

INSOLVENCY LAW COMMITTEE SUBMITS ITS 2ND REPORT ON CROSS BORDER INSOLVENCY¹

Recommends Adoption of the UNCITRAL Model Law of Cross Border Insolvency, 1997

The Insolvency Law Committee (ILC) constituted by the Ministry of Corporate Affairs to recommend amendments to Insolvency and Bankruptcy Code of India, 2016, has submitted its **2nd Report to the Government, which deals with cross border insolvency**. The Report was handed over to Shri Arun Jaitley, Minister of Finance and Corporate Affairs by Corporate Affairs Secretary, Shri Injeti Srinivas.

The ILC has recommended the adoption of the UNCITRAL Model Law of Cross Border Insolvency, 1997, as it provides for a comprehensive framework to deal with cross border insolvency issues. **The Committee has also recommended a few carve outs to ensure that there is no inconsistency between the domestic insolvency framework and the proposed Cross Border Insolvency Framework.**

The UNCITRAL Model Law has been adopted in as many as 44 countries and, therefore, forms part of international best practices in dealing with cross border insolvency issues. The advantages of the model law are the precedence given to domestic proceedings and protection of public interest. The other advantages include greater confidence generation among foreign investors, adequate flexibility for seamless integration with the domestic Insolvency Law and a robust mechanism for international cooperation.

The model law deals with four major principles of cross-border insolvency, namely direct access to foreign insolvency professionals and foreign creditors to participate in or commence domestic insolvency proceedings against a defaulting debtor; recognition of foreign proceedings & provision of remedies; cooperation between domestic and foreign courts & domestic and foreign insolvency practitioners; and coordination between two or more concurrent insolvency proceedings in different countries. The main proceeding is determined by the concept of centre of main interest ("COMI").

The necessity of having Cross Border Insolvency Framework under the Insolvency and Bankruptcy Code arises from the fact that many Indian companies have a global footprint and many foreign companies have presence in multiple countries including India. Although the proposed Framework for Cross Border Insolvency will enable us to deal with Indian companies having foreign assets and vice versa, it still does not provide for a framework for dealing with enterprise groups, which is still work in progress with UNCITRAL and other international bodies. The inclusion of the Cross Border Insolvency Chapter in the Insolvency and Bankruptcy Code of India, 2016, will be a major step forward and will bring Indian Insolvency Law on a par with that of matured jurisdictions.

¹ Available at: <http://www.pib.gov.in/PressReleaseDetail.aspx?PRID=1550197>

CBDT RELEASES DIRECT TAX STATISTICS²

Constant growth in direct tax-GDP ratio over last three years

Growth of more than 80% in the number of returns filed in the last four financial years

Number of persons filing return of income has also increased by about 65% during this period from 3.31 crore in FY 2013-14 to 5.44 crore in FY 2017-18

Continuing the practice of placing key statistics relating to direct tax collections and administration in public domain, the Central Board of Direct Taxes (CBDT) has further released time-series data as updated up to FY 2017-18 and income-distribution data for AY 2016-17 and AY 2017-18.

The key highlights of these statistics are as under:

- i. There is a constant growth in direct tax-GDP ratio over last three years and the ratio of **5.98%** in FY 2017-18 is the best DT-GDP ratio in last 10 years.
- ii. There is a growth of more than **80%** in the **number of returns filed** in the last four financial years from 3.79 crore in FY 2013-14 (base year) to 6.85 crore in FY 2017-18.
- iii. The number of **persons filing return** of income has also increased by about **65%** during this period from 3.31 crore in FY 2013-14 to 5.44 crore in FY 2017-18.

There has been continuous increase in the amount of income declared in the returns filed by all categories of taxpayers over the last three Assessment Years (AYs). For AY 2014-15, corresponding to FY 2013-14 (base year), the return filers had declared gross total income of Rs.26.92 lakh crore, which has increased by **67%** to Rs.44.88 lakh crore for AY 2017-18, showing higher level of compliance resulting from various legislative and administrative measures taken by the Government, including effective enforcement measures against tax evasion.

The total number of taxpayers (including corporates, firms, HUFs, etc.) showing income of above Rs. 1 crore has also registered sharp increase over the three-year horizon. While 88,649 taxpayers disclosed income above Rs. 1 crore in AY 2014-15, the figure was 1,40,139 for AY 2017-18 (growth of about **60%**). Similarly, the number of **individual taxpayers** disclosing income above Rs. 1 crore increased during the period under reference from 48,416 to 81,344, which translates into a growth of **68%**.

The average tax paid by **corporate taxpayers** has increased from Rs.32.28 lakh in AY 2014-15 to Rs.49.95 lakh in AY 2017-18 (growth of **55%**). There is also an increase of **26%** in the average tax paid by **individual taxpayers** from Rs.46,377/- in AY 2014-15 to Rs.58,576/- in AY 2017-18.

During the three-year period under reference, the number of **salaried taxpayers** has increased from 1.70 crore for AY 2014-15 to 2.33 crore for AY 2017-18 (up by **37%**). The average income declared by the salaried taxpayers has gone up by **19%** from Rs.5.76 lakh to Rs.6.84 lakh.

During the same period, there has also been a growth of **19%** in the number of **non-salaried individual** taxpayers from 1.95 crore to 2.33 crore and the average non-salary income declared has increased by **27%** from Rs. 4.11 lakh in AY 2014-15 to Rs. 5.23 lakh in AY 2017-18.

The availability of the time-series data and the income-distribution data of fairly long periods in the public domain will be found to be useful by the academicians, scholars, researchers, economists and the public at large in studying long-term trends of various indices of the effectiveness and efficiency of direct tax administration in India.

The new releases are available along with older publications at www.incometaxindia.gov.in.

Team ICSI

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