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E-Commerce and Taxation

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Abstract

Along with being a sign of the rapid growth rate of development of the e-commerce industry, it also brings out the issues related to the receptivity of the public with which the law and order system of the country is known. While Internet was a new phenomenon in the early years, now in most metropolitan cities, Internet has become a basic necessity for every household. In this sequence, the e-commerce industry has come a long way. The legal system has made a comprehensive effort under the IT Act with various rules to deal with issues emerging from the use of the Internet. Along with this, IP related issues in ecommerce transactions have created new choices for users. Transactions using the Internet have expanded dramatically over the past few years as a result of which many countries and their governments have become increasingly concerned about the negative consequences associated with them. In this context, many organizations and inter-governmental agencies have tried to devise a solution that would be compatible with the systems of different countries and achieve tax neutrality. Several proposals have been tried to design a fair and efficient e-tax system. The general concept and challenges related to e-commerce and tax system has been discussed in this paper.

Key Words: E-Commerce, Industry, Communication, Network, Internet Service Provider and Information Technology.

Introduction:

Every industry contributes to the nation's economic growth. The communication industry has become very significant and is promising to grow enormously in the near future. Unlike other c media, Internet is facilitating access to knowledge blank, in competitive market and rendering business transaction using modern information technology. It has redesigned the traditional mode of business. As a whole, it is a business practice that involves use of computer, computer systems or computer network.

E-commerce occurs in various forms and between various entities in the market. The question is how to tax it. As the Internet has crossed borders (sovereignty) how can the requirements

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of physical presence and substantial nexus criteria of taxation are met. Due to uniqueness of e-commerce, taxation and tries to analyse the existing regime with regard to the e-commerce taxation. It is also alarmed that if this is left untaxed, it will give rise to a parallel economy.

Definition of E-Commerce:

According to Greenstein and Ferman "electronic commerce (e-commerce) is defined as the use of electronic transmission medium (telecommunication) to engage in the exchange, including buying and selling of product and service requiring transportation either physically or digitally from location to location."

E-commerce is any transaction completed over a computer- mediated network that involves the transfer of ownership or rights to use goods or services. According to European Commission, e-commerce encompasses more than the purchase of goods online. It includes a disparate set of loosely defined behaviors such as shopping, browsing in internet for goods and defined behaviors, gathering information about items to purchase and completing the transaction like any other sustained business activity. It also means consumer satisfaction surveys, capturing information about consumers and maintaining consumer databases for marketing promotion and other related activities.

The first phase of e-commerce threw up a new business nomenclature using various combinations of business and consumers. It has its own advantage and disadvantages as in traditional business methods. Thus, E-commerce has necessarily changed the world economy in dynamic and interactive pattern.

Taxation for Internet Transaction:

The internet has changed many of the fundamental and long standing concepts of direct and indirect taxation. Governments all over the World are grappling with the various issues of taxation raised by e-commerce. This is because of lack of comprehensive understanding of:

- The communication technologies.
- The complex nature of business offered through internet business, etc.
- The modus operandi of Internet business, etc. has made the operation of tax legislations more difficult.

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- The Information Technology Act 2000, which is the first legislation to deal with E-commerce is quite silent about tax system. Substantial remains untaxed. A way is to be found to tackle this relevant problem.

Basic Principles of Taxation:

Several basic principles form the foundation of taxation policy in any country. The most Important of these principles are efficiency, equality and positive economic effect. If the tax system disregards these principles it is fatally defective. The efficiency principle encompasses notions of both fiscal and economic efficiency. An economically efficient tax system should be neutral and not influence one's economic behaviour simply because of the manner in which the tax is levied. An ideal tax system is also equitable in its application. Not only does it treat taxpayers in similar economic circumstances similarly but also it makes suitable distinctions in its treatment of those in different economic circumstances similarly but also it makes suitable distinction in its treatment of those in different economic situations. It necessarily raises questions of “similar economic circumstances”; certainty in the tax laws is a fundamental principle in the establishment of ideal tax structure because predictability of tax consequences is an essential component of other basic tax principle. Finally, taxation has always been a mechanism for stabilization and regulation of the economy. Recognizing this fact, legislature has emphasized the economic effect of taxation, with a particular focus on encouraging economic growth.

For the development of rational tax policy one should understand the nature of industry. Some of the peculiarities of Internet are:

- It is a network of networks and it cannot be controlled or owned by one person.
- This network of networks is capable of rapidly transmitting packets from one computer to another.
- No human involvement is necessary to transmit data from one computer to another.
- The Internet can re-route itself if one computer is connected to the net. Content wise the Internet is very rich.
- The world-wide web environment provides a user friendly graphical interface.

A simple click is sufficient to obtain vast information anywhere in the World. It encompasses all territorial and geographical limitations.

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E-business for taxation is an intriguing concept. It crosses nine trillions. In these circumstances, it seems an imperative for revenue authorities to examine the approach and policy towards taxation of e-commerce more comprehensively than they have to date. However, this examination should not be confined to the conventional topics like whether an e-merchant has permanent establishment, how income from one line transaction should be characterized and where consumption of goods and services delivered electronically takes place, etc. These topics should be considered in the context of broader study evaluating the total impact of e-transformation on business productivity, supply chain, economic cycles and sector differences. To put it in another way, revenue authorities should not simply focus upon taxation of e-commerce per se (such as B2C sale and purchase of goods by Amazone.com the downloading of Norton anti-virus program), where attention is typically focused upon the location and function of service, characterization of income and place of consumption. Instead, the analysis should extend more broadly to ensure a deeper understanding of the nature of e-business as it is today and as it will develop tomorrow.

Conclusion:

In this regard, it is tempting to argue that business function will simply and suddenly disappear into cyberspace and that virtual companies will be able to operate with little presence anywhere except a site hosted by an Internet service provider in a tax-free jurisdiction.

Primarily, Internet activities are divided into two parts. One is “access service” and other is “content service”. In the former, access to the Internet will be provided to the individuals whereas, in latter, content consisting of information are delivered electronically. To distinguish further Internet service provider is one who provides the service assessing Internet whereas, online service provider (OSP) is one who provider service through Internet. The service is rendered by them in return for payment of subscription and usage fees. These are subjected to tax. The Internet as discussed earlier encompasses content/material service, traditional retail transaction to an electronic medium, electronic commerce involving digital products. This would eventually create so many intellectually create so many intellectual property problems.

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