THE ACCOUNTING ROLE IN DETERMINING THE CORPORATE TAX BASE IN INDIA

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ABSTRACT

This paper aims to understand the role of the accounting of Indian companies in the determination of the corporate income tax law. For this purpose, it studies Indian legal structures such as the Corporate Income Tax Law, the Accounting Law, and the Constitutional Law. Results show that accounting legislation assumed the IASB directives to develop the Indian Accounting Standards, presenting a set of individual accounting norms. Nevertheless, they have the main goal to assist the preparation of the financial statements to help investors make economic decisions, and they do not have any role in the legal entities' taxation domain. The corporate income tax law does not assume accounting concepts for business tax determination, legal dispositions prefer the express clarification of all the elements in the tax calculation, representing a duplication of legal dispositions.

Keywords: India, Indian Accounting Standards, Corporate Income Tax Law, Income-Tax Act

INTRODUCTION

The latest data determine India as the second most populated country in the world. Indian people represent 17, 71% of the population worldwide. Before the current health crisis, this economy assumed a relevant paper in the world's economy with thrives economic position.

According to the international organization - International Monetary Fund, the Gross Domestic Product (GDP) in 2018 amounted to 73%. This economic growth level did not maintain in the next, and it was one of the economies that suffered most from the health crisis, having shown significant negative growth. In the opinion of (Knack & Keefer, 1997) several aspects influence the economic growth, it covers the political corruption, quality of the bureaucracy, likelihood of government repudiation of contracts, and overall maintenance of the rule of law. In the maintenance of the rule of law, tax matters also assume a relevant role, particularly the companies' income taxation.

In the last years, the Indian case has raised interest in académic domain, increasing the published research. Some of them study tax themes, and it is the case of (Ojha et al., 2020), (Hoseini & Briand, 2020; Chandrashekhar, 2020; Khasimpeera & Reddy, 2018); Basak, 2017; Shivnani & Jampala, 2017). The accounting dimension also has brought interest to the academic community, such as (Das & Singh, 2018; Murthy & Rooney, 2018; Jones & Sahu, 2017; Kaur, 2017).

However, it is possible to conclude that the issue is still to be explored despite recent work, and there is no study on the Indian case. There is a need to understand better the influence of accounting in determining India's corporate income tax. This research address this gap through the study of accounting and corporate tax legal norms. The study's research question is: Have the Indian accounting law a relevant role in determining the corporate

income tax? For this purpose, it examines the most relevant legal dispositions. Five sections make up this study. The first one introduces the research, the second one makes the framework, the third part explains the how is organized the Indian accounting system, the fourth section talks about the Indian corporate tax system, and the last one presents the conclusions.

FRAMEWORK

India's Supreme Law is the Constitution of India[1] (CI), the Constituent Assembly of India introduces it on 26 November 1949. Until this moment, it continues to be an amendment, already occurred 103 alterations, and the last one was in January 2019, known as the Constitution Act, 2019. The constitutional framework of India tax system is brief. In Chapter I, Finance, of Part XII - Finance, property, contracts and suits, the CI treats tax questions. Article 265 introduces the theme of "Taxes not to be imposed save by authority of law". It determines "no tax shall be levied or collected except by authority of law". Although several amendments to the Supreme Law, article 265 never suffered a change. This legal disposition imposes the taxes' collection to the legal forecast, it means, it is underlying the principle of legality, the fundamental principle of constitutional tax law. According to (Jarach, 1957), because the tributes represent invasions of the public power in the private riches and a Rule of Law, these invasions must be made only by legal instrument. This rule set the legality's principle as the base of Indian Tax System similar to other European tax jurisdictions such as Spain (Lapatza, 1992; Aldeia, 2017) in article 31 of the Spanish Constitution[2]; or Portugal (Dourado, 2007; Nabais, 2002; Xavier, 1978), in article 103 of the Portuguese Supreme Law[3].

