Law of International Taxation (CRTXL304)

(Specialized Core course IV)

Objectives of the Course:

- *Globalization has opened gates for numerous cross-border investments.*
- *This initially created lots of confusion and uncertainty as to which jurisdiction has the taxing authority and it even paved way for double taxation and in certain cases, avoidance of tax.*
- *To curb this, the International context of taxation aims to ensure that each country receives an equitable share of tax revenues from cross-border transactions.*
- *Apart from introducing the basic concepts and importance of international taxation, this paper aims to focus on the emerging areas in the arena of international taxation.*

COURSE OUTLINE

Module – 1 Introduction to International Taxation

a) Meaning of International Taxation – Scope of International Taxation in the era of Globalization.

b) Source *v.* Resident Rule of Taxation - Destination *v.* Origin Method of Taxation – Relevancy in India.

Module – 2 Taxation of Foreign Income

a) Meaning of Expatriates - Taxation of Inbound and Outbound Expatriates.

b) Procedural compliance (PAN, Advance Tax, Self-Assessment Tax).

Module – 3 Taxation of Foreign Income

a) Foreign Income – Various Categories such as Royalty, Fee for Technical Services, Shipping, Aircraft.

b) Provisions of Income Tax Act, 2025 - Deemed Accrual, Business connection, Significant Economic Presence.

c) Equalisation Levy – Post 2025 era.

d) Withholding of Taxes – Allocation of Deductions.

Module – 4 Permanent Establishment and Place of Effective Management

a) Permanent Establishment – Tests in Determining PE Status – OECD and UN Model Conventions – Provisions under the Income Tax Act, 2025.
b) Contemporary Issues in Determination of Permanent Establishment – 2025 OECD Guidelines for Home Office PE.
c) Place of Effective Management (POEM) – POEM as a Tie Breaker Rule in Determining the Residential Status of a Company.
d) Guidelines in Determining POEM – CBDT Guidelines – Active Business Outside India (ABOI) - Primary and Secondary Factors.
e) Understanding the difference between POEM and PE.

Module – 5 Double Taxation

a) Meaning of Double Taxation – Double Taxation Avoidance Agreement (DTAA) - Interpretation and Scope of Tax Treaties.
b) Importance of DTAA in the era of Globalization – OECD and UN Model Tax Treaties.
c) Scope of DTAA under the Income Tax Act, 2025 – Treaty Shopping - General Anti-Avoidance Rules (GAAR).

Module – 6 Introduction to Transfer Pricing

a) Associated Enterprises – Deemed Associated Enterprises - Transfer Pricing - International Transactions – Specified Domestic Transactions - Eligible Assessee – Eligible International Transactions – Ineligible Transactions.
b) Arm's Length Price – Steps in arriving at ALP - Methods in Determining ALP – Tolerance Band - Safe Harbour Rules.
c) Advance Pricing Agreements – Purpose – Provisions under the Income Tax Act, 1961 – Effect.

Module – 7 IPR and International Tax

a) Transfer Pricing of Intangibles – Relevant Action Plans under BEPS – Action Plans 1, 8, 9, 10 & 13.

b) Development, Enhancement, Maintenance, Protection and Exploitation (DEMPE).

c) Provisions Relating to IPR under DTAA.

Module – 8 Contemporary Developments

a) Recent Issues in International Taxation – Efficiency, Equilibrium, Tax Competition and Tax Incentives in Developing Countries.

b) Recent developments – Software, EPC contracts.

c) E-commerce and Transfer Pricing – Customs Valuation and Transfer Pricing.

d) A Shift from the Arm's-Length Principle (ALP) towards Formulary Apportionment.

Recommended Readings:

Books:

1. CA Amit Maheswari & CA Sumit Gupta, *Expatriate Taxation Decoding the Complexity,* (Wolters Kluwer).
2. Lynne Oats, Angharad Miller & Emer Mulligan, *Principles of International Taxation,* Bloombury Professional.
3. Robert Feinschreiber & Margaret Kent, *Transfer Pricing Handbook: Guidance on the OECD Regulations,* Wiley.
4. Ravi Kant Gupta, *Recent Trends in Transfer Pricing Intangibles, GAAR and BEPS*.
5. Ashish Karundia, *Law & Practice relating to Permanent Establishment,* Taxman's.

Articles:

1. Vaibhav Choudhary, "Electronic Commerce and Principle of Permanent Establishment Under the International Taxation Law" ,37 Int'l Tax J. [i] (2011)
2. Tamer budak, "The Transformation of International Tax Regime: Digital Economy",8 Inonu U. L. Rev. 297 (2017)
3. Crivelli, Ernesto, Ruud De Mooij & Michael Keen, "Base Erosion, Profit Shifting and Developing Countries". IMF Working Paper, 2015

4. Avi-Yonah, Reuven, 'The Structure of International Taxation: A Proposal for Simplification', (1995-1996) 74 Texas Law Review 1301.
5. U. Schreiber; D. (Dirk) Simons; S. Greil; M. Lagarden, "Why Arm's Length Principle should be Maintained" (2020) International Transfer Pricing Journal.

Further Reading

Books:

1. Anuschka Bakker, Marc M. Levey (Eds.), *Transfer Pricing and Dispute Resolution.*
2. Taxman's *Law Relating to Transfer Pricing with Transfer Pricing Audit & Multilateral Convention 2019 to Implement BEPS*.
3. Duff Phelps, *Transfer Pricing and Dispute Resolution. Guide to International Transfer Pricing: Law, Tax Planning and Compliance Strategies*, Wolters Kluwer pvt. Ltd, 8th Edition (2018).
4. IRS O P Yadav ,*Transfer Pricing in India: Principles and Practice,* OakBridge Publishing; First Edition (2019).
5. Divakar Vijayasarathy *, Law & Practice of Transfer Pricing,* Bharat Law House Pvt Ltd; 5th edition (2020).
6. D.P.Mittal, Law of Transfer Pricing in India , Taxmann Publisher Pvt. Ltd.
7. Nilesh Modi, *The Law and Practice of Tax Treaties – An Indian Perspective* , Wolters Kluwer.
8. Nigam Nuggehalli, *International Taxation – The Indian Prespective* , Springer .
9. Girish Ahuja- (2019), *Law and Procedure- Professional approaches to Direct Taxes and International Taxation*, Wolters Kluwer India Pvt Ltd.
10. Amar Mehta, *Permanent Establishment in International Taxation,* Taxman Publications Pvt. Ltd.

