs. 1 crore, (Rs. 18.5 lakh + book profit - Rs. 1 crore) + EC + SHEC.							

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Objective 4: COMPARISON OF TAX COMPUTATION UNDER DIFFERENT ALTERNATIVES OF COMPANIES

EXPERTS OPINION ON ASSET BASED TAX

"The changes in MAT rule will cause hardship to loss making companies as they will have to pay tax on assets."

-Vasal of KPMG.

"Basically, what the policymakers propose is to reward businesses that take high risk and expect long payback"

-Mukesh Bhutani, BMR Advisor.

"Companies must be somewhat disappointed because initially, the idea was to have a 25% corporation tax but now the proposed rate is 30%.

-Dinesh Kanabar, deputy CEO and chairman Tax, KPMG.

TABLE 2: COMPARISON OF TAX PROVISIONS

<table>
<tr><td>PROVISIONS</td><td>NORMAL PROVISION</td><td>MAT PROVISION</td><td colspan="2">DTC PROVISION (Proposed)</td></tr>
<tr><td>MODE OF PAYMENT</td><td>30% on Total Income Education Cess @ 3%</td><td>18.5% of Book Profit Education Cess @ 3%</td><td>Asset Based Tax</td><td rowspan="3">20% of Book Profit Without Education Cess</td></tr>
<tr><td rowspan="2"></td><td colspan="2" rowspan="2">WHICH EVER IS HIGHER</td><td>In Banking Companies 0.25% on Gross Assets</td></tr>
<tr><td>In Other Companies 2% on Gross Assets [WITHDRAWN]</td></tr>
</table>

The rate of tax is changing from period to period and the most critical path to bring standard provision both from the hands of government and corporate assessee.

DTC and MAT

"DTC may reduce tax to the government, but it avoids evasion."

For the corporate world, the proposed reduction in the tax rate to 25 per cent from the existing 30 per cent is certainly good news and will help lowering the tax burden of Indian companies in a big way. But at the same time the Tax Code proposes to do away with many exemptions that help lowering the tax.

The Direct Tax Code proposes a substantial reduction in the rates of tax on corporate income, near-removal of the difference in the tax treatment of domestic and foreign companies and a shift in the base of minimum alternate tax (MAT) from book profits to value of gross assets. The final impact of all these measures on Indian companies would be mostly positive but might vary from company to company.

As per the code, MAT would be 0.25% of value of gross assets in case of banking companies and 2% of that value for other companies. The DTC committee justifies the re-definition of MAT as an 'assets tax' saying that this would allow companies to expect to earn a specified average rate of return on their assets which is an "incentive for efficiency".

7. Findings of the study:

"MAT is compulsory for companies, when declared as zero-tax companies."

Most tax analysts had expected that MAT rate could see an even steeper hike in the DTC regime as the policy in recent years has been to align the MAT rate with the corporate tax rate. The extant 18.5% MAT rate turns out to be 20% due to the surcharge and cess.

Many companies would now start paying MAT as the rate differential between it and corporate tax has narrowed down. There is little space left for most companies to claim exemptions, except some in specified infrastructure industries.

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 governance issues.

The discussion paper to reinstate Book Profit as the basis of calculating MAT and dropped its controversial plan to levy MAT on the Gross asset value which was proposed in the DTC.

The retention of book profits as the MAT base would be a relief to corporate, especially infrastructure players and those in capital-intensive businesses.

8. Recommendations/Suggestions:

The New Tax Code is good and valuable in giving relief to tax payers and it will also make life miserable for those who evade tax (Tax Evasion) through fraudulent means.

DTC should give more powers and protection to Income Tax officials in case of court proceedings on matters relating to tax offences.

It proposes that every tax offenses under the Code will be punishable by imprisonment and also with fine, when one who commits fraud by unfair means. Defaulters punishable by one hand and on the other hand it proposes to punish tax consultants who help in tax evasion.

9. Conclusion:

The **Direct Taxes Code** (**DTC**) is said to replace the existing Indian Income Tax Act, 1961. The effectiveness of any tax schedules and scheme depends on its comprehension and acceptance. Proposed DTC bill has 319 sections and 22 schedules. There are 298 sections and 14 schedules in existing IT Act. For the purpose of dividends the company uses book profit which is calculated as per the Companies Act.The study has been limited to understanding the awareness and perception about MAT in different streams engaged in the business world. Another issue is to ensure transparency and quality of administration in the tax area.

The discussion paper of DTC reinstates Book Profit as the basis of calculating MAT and not the Gross asset value which was proposed in the DTC. Finally, the concept of assets tax has not been applied on companies, instead of that proposed a rate of 20% on book profits. To conclude, after a large discussion and opposition to assets based tax, the tax on companies is not based on gross assets, as earlier it is based on book profit itself. Even after several discussions and major amendments had been done tax evasion is very difficult to eradicate, because of its root is unidentifiable.

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