Similarly, the constitution does not provide specific guidelines for each of the taxation areas, as is the case of taxation on income, consumption, and wealth, unlike what happens in some European countries.

The corporate income tax law does not assume the profit determined under the accounting rules as the starting point for determining entities income tax. In the Indian jurisdiction, each area establishes the own rules, the Indian Accounting Standards regulate the accounting income, and the Income Tax Act sets the rules for calculating the taxable income. It implies the duplication of rules, and the preparers of the financial statements need to observe both. It is currently uncommon because most countries assume the direct estimation regime as the prefered for corporate income tax estimation. This condition implies that tax law explicitly explains all incomes considered for the taxable base, and the deductibles expenses admitted for deduction to the income.

This research aims to address one question in this conceptual background: Have the Indian accounting law a relevant role in determining the corporate income tax? To answer it, the paper analyses the Indian legal structures, in particular, the Accounting Law, the Corporate Income Tax Law and the Constitutional Law.

Indian Accounting System

India adopts the Indian Accounting Standards (Ind AS), being the ICAI - Institute of Chartered Accountants of India the responsible organization for determining them. The International Financial Reporting Standards (IFRS) ground most of Ind AS because converged from the IASB accounting standards (Chadda & Vardia, 2020; Yadav & Bhanawat, 2019). This legal imposition cover listed and not listed companies, since 1 April 2016, and as long as they reach certain equity level (Tawiah & Boolaky, 2020).

The Indian accounting legislator organized the accounting rules by individual standards, each dealing with a theme, as it is possible to see in the following table:

Table 1
THE INDIAN ACCOUNTING LEGISLATOR ORGANIZED THE ACCOUNTING RULES BY INDIVIDUAL STANDARDS

Ind As No.	Name of Indian Accounting Standard
Ind AS 1	Presentation of Financial Statements
Ind AS 2	Inventories
Ind AS 7	Statement of Cash Flows
Ind AS 8	Accounting Policies, Changes in Accounting Estimates and Errors
Ind AS 10	Events occurring after Reporting Period
Ind AS 11	Construction Contracts (Omitted by the Companies (Indian Accounting Standards) Amendment Rules, 2018)
Ind AS 12	Income Taxes
Ind AS 16	Property, Plant and Equipment
Ind AS 17	Leases (Omitted by the Companies (Indian Accounting Standards) Amendment Rules,2019)
Ind AS 18	Revenue (Omitted by the Companies (Indian Accounting Standards) Amendment Rules, 2018)
Ind AS 19	Employee Benefits
Ind AS 20	Accounting for Government Grants and Disclosure of Government Assistance
Ind AS 21	The Effects of Changes in Foreign Exchange Rates
Ind AS 23	Borrowing Costs
Ind AS 24	Related Party Disclosures
Ind AS 27	Separate Financial Statements
Ind AS 28	Investments in Associates and Joint Ventures
Ind AS 29	Financial Reporting in Hyper inflationary Economies
Ind AS 32	Financial Instruments: Presentation
Ind AS 33	Earnings per Share
Ind AS 34	Interim Financial Reporting
Ind AS 36	Impairment of Assets
Ind AS 37	Provisions, Contingent Liabilities and Contingent Assets
Ind AS 38	Intangible Assets
Ind AS 40	Investment Property
Ind AS 41	Agriculture
Ind AS 101	First time adoption of Ind AS
Ind AS 102	Share Based Payment
Ind AS 103	Business Combination
Ind AS 104	Insurance Contracts
Ind AS 105	Non-Current Assets Held for Sale and Discontinued Operations
Ind AS 106	Exploration for and Evaluation of Mineral Resources
Ind AS 107	Financial Instruments: Disclosures
Ind AS 108	Operating Segments
Ind AS 109	Financial Instruments
Ind AS 110	Consolidated Financial Statements
Ind AS 111	Joint Arrangements
Ind AS 112	Disclosure of Interests in Other Entities
Ind AS 113	Fair Value Measurement
Ind AS 114	Regulatory Deferral Accounts
Ind AS 115	Revenue from Contracts with Customers(Applicable from April 2018)
Ind AS 116	Leases (Applicable from April 2019)