Articles:

1. CA. Anshika Singhal, "Place of Effective Management in India", Taxguru, 2019, Available at : https://taxguru.in/income-tax/place-effective-management-india-poem.html
2. Ashish Sodhani and Ameya Mithe , "India POEM – not so poetic! An analysis of India's new place of effective Management Rules", Nishith Desai Legal and Tax ,2017, Available at: http://mnetax.com/wp-content/uploads/2017/03/Indian-POEM3.pdf
3. R.Kumar, "Analysis of Permanent Establishment", Taxguru, 2018, Available at : https://taxguru.in/income-tax/permanent-establishment-parti.html#:~:text=Article%205(1)%20defines%20a,PE%20of%20the%20tax%20payer.&text=Article%205(5)%20stipulates%20rules,agent%20would%20have%20a%20PE.
4. Andres Baez Moreno & Yariv Brauner, "Taxing the Digital Economy Post BEPS.. Seriously", 58 Colum. J. Transnat'l L. 121 (2019).
5. Yariv Brauner, "What the BEPS", 16 Fla. Tax Rev. 55 (2014).
6. OECD, "Promoting Transparency and Exchange of Information for Tax Purposes",2008.
7. Leonardo F.M.Castro, "Problems involving Permanent Establishments : Overview of Relevant Issues in Today's International Economy", The Global Business Law Review(2012).
8. Asit Mehta, "India: POEM Guidelines introduced in 2017 in India – A Discussion", Mondaq,2018 , Available at : https://www.mondaq.com/india/income-tax/725282/poem-guidelines-introduced-in-2017-in-india--a-discussion
9. M.D. Astuti, "OECD/International - Three Approaches to Taxing Income from the Digital Economy – Which Is the Best for Developing Countries?", Bulletin for International Taxation, 2020 (Volume 74), No 12.
10. R.S. Collier; I.F. Dykes, "OECD/International - The Virus in the ALP", Bulletin for International Taxation, 2020 (Volume 74), No 12

Cases for Guidance:

1. *CIT vs. Ahmedabad Manufacturing and Calico Printing Co.*[1983] 139 ITR 806 (Guj)
2. *CIT v. Klayman Porcelains Ltd.* [1998] (229 ITR 735) (AP).
3. *Motorola Inc. and Others v DCIT* (2005)(96 TTJ 1)
4. DIT vs Infrasoft Ltd. (2014)(220 Taxman 273)(Del)
5. *Ishikawajma-Harima Heavy Industries Ltd* [2007] 158 TAXMAN 259 (SC)
6. *Rolls Royce Ltd. v. Inspector of Taxes* [1965] 56 ITR 580 (HL)
7. *CIT v. Koyo Seiko Co. Ltd.* [1998] 233 ITR 421 (AP)
8. *SET Satellite (Singapore) Pte Ltd v. ADIT* (132 TTJ 459) (Mum ITAT)
9. *Arabian Express Lines Ltd* 401 [1995] 212 ITR 31 (Guj)
10. *Union of India v. Azadi Bachao Andolan* [2003] 132 Taxman 373 (SC)
11. *X Ltd., In re* [1996] 86 Taxman 252 (AAR-DELHI)
12. *Scotland West Life Insurance Co. Canada v. CIR (*1996) (107 TC US 363)
13. *CIT v Lakshmi Textile Exporters Ltd* (2000) 245 ITR 521 (Mad)
14. *Wipro Ltd. v. DCIT* [2015] 62 taxmann.com 26 (Kar)
15. *Motorola Inc v. Deputy Commissioner of Income Tax.*
16. *Consulting Engineering Corporation v. JDIT* (I.T.A.No.1597/Del/2009; Assessment Year: 2003-04)
17. *DIT (International Taxation) Vs. Morgan Stanley and Co. Inc.*
18. *DIT v. Nokia Networks OY* [2012] 25 taxmann.com 225 (Del)
19. *PCIT Vs. Amphenol Interconnect India Pvt. Ltd*
20. *PCIT Vs. Matrix Cellular International Service Pvt. Ltd*
21. *A T & S India Pvt. Ltd Vs. DCIT*,
22. *GE India Technology Centre (p) Ltd v CIT* 327 ITR 456 (SC)
23. *Vodafone International Holding v. UOI* 329 ITR 126 (HC)
24. *India Debt Management Pvt. Ltd. v. DCIT* [IT(TP)A No. 7518/Mum/2014]

Learning Outcome

After completing these modules successfully, the students will be able –

- *To understand how taxation works at the international level.*
- *To appreciate how the non-residents are subjected to tax in India.*
- *To analyse the anti-tax avoidance measures .*
- *To understand how India is keeping in line with international tax practices.*

Law of Taxation and IPR (CRTXL305)

(Specialized Core course V)

Objectives of the Course:

- *This era is an era of digitalisation. E-commerce transactions have become a part of our day-to-day life. Taxing these transactions like the normal one's is vital. This exhibits the importance of this subject.*
- *Like E-commerce, Intellectual Property transactions are growing enormously. Tax incentives are given to many IP transactions so as to promote innovation.*
- *This links the importance of understanding the scope of tax implications in IP and E-commerce transactions.*
- *This paper is designed to enlighten the students on the basic concepts, the tax implications and emerging issues in the areas of IP and E-commerce with respect to taxation.*

COURSE OUTLINE

Module – 1 Basic Concepts

a) **Tax** – Meaning and Definition of Tax – Importance of Tax – Kinds of Tax – Essential Characteristics of Tax.
b) **IPR** – Meaning of Patents, Trademarks, Copyrights – Characteristics of IPR - Commercial Exploitation of IPR.
c) **E-Commerce** – Meaning and Definition of E-Commerce – Meaning of Internet - Characteristics of E-Commerce Transactions.

Module – 2 Taxing Online Trade

a) Online Trading and Taxation — Contracts and Sale Over Net.
b) Taxability of E-Commerce Transactions –Characterisation of Income (Goodwill of Profession *v.* Business).
c) E-Commerce Taxation under Income Tax Act – Equalisation Levy.

d) E-Commerce Taxation under Goods and Services Tax Act (GST).

Module – 3 IPR and Income Tax

a) Treatment of Royalty – Treatment of Fee for Technical Services.
b) Intellectual Property as an Asset - Depreciation of Asset – Deductions with respect to Research and Development - Capital Gains Taxation on IP.
c) Valuation of Intellectual Property – Exemptions and Deductions available to IP - Accounting Treatment - Tax Deduction at Source - Patent Box Regime.

Module – 4 IPR and Customs

a) IPR and Customs - Export and Import of Goods and Services - Valuation of Goods – Border Measures under TRIPS (Art 51 to 60).
b) Provisions relating to Confiscation of Goods and Conveyances and Imposition of Penalties under Customs Act, 1962 (Section 11, 111, 112, 113 & S. 114).
c) Parallel Imports – IPR (Imported Goods) Enforcement Rules, 2018 – Automated Recordation and Targeting System (ARTS) for IPR Protection in India.

Module – 5 IPR and GST

a) IPR and Goods and Services Tax (GST) – Treatment of Transfer of IPR as Goods and/or Services.
b) GST on Software Development Services, Franchise Service, Copyright Service – Relevance of Registered Brand Name under GST - Rates of Tax.

Module – 6 Contemporary Developments

a) Taxability of Software Income – Taxability Issues in Crypto Currency.
b) Jurisdictional Issues in E-Commerce Transactions - E-Commerce Tax Reforms in Emerging Global Economy.
c) Taxation of OIDAR services – Online gaming.

