ABSTRACT

Role of Judiciary, Quasi-Judicial Fora and Administrative Authorities under the Central Indirect Tax Laws - An Appraisal

Direct and Indirect taxes are the principle sources of revenue for Government of India. Indirect taxes of Central Government are Customs, Central Excise and Service Tax. The human tendency not to pay or pay as much less as possible or recover as much possible results in litigation.

To lessen the burden of courts, CESTAT (Customs Excise and Service Tax Appellate Tribunal) earlier CEGAT was also established for these purposes in the year 1982. Appeal against the orders of the Commissioner and Commissioner (Appeals) is available to CESTAT. Provisions are available for appeal, review, revision and reference to High court/Supreme Court in limited cases on certain legal issues. Despite of all of them a common writ jurisdiction of High Courts and Supreme Court is also available under the Constitution of India, in addition of Special Leave Petition in Supreme Court irrespective of any provision of Acts of Indirect taxes.

It has been found that many provisions have been provided in these statutes for giving exemplary punishment to the tax evaders to act as deterrent. One such provision is confiscation of the goods and prosecution of the accused simultaneously.

The courts have significant role in the administration of justice in this field. There are specific provisions of appeals before hon'ble High Courts and hon'ble Supreme Court of India against the orders of CESTAT in specific cases. Special writ jurisdictions of both these courts have been provided in the Constitution of India, which can be invoked in special circumstances.

Major shortcomings noticed are lack of judicial knowledge, scanty regard to the process of justice, willful neglect of dispensation of true justice owing to lack of confidence, arrogance, corruption, no proper representation from the side of department in the process of adjudication as well as at the time of appeal, etc. Members of CESTAT are mostly retired officers or retired justice of either High Court or the Supreme Court. The departmental proceedings must be represented from the government side by the qualified legal officers.

---------