Besides the Indian accounting standards, there are the Conceptual Framework–CF, and the Framework for the Preparation and Presentation of Financial Statements. The Conceptual Framework has a relevant role in the financial statements' preparation, and it establishes crucial accounting concepts assumed in the Indian accounting standards. Considering that Indian accounting standards assume the IASB organization as the basis, these concepts are on

the same line of the IFRS concepts (Srivastava, 2020). Chapter four of this document clarifies the concept of financial statements' elements: assets, liabilities, equity, incomes and expenses.

Conceptual Framework Paragraph	Elements of financial statements	Conceptual Framework Concepts
4.3	Asset	An asset is a present economic resource controlled by the entity as a result of past events.
4.26	Liability	A liability is a present obligation of the entity to transfer an economic resource as a result of past events.
4.63	Equity	Equity is the residual interest in the assets of the entity after deducting all its liabilities.
4.68	Income	Income is increases in assets, or decreases in liabilities, that result in increases in equity, other than those relating to contributions from holders of equity claims.
4.69	Expense	Expenses are decreases in assets, or increases in liabilities, that result in decreases in equity, other than those relating to distributions to holders of equity claims.

Indian Corporate Tax System

The Income Tax Act (ITA) of 1961 regulates the Indian income taxation of individuals and companies. In section 4, paragraphs 1 establish this rule burden the total income of every person. Section 2(31) explains whom they are the taxpayers: “an individual, an undivided Hindu family, a company, a firm, an association of persons or a body of individuals, whether incorporated or not, local authority and every artificial juridical person, not falling within any of the preceding sub-clauses”. So, this legislation predicts also the taxation of companies' incomes.

Section 5 of the same law determines the Act's ambit. To the resident business, are taxes all the income, regardless of the source. To foreign entities, the taxation occurs over indiscriminate source income received or deemed from India (Figure 1), considering the territory principle (Xavier, 2011). Disposition of section 6(3) clarifies the determination of Companies residence, it means, a company is a resident in India if it is an Indian company; or its place of effective management, in that year, is in India, it means the place where happen the crucial necessary management and commercial decisions for the business' conduction as a whole. Besides, and relating to incomes taxed under this legal disposition, the section 2(22A) clarifies the concept of "domestic company", it represents the Indian company or other that has met the requirements of this law for the declaration and payment, in India, of the dividends payable out of such income. In opposition to the domestic company, the income law also predicts that in section 2(23A), the concept of "foreign company" means a company that is not a domestic company.

Furthermore, the Act explains the meaning of income. First, in section 2(24) says the income includes, between other, profits and gains, dividend, voluntary contributions received, the legal disposition still remits to incomes addressed in other sections, such as 28th. Section 2(45) establishes the concept of "total income", considering it as "the total amount of income referred to in section 5". In section 5, determines it includes all the income, regardless the source, it means the inclusion of: "(a) is received or is deemed to be received in India in such year by or on behalf of such person; or (b) accrues or arises or is deemed to accrue or arise to him in India during such year; or (c) accrues or arises to him outside India during such year". All Chapter III of ITA exposes to the incomes which do not form part of the total income. Chapter IV clarifies the determination of business' income, and the 28th section exposes the income taxation of the profits and gains of business or profession. The following section

clarifies the rule to compute the income referred in the previous section is in sections 30 to 43D.