Recommended Readings

Books:

1. Oddleif Torvik, *Transfer Pricing and Intangibles - US and OECD Arm's Length Distribution of Operating Profits from IP Value Chains*, IBFD, January 2019.
2. Rahul K. Mitra, *Decoding Transfer Pricing for Selling Functions (2020)* , Wolters Kluwer India Pvt Ltd.
3. Nigel Eastaway, *Intellectual property law and Taxation* , (Sweet&Maxwell, 8 ed.)
4. Smarak Swain, Tangible Guide to Intangibles(2019) , Wolters Kluwer India Pvt Ltd.
5. Isabel Verlinden (PwC), Anuschka Bakker (IBFD),*Mastering the IP Life Cycle from a Legal, Tax and Accounting Perspective*, IBFD, October 2018.

Articles:

1. Xuan-Thao Nguyen, et al., "The History of Intellectual Property Taxation: Promoting Innovation and Other Intellectual Property Goals", 64 SMU L. Rev. 795 (2011)
2. K.D.Raju, "Intellectual Property Taxation: Need for a Comprehensive policy and laws in India", Journal of Intellectual Property Rights, Vol.13 (2008)
3. Ayilyath, Manoranjan, "Taxation of Intellectual Property in India" (June 14, 2014). (http://dx.doi.org/10.2139/ssrn.2461970)
4. "A Comparative Analysis of Income Taxation Issues of Intellectual Property from the Perspective of Developed and Developing Countries", 6 J. Australasian Tax Tchrs. Ass'n 170 (2011)
5. Laskar, Manzoor, "Levy of Income Tax on Intellectual Property" (August 21, 2013). (http://dx.doi.org/10.2139/ssrn.2400900)

Further Reading

Books:

1. Ganesh Rajgopalan, *Taxation of Copyright Royalties in India: Interplay of Copyright Law and Income Tax (2019),* OakBridge Publishing.
2. Jeffrey A. Maine , *Intellectual Property Taxation : Transaction and Litigation Issues*, BNA Books
3. Kush Kalra, *Landmark Judgements on Intellectual Property Rights* , Central Law Publications.
4. Anne Fairpo, Taxation of Intellectual Property (2016), Bloomsbury Academic Publisher.
5. Guglielmo Maisto, *Taxation of Intellectual Property under Domestic Law, EU Law and Tax Treaties*, IBFD, June 2018.
6. Ben Symons, *Cryptocurrency and Blockchain* ,Bloomsbury Professional Tax Insight.
7. Vijay Shekar JHA *, Law and Practice of Taxation of Digital Economy and CryptoCurrency*, Bharat Law House Pvt. Ltd.
8. Dr. P.K.Sirohi, *E- Commerce and Taxation* , Nisha Publications
9. Xuan-Thao Nguyen, *Intellectual Property Taxation : Problems and Materials* , Carolina Academic Press.
10. Tamali Sen Gupta, *Intellectual Property Law in India* , Wolters Kluwer .

Articles:

1. Marcel Olbert and Christoph Spengel , "International Taxation in the Digital : Challenge Accepted", 2017, World Tax Journal.
2. Rachel Griffith, "Ownership of Intellectual Property and Corporate Taxation", Journal of Public Economics, Vol 112, 2014, Pg. 12-23.
3. Manzoor Laskar , "Levy of Income Tax on Intellectual Property", SSRN, 2014.

4. Nguyen, X. N., & Maine, J. A. (2004), "Taxing the new intellectual property right", Hastings Law Journal, 56(1), 1-76.
5. Nguyen, X., & Maine, J. A. (2010), "Equity and efficiency in intellectual property taxation", Brooklyn Law Review, 76(1), 1-64.
6. Cross, J. (1989), "Taxation of intellectual property in international transaction", Virginia Tax Review, 8(3), 553-590.
7. Dr. Rajeshwari M.Shettar , "Emerging Trends of E-Commerce in India: An Emprical Study ", 2016, International Journal of Business and Management Invention.
8. Madurima Khosla , Harish Kumar , "Growth of E-Commerce in India: An Analytical Review of Literature", 2017, IOSR Journal of Business and Management.
9. Javier Ruiz, "Accounting Information Systems in the blockchain era", International Journal of Intellectual Property Management
10. Wherry, Timothy Lee, "Intellectual property: everything the digital – age librarian needs to know", New Delhi: Indiana Publishing House, 2009.

Cases for Guidance:

1. *CIT v. Neyveli Lignite Corporation ltd.* [(2000) 243-ITR-459 (Mad.)]
2. *CIT v. HEG Ltd.* [(2003) 263-ITR-230 (MP)]
3. *Goa Carbon Ltd. v. V.M. Muthuramalingam & Anr.* [251-ITR-348 (Mum.)]
4. *IMT Labs (India) Pvt. Ltd.* [(2006) 287-ITR-450 (AAR)]
5. *Wipro Ltd. v. ITO* [(2005) 94-ITD-9 (CESTAT)]
6. *DIT v. Sheraton International Inc.* [(2009) 313-ITR-267 (Delhi)]
7. *International Hotel Licensing Co.* [(2007) 288-ITR-534 (AAR)]
8. *Trimex International FZE Ltd. Dubai v. Vedanta Aluminum Ltd* 2010 (1) SCALE 574
9. *Bhagwandas Goverdhandas Kedia v. Girdharilal Parshottamdas and Co.,* AIR 1966 SC 543
10. *Casio India Co. Ltd v. Ashita Tele Systems Pvt Ltd* 2003 27 PTC 265 Delhi

11. *India TV Independent News Service Ptv Ltd v. India Broadcast Live LLC* 2007 35 PTC 177 Delhi
12. *National Association of Software and Service Companies v. Ajay Sood & Others* 119 (2005) DLT 596, 2005 (30) PTC 437 Del
13. *Syed Asifuddin & Ors v. State of Andhra Pradesh & another* 2005 CrLJ4314 (AP)
14. *Banyan Tree Holding (P) Limited v. A. Murali Krishna Reddy* CS (OS) 894/2008 (High Court of Delhi, 23rd November 2009) (India)
15. *Director of Income Tax vs. Galileo International Inc.* (114 TTJ 289) (Del ITAT)
16. *Director of Income-tax v. Nokia Networks OY* [2012] 25 taxmann.com 225 (Delhi)
17. *Cincom System Inc. v. DDIT* [ITA No. 952/Del/2006, AY: 2002-03] (Del)
18. *CIT v. Siemens Aktiongesellschaft* [2009] 310 ITR 320 (Bom)
19. *TVM Ltd. v. CIT* [1997] 237 ITR 230 (AAR)
20. *ITO v. Raj Television Network Ltd.* ITA No. 1827 and 1828 (MDS)
21. *Skycell Communications Ltd. v. DCIT* [2001] 251 ITR 53 (Mad)
22. *Yahoo India (P.) Ltd. v. DCIT* [2011] 11 taxmann.com 431(Mum)

Learning Outcome

After completing these modules successfully, the students will be able –

- *To understand the basic concepts of taxation, IPR and E-commerce.*
- *To appreciate how IPR and E-commerce transactions are subjected to tax at the international level.*
- *To understand the emerging trends in E-Commerce transactions and its tax implications.*
- *To appreciate how IPR and E-commerce transactions are subjected to tax in India.*

Law of Transfer Pricing (DETXL302)

(Discipline Specific Elective course II)

Objectives of the Course:

- *Transfer pricing is an important aspect of international transaction.*
- *It is of vital importance as it helps in ensuring that transactions between associated enterprises take place at a price as if the transaction was taking place between unrelated parties and preventing entities from artificially shifting profit or loss between tax (especially low-tax) jurisdictions.*
- *With so many contemporary issues coming up in this area, it is important that the students are inculcated the knowledge of this paper.*
- *A study on transfer pricing will help them understand how it is used as a mechanism to avoid tax and what is to be done to curb the same for the betterment of global economy.*

COURSE OUTLINE

Module – 1 Understanding Transfer Pricing

a) Meaning of Transfer Pricing – Definition of Transfer Pricing – Origin and Growth of Transfer Pricing – Importance of Transfer Pricing in International Tax Environment - Importance of Permanent Establishment in Transfer Pricing.

b) Meaning of Arm's Length Price (ALP) – Meaning of Associated Enterprises - Arm's Length Principle and Comparability – Comparability Factors – Comparability Adjustments – FAR Analysis.