The segments 30 until 43D determine guidelines for expenses deduction in the profit's estimation. The income rule allows the deduction of, for example, the amount paid the current repairs of machinery, plant and furniture[4]; the tangible assets depreciation[5]; expenditure on scientific research[5]; or other deductions[5], as well as the amounts not deductible[8]. It means Indian legislator uses the analytical method in taxable base's determination of corporate income taxation (Pascual & Zamora, 1998). It establishes tax regulation that normalizes all the tax base's positive and negative components (Martín Queralt & Moreno, 1998). It is a complete and exhaustive regulation of all elements and circumstances that determine income (income, expenses, the temporal imputation, valuation of the elements, extraordinary operation) through rules recognized by the Tax Law (Taboada, 1982). This method was used in countries such as Spain until 1995, when the current corporate income tax law came into force. Until that date, the law provided complete independence between the accounting rules and corporate income taxation ones (Aldeia, 2017). Therefore, it promoted a doubling of accounting and tax rules (Moreno, 1997), that is what happens at this moment in Indian Tax Jurisdiction.

Also, the law settles The assessment year represents twelve months; it starts on 1 April every year and finishes on 31 March next year. According to section 4 - Charge of income-tax is due to tax over the chargeable event during the assessment year since predicted in ITA law disposition.

Indian legislation assumes a proportional rate and being in a corporate tax dimension. There are no personalization elements, that is, elements that allow adjustment to the personal conditions that occur in the taxpayer (Martínez, 2003). The corporate income rate in India differentiate the company's dimensions, taking into consideration if whether it is a small, medium or large business[9]. The large entities are subject to higher taxation, opposing the smaller ones, the first ones assume an ITA tax rate of 30%.

CONCLUSION

The paper's mains objective is to understand the Indian accounting standards' role in determining the income tax for Indian companies. Indian accounting system follows the IASB understandings due to IFRS based the Ind AS. These standards have the mains goal to assist financial reporting preparation to help stakeholders make economic decisions.

ITA code determines the rule of income taxation, including corporate and individual. Regarding the legal entities, it establishes all rule for corporate income tax calculation. ITA is extensive in concepts, and it clarifies all the elements for determination of the tax burden. It explains what includes the income and the expense notion, and it does not accept the concepts defined in the accounting law, it prefers expressly describe all tax components. It represents to have a duplication of rules, accounting and tax ones.

FUNDING

The author is grateful for the financial support provided by the Research Center in Business Sciences and Tourism - Fundação Consuelo Vieira da Costa (CICET-FCVC).

END NOTES

1. This article is a revised and expanded version of a paper entitled *"The Indian tax system as a fact of competitiveness"* presented at 50th International Scientific Conference on Economic and Social Development – Chelyabinsk, 13-14 February 2020

2. https://www.india.gov.in/sites/upload_files/npi/files/coi_part_full.pdf
3. *Constitución Española.*
4. *Constituição da República Portuguesa*
5. Section 31.
6. Section 32.
7. Section 35.
8. Section 36.
9. Section 40.
10. Section 2(9) of Indian ITA.
11. http://taxsummaries.pwc.com/ID/India-Corporate-Taxes-on-corporate-income and https://www2.deloitte.com/content/dam/Deloitte/global/Documents/Tax/dttl-tax-corporate-tax-rates.pdf Consulted on 12 September 2019

REFERENCES

Aldeia, S.C.R. (2017). La determinación de la base imponible en el impuesto sobre sociedades: Régimen general: Una perspectiva de derecho comparado de España y Portugal. Derecho, gobernanza e innovación: Dilemas jurídicos de la contemporaneidad en perspectiva transdisciplinar/Coord. Maria Manuela Magalhães Silva; Rubén Miranda Gonçalves (dir.), Fábio da Silva Veiga (dir.).

Basak, N. (2017). Impacts of progressive tax reform in india: Goods and Services Tax (GST) - an approach. *Journal of Commerce & Accounting Research, 6*, 36-43.

Chadda, N.K., & Vardia, S. (2020). Fair Value Accounting And Valuation Of Non-Financial Assets: A study of impact of ifrs adoption. *Journal of Commerce & Accounting Research*, *9*, 63-72.

Chandrashekhar, C. (2020). Direct tax reform in india: A panoramic study on Income Computation and Disclosure Standards (ICDS). Vision, *Journal of Indian Taxation, 7*, 94-107.

Das, S.C., & Singh, R.K. (2018). Accounting education in india and usa: A comparative study. *Journal of Commerce & Accounting Research, 7*, 54-64.

Dourado, A.P. (2007). O princípio da legalidade fiscal: tipicidade, conceitos jurídicos indeterminados e margem de livre apreciação, Almedina.

Hoseini, M., & Briand, O. (2020). Production efficiency and self-enforcement in value-added tax: Evidence from state-level reform in India. *Journal of Development Economics, 144*.

ITA ITA, Income-tax Act, 1961.

Jarach, D. (1957). Curso superior de derecho tributario: versión taquigráfica del curso dictado en el año, Liceo Profesional "Cima".

Jones, J., & Sahu, S. (2017). Transition accounting for India in a multi-sector dynamic general equilibrium model. *Economic Change & Restructuring, 50*, 299-339.

Kaur, T. (2017). Behavioural accounting practices in steel authority of india limited. *CLEAR International Journal of Research in Commerce & Management, 8*, 55-57.

Khasimpeera, K., & Reddy, M.S. (2018). Goods and Services Tax (GST) and its impact on indian economy. *CLEAR International Journal of Research in Commerce & Management, 9*, 23-26.

Knack, S., & Keefer, P. (1997). Does social capital have an economic payoff? A cross-country investigation. *Quarterly Journal of Economics, 112*, 1251-1288.

Lapatza, J.J.F. (1992). Procedimientos y métodos de comprobación tributaria a la luz de los principios constitucionales. Dereito: Revista xuridica da Universidade de Santiago de Compostela, *1*, 1, 37-48.

Martín, Q.J. & Moreno, V.A.G. (1998). La determinación de la base imponible del impuesto sobre sociedades: alcance y significación de la remisión al resultado contable Universitat de València.

Martínez, P.S. (2003). Direito Fiscal, Coimbra, Almedina.

Moreno, V.A.G. (1997). La determinación de la base imponible del impuesto sobre sociedades, alcance y significación de la remisión al resultado contable (Dir. Juan Martín Queralt). Universitat de València.

Murthy, V., & Rooney, J. (2018). The Role of Management Accounting in Ancient India: Evidence from the Arthasastra. *Journal of Business Ethics, 152*, 323-341.

Nabais, J.C. (2002). O princípio da legalidade fiscal e os atuais desafios da tributação, Coimbra, Separata do Boletim da Faculdade de Direito.

Ojha, V.P., POHIT, S., & Ghosh, J. (2020). Recycling carbon tax for inclusive green growth: A CGE analysis of India. Energy policy, *144*.

Pascual, L.A.M., & Zamora, M.P.M. (1998). El Impuesto sobre sociedades, régimen general Madrid, Centro de Estudios Financieros,.

Shivnani, T., & Jampala, M.C.B. (2017). A Journey of Goods & Services Tax (Gst) in india: An overview. *Journal of Commerce & Accounting Research*, *6*, 14-18.

Srivastava, A. (2020). A study of Effects and implications of differences between Indian GAAP and IFRS. Kne social sciences, 1370-1392.

Taboada, C.P. (1982). Metodos y procedimientos de determinación de las bases imponibles. HPE, 079, 13-20.

Tawiah, V., & Boolaky, P. (2020). Consequences and determinants of IFRS convergence in India. *International Journal of Accounting & Information Management, 28*, 303-322.

Xavier, A. (1978). Os Princípio da Legalidade e da Tipicidade na Tributação. Revista dos Tribunais, 13-16.

Xavier, A. (2011). Direito tributário internacional, Coimbra, Almedina.

Yadav, N., & Bhanawat, S.S. (2019). Unveiled the impact of if rs on indian corporate sector. *International Journal of Business Ethics in Developing Economies, 8*, 19-19-25.