Module – 2 Fundamental Sources

a) OECD 2017 Transfer Pricing Guidelines (TPG) - OECD BEPS Reports (Actions 8-10): Aligning Transfer Pricing Outcomes with Value Creation – subsequent amendments.

b) BEPS 2.0 – Inclusive Framework – Pillar I and Pillar II.

c) OECD 2025 Guidelines and other Rules.

d) UN 2017 Practical Manual on Transfer Pricing for Developing Countries.

Module – 3 Transfer Pricing Methods

a) Comparable Uncontrolled Price Method - Resale Price Method - Cost Plus Method - Transaction Net Margin Method - Profit Split Method - Other Methods.
b) Selection of the Most Appropriate Transfer Pricing Method.
c) Transfer Pricing Adjustments - Determination of ALP in certain cases - Safe Harbour Rules – Tolerance Band.

Module – 4 Global Formulary Apportionment Method

a) Global Formulary Apportionment - Meaning – Procedure.
b) A Shift from the Arm's-Length Principle (ALP) towards Formulary Apportionment.

Module – 5 Transfer Pricing in Specific Transactions

a) Intra-group Services – Intra-group Financial Transactions – Intangible Property – Business Restructurings – Cost Contribution Arrangements.
b) E-commerce and Transfer Pricing – Customs Valuation and Transfer Pricing.

Module – 6 Domestic Provisions

a) Relevant Provisions under Chapter-X of Income Tax Act, 2025 – Definitions – Computation of Income from International Transaction having Regard to Arm's Length Price – Computation of Arm's Length Price – Reference to Transfer Pricing Officer – Safe Harbour Rules – Advance Pricing Agreement.
b) Relevant Provisions under Customs Act and Goods and Services Tax.

Recommended Readings

Books:

1. S. Mishra and Chetali Singhal, *Transfer Pricing in India since its inception to BEPS*, Wolters Kluwer India Pvt. Ltd.
2. Robert Feinschreiber & Margaret Kent, *Transfer Pricing Handbook: Guidance on the OECD Regulations,* Wiley.
3. Ravi Kant Gupta, *Recent Trends in Transfer Pricing Intangibles, GAAR and*

BEPS, Bloomsbury India.

4. CA Hari Om Jindal*, Transfer Pricing Theory and Practice ,* Wolters Kluwer India Pvt Ltd.
5. CA Narendra Jain, *Compilation of Transfer Pricing Judgements* , Wolters Kluwer India Pvt. Ltd

Articles:

1. M Pryzsuski, P Paul, H Swaneveld, C Osoro , "Transfer Pricing in India", 6 Corp. Bus. Tax'n Monthly 21 (2004-2005)
2. C. Satapathy , "Transfer Pricing: Impact on Trade and Profit Taxation", Economic and Political Weekly, Vol. 36, No. 20 (May 2001)
3. Suranjali Tandon and Devendra Damle, "An Analysis of Transfer Pricing Disputes in India", working paper No. 266 (May 2019), National Institute of Public Finance and Policy
4. Jain, Tarun, "Transfer Pricing Rules for India's Goods and Services Tax", (2019) 30(2) International VAT Monitor.
5. Yariv Brauner, "What the BEPS", 16 Fla. Tax Rev. 55 (2014).

Further Reading

Books:

1. Dr.M.S.Vasan, *Transfer Pricing Audit Practices in India* , Lexis Nexis.
2. Deloitte, *Transfer Pricing Law and Practice in India icluidng BEPS* , Wolters Kluwer.
3. CA. Rajat Chawla, *Transfer Pricing Documentation and Reporting* , Taxmann Publisher Pvt. Ltd.
4. Anuschka Bakker, Marc M. Levey (Eds.), *Transfer Pricing & Business Restructuring*, IBFD
5. Duff Phelps, *Transfer Pricing and Dispute Resolution. Guide to International Transfer Pricing: Law, Tax Planning and Compliance Strategies*, Wolters Kluwer pvt. Ltd, 8th Edition (2018).

6. IRS O P Yadav ,*Transfer Pricing in India: Principles and Practice,* OakBridge Publishing; First Edition (2019).
7. Divakar Vijayasarathy *, Law & Practice of Transfer Pricing,* Bharat Law House Pvt Ltd; 5th edition (2020).
8. D.P.Mittal, *Law of Transfer Pricing in India* , Taxmann Publisher Pvt. Ltd.
9. Mohanish Verma , *Digitalisation and Transfer Pricing – The Way Ahead* , Wolters Kluwer India Pvt Ltd.
10. Ashok Kumar, *Transfer Pricing, Multinationals and Taxation : Concepts, Mechanisms and Regulations* , New Century Publications.

Articles:

1. Crivelli, Ernesto, Ruud De Mooij & Michael Keen, "*Base Erosion, Profit Shifting and Developing Countries*". IMF Working Paper, 2015
2. U. Schreiber; D. (Dirk) Simons; S. Greil; M. Lagarden, 'Why Arm's Length Principle should be Maintained' (2020) International Transfer Pricing Journal.
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4. Feinschreiber, R., & Kent, M. (2007). *Transfer Pricing in India*, Corporate Business Taxation Monthly, 9(3), 9-33.
5. Feinschreiber, R., & Kent, M. (2008). *Permanent Establishment issues impact Indian Transfer Pricing*, Corporate Business Taxation Monthly*, 10(1),* 29-42.
6. Dhruv Sanghavi, *'Vodafone Transfer Pricing Decision: A Mistake of Judgment'*, (2015), 43, Intertax, Issue 5, pp. 428-436.
7. Michael Smith, Tax and Incentive Trade offs in Multinational Transfer Pricing , Journal of Accounting, Auditing and Finance , 2002
8. John Mckinley, Transfer Pricing and its effect on Financial Reporting , Journal of Accountancy, 2013.
9. Dr. Subha Kant Padhi, Transfer Pricing a Review of Literature , International Journal of Advanced Research in Management, Vol 10, Issue 1 , 2019, pp. 1-7.

10. S.Aditya, Analysis of Transfer Pricing as a Tax Avoidance and Proposed Suggestion to prevent its Disadvantages, Yuridika, Vol 30, No.1 , 2015

Cases for Guidance:

1. *DIT (International Taxation) Vs. Morgan Stanley and Co. Inc.*
2. *PCIT Vs. Amphenol Interconnect India Pvt. Ltd*
3. *PCIT Vs. Matrix Cellular International Service Pvt. Ltd*
4. *A T & S India Pvt. Ltd Vs. DCIT*,
5. *GE India Technology Centre (p) Ltd v CIT* 327 ITR 456 (SC)
6. *Vodafone International Holding v. UOI* 329 ITR 126 (HC)
7. *CIT V. VRNM Subbiah Chettiar*
8. *Diageo India Pvt. Ltd v ACIT*
9. *CIT V. Nandlal Gandalal*
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11. *Johnson Matthey India (P) Ltd, New v. Department of Income Tax*
12. *M/s. Maxim India Integrated Circuit Design Pvt. Ltd., Bengaluru v. DCIT*
13. *Gimpex Private Ltd., Chennai v. ACIT Central Circle 1(2),* Chennai on 5 April, 2019
14. *Kimberly Clark Lever P.Ltd., Pune v. ACIT*, Pune on 5 May, 2017
15. *Jabil Circuit India P.Ltd, Mumbai v. ACIT Cir 3(2)(1),* Mumbai on 19 November, 2018
16. H.A Shah & Co. Vs. Commissioner of Income Tax & Excess Profits Tax, Bombay city - [1956 -(3) -ITR -0618 - BOM]
17. *Russell Properties Pvt. Ltd. Vs. A. Chowdhury, Addl.Commissioner of Income-tax, West Bengal And Others* - [1977-(109)-ITR -0229-CAL]
18. *Radhasoami Satsang Vs. Commissioner of Income Tax* - [1992-(193)-ITR-321 -SC]
19. *Commissioner of Income-tax Vs. Haryana State Industrial Development Corporation Ltd.* - [2010 -(326) -ITR -640 - P&H]

20. *Assistant Commissioner of Income Tax vs. M/s. L'oreal India Pvt. Ltd.* - [ITA No.6745/M/2008)"

Learning Outcome

After completing these modules successfully, the students will be able –

- *To understand what is transfer pricing and how it acts as an avoidance mechanism.*
- *To appreciate the methods taken to arrive at the Arm's Length Price.*
- *To appreciate the international mechanism to check transfer pricing issues.*
- *To understand how India is keeping in line with international mechanisms.*

Law relating to Tax Planning and Economic Development

(GETXL302)

(Generic Elective course II)

Objectives of the Course:

- *Tax planning, tax avoidance and tax evasion are three different aspects. They might sound over-lapping which is, in reality, untrue.*
- *This paper tries to point out the differences between these concepts and enrich knowledge about tax avoidance and tax evasion.*
- *The paper also aims to show how the major international organisations have come-up to fight the evils of evasion and avoidance.*
- *Also, it studies how India has reacted to the measures taken.*

COURSE OUTLINE

Module – 1 Tax Planning

a) Meaning of Tax Planning – Features and Differences Between Tax Planning, Tax Avoidance and Tax Evasion - Need and Significance of Tax Planning – Types - Strategies of Tax Planning – Tax Planning in respect of Residential Status – Tax Planning relating to Individuals.

b) Tax Planning with reference to all Five heads of Income for Individuals – Salary, House Property, Profits or Gains from Business and Profession, Capital Gains and Income from Other Sources - Tax Planning with respect to Deductions, Exemptions, Rebate, Relief, Concession and Incentives (Problems focused on Tax Planning).

c) Tax Planning related to Special Economic Zones (SEZ), Export Processing Zones (EPZ), Export Oriented Units (EOUs).

Module – 2 Tax Avoidance

a) Definition of Tax Avoidance – Characteristics – Avoidance by Individuals – Avoidance by Corporates.
b) Methods of Tax Avoidance – Profit Shifting – Use of Tax Havens – Transfer Pricing – Thin Capitalisation – Treaty Shopping – Controlled Foreign Companies.
c) Impact of Tax Avoidance on the Economic Growth.

Module – 3 Tax Evasion

a) Definition of Tax Evasion – Characteristics – Types – Causes – Penalties.
b) Tax evasion according to Kinds of taxation - Tax Evasion in Income Tax – Tax evasion in Customs Duties – Smuggling – Tax Evasion in Business and Profession and their Methods.
c) Impact of Tax Evasion on Economic Growth - Differences between Tax Planning, Tax Avoidance and Tax Evasion.

Module – 4 General Regulatory Framework relating to Tax Evasion

a) Prevention of Money Laundering Act, 2002
b) Black Money (Undisclosed Foreign Income and Assets) Imposition of Tax Act, 2015
c) Fugitive Economic Offenders Act, 2017

Module – 5 Offences and Prosecution under the Indian Tax regime

a) Provisions under Income Tax Act, 2025 – GAAR - Offences and Prosecutions
b) Provisions under The Central Goods and Services Tax Act, 2017 – Offences and Penalties
c) Provisions under The Customs Act, 1962 – Offences and Prosecutions

Module – 6 International Measures to Curb Tax Avoidance and Evasion

a) Understanding the Meaning of Tax Havens and Secrecy Jurisdictions.
b) UN - United Nations Model Double Taxation Convention between Developed and Developing Countries - OECD – Model Tax Convention on Income and on Capital – Agreement on Exchange of Information on Tax Matters - The Multilateral Convention on Mutual Administrative Assistance in Tax Matters – Transfer Pricing Guidelines - BEPS Action Plans.
c) FATF - International Standards on Combating Money Laundering and the Financing of Terrorism & Proliferation.

Recommended Readings

Books:

1. Nilesh Patel, *GAAR - A Comprehensive Referencer Manual* , Wolters Kluwer pvt.ltd (2019).
2. Smarak Swain, *Loopholes Games - A Treatise on Tax Avoidance Strategies* , Wolters Kluwer pvt.ltd (2020).
3. Rishi Kapadia, *GAAR- Shades of Substance* , Wolters Kluwer pvt.ltd (2017).
4. *Base Erosion and Profit Shifting (BEPS)* by International Tax Research and Analysis Foundation , Wolters Kluwer pvt.ltd (2016).
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2. Richard A. Mullens, "Avoidance vs. Evasion of Income Taxes" 10 SCLQ 670(1957).

3. Lucius A. Buck, "Income Tax Evasion and Avoidance: The Deflection of Income " 23 Va.L.Rev. 265 (1936-37).
4. Sankha Nath Bandyopadhyay, "The Problem with Tax : Planning , Avoidance or Evasion ?" , SSRN , 2012 .
5. Razvan Iordache, "Tax Havens = Smokescreen to Hide Tax Evasion", 2016 Eur. J. Pub. Ord. & Nat'l Sec. 35 (2016).
6. Rebecca Murray and Kevin J. Prosser, "Tax Avoidance" (Sweet & Maxwell, London, 2012).
7. George SK, "The Fine (and Hazy) Line between Tax Avoidance and Tax Evasion" 5 Ct.Uncourt 19 (2018).
8. Vaneeta Rani and R.S.Arora, "Tax Evasion and Corruption in the Indian Income tax System: Causes and Remedies", Indian Journal of Finance , Vol 4 , Issue 10 , 2010.
9. Dr. Devarajappa. S, "Tax Evasion in India: A study of its impact on Revenue of the Government ",EPRA International Journal of Economic and Business Review, Vol 5, Issue 9, 2017.
10. C.A.Dr. Pramod Kumar Pandey, "The Impact of Indian Taxation System on its Economic Growth", SSARSC International Journal of Management, Vol 3, Issue 1 , 2017 .

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1. *Vodafone International Holding v. UOI* 329 ITR 126 (HC)
2. *IRC v. Duke of Westminster* (1936) 19 TC 49 AC 1.
3. *McDowell v. CTO* AIR 1986 SC 649.
4. *UOI & Anr. v. Azadi Bachao Andolan*
5. *E*Trade Mauritius Ltd* 2010 324 ITR 1 (AAR)
6. *ITO vs. MUR Shipping DMC Co, UAE* (ITA N. 405/ RJT/2013)
7. *Pareena Swarup v. Union of India* on 30 September, 2008
8. *M/S Ajanta Merchants Pvt. Ltd. v. Directorate of Enforcement* on 9 April, 2015
9. *Rohit Tandon v. The Enforcement Directorate* on 10 November, 2017

10. *P. Chidambaram v. Directorate of Enforcement* on 5 September, 2019
11. *Vijay Vittal Mallya v. The State of Maharashtra and Anr* on 22 November, 2018
12. *Union of India v. Gautam Khaitan* on 15 October, 2019
13. *Commissioner of Wealth Tax, Gujarat II, Ahmedabad v. Arvind Narottam*, Civil Appeal No. 2034-36 of 1974
14. *CIT v. Walfort Share and Stock Brokers P. Ltd.,* Income Tax Appeal No. 18 of 2006
15. *Lord Howard De Walden v. IRC*, 1942 1 KB 389
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17. *CIT, Meerut v. Shri BL Garg,* Income Tax Reference No. 25 of 1997
18. *GB Gautam v. UOI,* SC (17 Nov, 1992)
19. *CIT v. Vimalaben Bhagwandas Patel,* 1979 118 ITR Guj. HC
20. *Vidyavati Kapoor Trust v. CIT,* 1992 194 ITR 584 Kar. HC

Learning Outcome

After completing these modules successfully, the students will be able –

- *To understand and appreciate the differences between tax planning, evasion and avoidance.*
- *To understand how tax avoidance is as harmful as tax evasion.*
- *To understand how the international mechanisms are framed to combat evasion and avoidance.*
- *To understand how India is keeping in line with international mechanisms.*

Comparative Tax Laws (CRTXL406)

Specialization Core Course – VI

Objectives of the Course:

- *In the era of globalisation, not only investments have become cross-border, the movement of people form one country to another country for the purposes of employment and profession has seen huge growth.*
- *It embarks the need to study and understand the basics of another jurisdiction's tax laws so as to enable the expatriates be aware of their tax rights and liabilities.*
- *Apart from that, the recent GST in India which in its infant stage is undergoing numerous changes was borrowed from Canada and Singapore. This calls for a need to study the working of this system of tax in the so-called mother countries.*
- *This paper aims at imbibing knowledge on direct taxes of the US and the UK (countries which attract more Indian expats) and indirect taxes of Canada and Singapore (which were useful in framing the Indian GST Laws).*

COURSE OUTLINE

Module - 1 Income Tax Act in U.S.A.

U.S. Code Title 26 – Internal Revenue Code

a) Determination of Tax Liability – Tax on Individuals – Tax on Corporations – Changes in Rates During a Taxable Year.

b) Computation of Taxable Income – Definitions of Gross Income, Adjusted Gross Income, Taxable Income, Ordinary Income, Ordinary Loss – Items Specifically Included in Gross Total Income.

c) Items Specifically Excluded from Gross Total Income - Deductions for Personal Exemptions – Itemized Deductions for Individuals and Corporations – Additional Itemized Deductions for Individuals – Special Deductions for Corporations – Items not Deductible - Capital Gains – Determination of Amount – Basic Rules – Common Non-taxable Exchanges - Tax on Self-employment Income - Withholding of Taxes on Non-Resident.

Module - 2 Income Tax Act in U.K.

a) Charges to Income Tax – Rates – Incomes Charged at Particular Rates - Starting Rate Limit and Basic Rate Limit.
b) Calculation of Income Tax Liability – Personal Relief – Personal allowance and Blind Person's Allowance - Tax Reductions for Married Couples and Civil Partners - Transferable Tax Allowance for Married Couples and Civil Partners.
c) General - Loss Relief – Trade Losses - Restrictions on Trade Loss Relief for Certain Partners - Losses from Property Businesses - Losses in an Employment or Office - Losses on Disposal of Shares - Losses from Miscellaneous Transactions - Status of Non-Residents Taxation.

Module - 3 Goods and Services Tax Act in Canada

a) Definition – Supply - Exempt supply – Imposition of Tax – Registration – Small Supplier.
b) Input Tax Credit – Restriction.
c) Tax on Importation of Goods - Tax on Imported Taxable Supplies – Tax on Intangibles - Returns and Payment of Tax – Assessment.

Module – 4 Goods and Service Tax Act in Singapore

a) Interpretation – Supply – Place, Time and Value of supply - Taxable Supply – Reverse Charge Supply – Eighth Schedule Supply – Exempt Supply.
b) Imposition and Extent of Tax – Registration – Rate of Tax – Input Tax Credit – Assessment.

Module - 5 Comparison of Direct Taxes in India with US and UK

a) Comparison of Income Tax Provisions in India, U.S.A., on the basis of Chargeability, Deductions and Exemptions.
b) Comparison of Income Tax Provisions in India, U.K. on the basis of Chargeability, Deductions and Exemptions.

Module - 6 Comparison of Indirect Taxes in India with Canada and Singapore

a) Comparison of Goods and Service Tax Provisions in India and Canada.

b) Comparison of Goods and Service Tax Provisions in India and Singapore – Progress of Goods and Service Tax in India.

Recommended Readings

Books:

1. Richard Goode, "*The Individual Income Tax",* Brookings Institution, 1976 (Revised edition).
2. Mark Hunt, *"UK Taxation: a simplified guide for students: Finance Act", Spiramus*, 2019 Edition.
3. Jacques Roberge, *Peter Tomilson & Jennifer Corris, "A Practical Guide to GST/HST"* Wolter Kluwer, 8th Edition.
4. Deloitte Singapore, *"Guide to GST and the Financial Markets in Singapore"* Wolter Kluwer, July 2018.
5. T.N. Manoharan and G.R.Hari (35th Edition, 2020) *Students' Handbook on Taxation - Includes Income-Tax Law and Goods and Service Tax Law*, Snow White Publications.

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1. Professor Michelle Hanlon, "Book Tax Conformity for Corporate Income : An Introduction to the Issue" , Tax Policy and the Economy
2. Dennis Ventry, "American Don't Hate Taxes , They Hate Paying Taxes", University of British Columbia Law Review
3. William B. Barker , "A Comparative Approach to Income Tax Law in the United Kingdom and the United State" , Catholic University Law Review .
4. Dhinesh M., Rajashri.S, "A Comparative Study on Taxation System in India and Singapore with Special Reference to GST", Journal of Indian Taxation
5. Lori J. Curtis and Joann Kingston – Riechers , "Implication of the Introduction of the Goods and Services Tax for Families in Canada", JSTOR

Further Reading

Books:

1. Dr. Vinod K Singhania, *Direct Taxes Ready Reckoner-As Amended by Taxation Laws (Amendment) Act 2019* (Taxmann Publications).
2. Naveen Mittal, *Principles of Income Tax Law and Practice*, Cengage India
3. Rahul Navin, *Information Exchange and Tax Transparency*, Lexis Nexis.
4. Leonard E. Burman & Joel Slemrod, *"Taxes in America: What Everyone Needs to Know"*, Oxford University Press, 2013.
5. CCH Tax Editor BIAN, "*Singapore GST Compliance Handbook"* CCH, 2013.
6. Richard Paul Vethamuthu , *Indirect Tax – GST*, Lambert Academic Publisher.
7. Dr. Jaya Vasudevan Suseela, *Indirect Taxes* , Eastern Book Company.
8. N.A. Palkiwala, *The Law and Practice of Income Tax*, (2014), Lexis Nexis
9. Evans Chris and Lymer Andy , *Comparative Taxation: Why Tax System Differ* , Fiscal Publications .
10. United States , *A Compilation of the Direct Tax Laws of the United States from August 5, 1861: With the Regulations and Instructions, also including an Extract from The Report of the Commissioner of Internal Revenue for 1870, Giving a History of Direct Tax* , Nabu Press .

Articles:

1. Liu Hern Kuan and Vincent Ooi, Proposed Reforms to Singapore's Goods and Services Tax for the Digital Age, SSRN
2. Richard M.Bird , The GST : Creating an Integrated Sales Tax in a Federal Country, The School of Public Policy
3. Alm , Matthew, Tax Structure and Tax Compliance , Review of Economics and Statistics
4. Barker, William B., The Ideology of Tax Avoidance , Loyola University Chicago Law Journal.
5. Hemlata Tiwari and Shambhu Nath Singh, Goods and Service Tax : Economic Revival of India , Sage Journals

6. Pankaj Kumar, Goods and Service Tax in India : Problems and Prospects , Asian Journal of Management Research
7. Nick Bloom, Rachel Griffith and John Van Reenen, Do R & D Tax Credits work? Evidence from a panel of Countries 1979 – 1997 , Journal of Public Economics
8. Damon Jones, Inertia and Overwithholding : Explaining the prevalence of Income Tax Refunds, American Economic Journal : Economic Policy
9. Ruth Simon and Richard Rubin, Cack and Pack : How Companies are Mastering the New Tax Code , Wall Street Journal.
10. Anand Nayyar, A Comprehensive Analysis of Goods and Services Tax in India , Inidan Journal of Finance, 2018

Cases for Guidance:

1. *Birmingham & District Cattle By-Products Ltd v CIR* KB 1919 12 TC 92
2. *Jackson v Laskers Home Furnishers Ltd* Ch D 1956 37 TC 69 [1957] 1 WLR 69 [1956] 3 All ER 891
3. *Smiths Potato Estates Ltd v Bolland* HL 1948 30 TC 267 [1948] AC 508 [1948] 2 All ER 367
4. *J Lyons & Co v Attorney General* – Ch D 1944, 170 LT 348; [1944] 1 All ER 477
5. *Wannell v Rothwell* Ch D 1996 68 TC 719 [1996] STC 450
6. *Parade Park Hotel and Another v HMRC P May v HMRC* Sp C [2007] SSCD 430 (Sp C 599)
7. *Walton v R & C Commr*s. [2009] TC 00273
8. *Pook v. Owen-* HL 1969, 45 TC 571; [1970] AC 244; [1969] 2 All ER 1
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10. *Donnelley v. Commissioner of Internal Revenne*, 68 F.(2d) 722 (C.C.A. 7th 1934).
11. *Rosenwald v. Cor.,* 12 B.T.A. 350 (1928)
12. *Spring Canyon Coal Co. v. Com.,* 43 F.(2d) 78 (C.C.A. roth :1930)

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17. *United States v. Provident Trust Co.,* 54 Sup. Ct. 389 (1934).
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19. *Callidus Capital Corporation v Her Majesty the Queen*
20. *Canadian Legal Information Institute v The Queen* 2020 TCC 56
21. *Canadian Imperial Bank of Commerce v The Queen* 2018 TCC 109
22. *Children's Clean Air Network Society v The Queen* 2013 TCC 352

Learning Outcome

After completing these modules successfully, the students will be able –

- *To understand how taxation works at selected jurisdictions.*
- *To appreciate how India varies from its tax structure when compared to the selected jurisdictions.*
- *To understand the pros and cons of tax legislations at selected jurisdictions .*
- *To analyse the changes that can be made into India's tax legislations so as to attain growth.*

Law relating to International Trade and Taxation (DETXL403)

(Discipline Specific Elective Course - III)

OBJECTIVES OF THE COURSE

WTO has been facilitating world trade since its inception. General Agreement on Trade and Tariff (GATT) streamlines, controls and monitors trade between two countries which enables in smooth flow of trade by avoiding dispute between countries and entities. Also, it helps avoid favoured treatment towards a nation thereby providing equal opportunities for all countries. Antidumping, anti-circumvention, safeguard and countervailing duties are given by the WTO as protectionist measures to avoid monopolistic activities. India which is a member of WTO has adopted these measures into its domestic legislation which enables India to compete in the international level without any hindrances.

This course has been designed to:

• Enable the students understand the role of WTO in facilitating international trade,

• Enlighten the students about the importance of having protectionist measures such as Antidumping, anti-circumvention, etc,

• Provide them insight of the protectionist measures as they exist in India, and

• Enable them to understand the dispute settlement mechanism in case of international trade disputes.

COURSE OUTLINE

MODULE I - World Trade Organisation (WTO)

a) Origin of World Trade Organisation – Role of WTO in facilitating World Trade — General Principles of WTO & GAAT.

b) General Agreement on Trade and Tariff (GAAT) - Relevant Articles (VI, VII, XIX) – Agreement on Implementation of Articles VI, VII and XIX - Other Conventions relating to Customs.

MODULE II - Anti-Dumping Duties

a) Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995 – Definitions – Appointment and Duties of Designated Authority.

b) Investigation – Initiation of Investigation – Principles Governing Investigation – Confidential Information – Accuracy of Information – Investigation in other countries – Determination of Normal Value, Export Price and Margin of Dumping.

c) Determination of Injury – Levy of Provisional Duty – Termination of Investigation – Suspension or Termination of Investigation on Price Undertaking – Disclosure of Information – Final Findings - Levy of Final Duty – Imposition of Duty on Non-Discriminatory Basis – Commencement of Duty – Refund of Duty – Margin of Dumping – Dumping causing Injury to third Countries.

MODULE III - Anti-circumvention Measures

a) The Custom Tariff (Identification Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of Injury) Amendment Rules, 2012

b) Circumvention of anti-dumping duty - Initiation of investigation to determine circumvention - Determination of circumvention - Review of circumvention.

MODULE IV - Safeguard Duties

a) Customs Tariff (Identification and Assessment of Safeguard Duty) Rules, 1997 – Definitions – Appointment and Duties of Director-General.

b) Investigation – Initiation of Investigation – Principles Governing Investigation - Confidential Information – Determination or Threat of Serious Injury – Preliminary Findings.

c) Levy of Provisional Duty - Final Findings – Levy of Final Duty – Imposition of Duty on Non-Discriminatory Basis – Commencement of Duty – Refund of Duty – Duration – Liberalisation of Duty – Review.

MODULE V - Countervailing Duties

a) Customs Tariff (Identification, Assessment and Collection of Countervailing Duty on Subsidized Articles and for Determination of Injury) Rules, 1995 –

Definitions - Appointment and Duties of Designated Authority – Decision as to Country of Origin.

b) Investigation – Initiation of Investigation – Principles Governing Investigation – Confidential Information – Accuracy of Information – Investigation in other countries – Nature of Subsidy - Calculation of the amount of the Countervailable Subsidy - Determination of Injury – Preliminary Findings - Levy of Provisional Duty – Termination of Investigation – Suspension or Termination of Investigation on Price Undertaking – Disclosure of Information – Final Findings.

c) Levy of Final Duty – Imposition of Duty on Non-Discriminatory Basis – Date of Commencement of Duty – Refund of Duty – Review.

MODULE VI - Dispute Settlement Mechanism

a) WTO's Dispute Settlement Body – Process of Dispute Settlement Body – National Initialization Procedure - Consultation – Panel Establishment – Panel Report – Appellate Review – Implementation – Compliance Panel Procedure – Compensation/Suspension of Concessions or other Obligations – Legal Effects.

b) Director General of Trade Remedies (DGTR) in India – Functions.

RECOMMENDED READINGS:

BOOKS

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2. C.Satapathy, (2006, 21 Jan), "Review of WTO rules on antidumping and countervailing measures", Economic and Political weekly of India, Sameekha Trust Publication, P-267.

3. Vermulst E, (1997), " Adopting and implementing Anti-dumping laws – Some suggestion for developing countries", Journal of Word Trade, 31(2), 5-24.

4. Yong-Shik Lee, "Safeguard Measures: Why are They Not Applied Consistently with the Rules?", Journal of World Trade, Vol. 36, pp. 641-673, August 2002.

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FURTHER READINGS:

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1. Sheela Rai, Antidumping Measures: Policy, Law and Practice in India, Patridge, 2014.

2. Alokesh Barua, WTO and India: Issues and Negotiating Strategies , Orient Blackswan.

3. Kasper, Non – Discrimination in Tax Treaty Law and World Trade Law , Series on International Taxation.

4. Autar Krishen Koul, Guide to the WTO and GATT , Springer

5. Anand Singh, Antidumping Duty Laws in India, Easy Law Mate, 2017.

6. Sheela Rai, Anti-dumping measures under GATT/ WTO, Eastern Book Company.

7. A.L.Koul, Guide to WTO and GATT. Economics, Law and Politics, Satyam Law International.

8. Edwin Vermulst, The WTO anti-dumping agreement, Oxford University Press, 2005.
9. Anand Singh, Countervailing Duty and Subsidy Laws in India, Easy Law Mate, 2017.
10. Vibha Mathur , WTO and Inida : Development Agenda for the 21st Century, New Century Publications .
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2. Sanjiv Singh Bhadauria, "Impact of World Trade Organisation on Foreign Trade in India", Research Gate , 2015
3. An Anti-dumping "To Be or Not To Be" in Five Acts: A New Agenda for Research and Reform, (2014), Journal World Trade, 37(2), P-306.
4. Jong Woo Kang & Dorothea Ramizo (2020) "Impact of antidumping measures on international trade: Growing South–South tensions?", The Journal of International Trade & Economic Development, 29:3, 334-352.
5. "Destabilization of the Discipline on Safeguards?-Inherent Problems with the Continuing Applicability of Article XIX after the Settlement of the Agreement on Safeguards The WTO Agreement on Safeguards: Improvement on the GATT Article XIX?", 14 Int'l Trade J, volume 3, p. 219 – 231
6. Vincent Beyer, "Income Tax and Non Discrimination in the GATT", Journal of International Economic Law, Vol 21, Issue 3 , 2018, Pg. 547 – 566.
7. Teppo Eskelinen, "Panama and the WTO: New Constitutionalism of Trade Policy and Global Tax Governance", Review of International Political Economy, Vol24, 2017, Pg. 629 – 656.
8. "WTO and Its Impact on Indian Economy", International Journal of Emerging Technologies and Innovative Research (www.jetir.org | UGC and issn Approved), ISSN:2349-5162, Vol.6, Issue 1, page no. pp1039-1044, January-2019.

9. A.Hasib, "Impact of GATT agreement on Indian Economy, Globalisation of Indian Economy ", 1996, pg. 130 – 141.
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4. Bansilal Leisure Parks Ltd. v. C.C., Kolkata 2007 (213) ELT 246 (Tri.- Del.).
5. Vazir Sultan Tobacco Co. Ltd. v. Collector of Central Excise vide [1985 (21) E.L.T. 757]
6. Haridas Exports v. All India Float Glass Manufacturers' Association, (2002) 6 SCC 600
7. M/S.Shapoorji Pallonji v. Union of India on 16 April, 2018
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10. M/S Haridas Exports v. All India Float Glass Mfrs. Assn. & Ors., Civil Appeal No.2330 of 2002.
11. Belsund Sugar Co. Ltd. v. State of Bihar and Others (1999) 9 SCC 620.
12. Jogendra Lal Saha v. State of Bihar and Others 1991 Supp (2) SCC 654.
13. Shriram Mandir Sansthan v. Vatsalabai and Others (1999) 1 SCC 657
14. Gobind Sugar Mills Ltd. v. State of Bihar and Others (1999) 7 SCC 76
15. Nitco Tiles Ltd. v. Designated Authority, 2006 (104) ECC 302, 2006 ECR 302 Tri Delhi

16. H & R Johnson (India) Ltd. v. Designated Authority 2007 (218) E.L.T. 273
17. Pig Iron Mfrs. Asscn. v. Designated Authority, 2000 (116) ELT 67 Tri Del
18. Reliance Industries Ltd., v. Designated Authority & Ors {(2006) 10 SCC 368}
19. Saint Gobain India Private Ltd v. Union of India on 6 November, 2017
20. Nocil Limited v. Union of India on 3 July, 2019

LEARNING OUTCOMES

After completing these modules successfully, the students will be able –

- *To understand how WTO is promoting world trade.*
- *To appreciate the efforts of India in providing trade remedies.*
- *To understand how disputes are resolved at International level.*
- *To understand the role played by DGTR in investigation of trade disputes*.

DRAFTED BY

Prof. (Dr.) P.

Balamurugan,

Professor & Head (i/c), Department of Taxation Law, TNDALU.

Ms. V. Priya Krithika Devi,

Assistant Professor, Department of Taxation Law, TNDALU.

Ms. A. Niranjanaa,

Assistant Professor, Department of Taxation Law, TNDALU.

Ms. Ramya. S. R,

Assistant Professor, Department of Taxation Law, TNDALU.