

Tax Evasion a Dark Side of E-Commerce

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ABSTRACT

The rise of e-commerce has a high impact and new questions on taxation policy and administration. E-commerce makes it easier for business to be conducted without creating the "permanent establishment using bricks and mortar" that would otherwise subject a seller to tax on income. It blurs the distinctions between the sale of goods, the provision of services and the licensing of intangible assets, each of which is subject to some form of taxation. Rapid developments in information technology have not only had an impact on assessing tax liability and collecting revenue, but on the State's ability to identify the growing number of taxable transactions that take place in cyberspace. This paper explores on E-commerce and some issues on tax evasion.

I. INTRODUCTION

E-commerce is a new buzzword in the last decade and is likely to grow exponentially every year in a developing country like India. It is expected that e-commerce might have a growth in overall trade market. According to IAMAI report it is found that 40% of internet users in India use e-commerce websites to find the price of product.

Google revealed in the survey that 67 percent of e-commerce happens on mobile devices and as many as 40% of all Google searches in India are done using mobile phones.

Further in IAMAI report, it states that 80% market share of current online commerce industry is dominated by travel business in which 63% by domestic air ticket booking and 27% by online Railway ticket, and remaining 20% share constitutes of non-travel businesses such as electronic retailing, digital download, paid content subscription, financial services, online classifieds, etc. The statistics shown in figure 1 also reveal that, online travel industry i.e., service sector is dominating the online e-commerce industry since last 5 years. However, online users in India have exhibited willingness to make purchases over the internet, which is evident from the increasing awareness and growth of net commerce industry.

Electronic retailing is also growing very fast in India. This year electronics items like mobile phones, laptops, cameras, home appliances, personal products

like apparels and jewelry and other accessories had a market share of worth Rs. 2,550 crore, which is expected to grow by 30% next year.

E-commerce has a variety of impacts on direct and Indirect taxes imposed in India. Although many legal or economic analyses of e-commerce taxation have been published. India faces the difficulty in taxing e-commerce justly and efficiently, but a feasible solution is to be found which depends on economic conditions, social and political features.

II. E-COMMERCE

There are different definition given by different person or academicians depending on the technology and working process. General definition in terms of accounting is that "*E-commerce is the process of buying, selling, or exchanging products, services, or information via computer networks*".

According to the editor-in-chief of International Journal of Electronic Commerce, Vladimir Zwass, "*Electronic commerce is sharing business information, maintaining business relationships and conducting business transactions by means of telecommunications networks*".

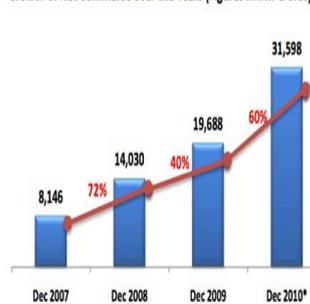
Further Zwass said that electronic commerce has been re-defined by the dynamics of the Internet and traditional e-commerce is rapidly moving to the Internet. With the progress of the e-commerce the term e-commerce includes:

- Electronic trading of physical goods and of intangibles such as information.
- All the steps involved in trade, such as on-line marketing, ordering payment and support for delivery.
- The electronic provision of services such as after sales support or on-line legal advice.
- Electronic support for collaboration between companies such as collaborative on-line design and engineering or virtual business consultancy teams.

Net Commerce Market Size from 2007 to 2011 (Figures in Crores. Percentages indicate share of the overall market size)				
Year	Dec 2007	Dec 2008	Dec 2009	Dec 2010*
Total Market Size	8,146	14,030	19,688	31,598
Online Travel Industry	6,250 (77%)	10,500 (75%)	14,953 (76%)	25,258 (80%)
Online Non-Travel Industry	1,896 (23%)	3,530 (25%)	4,735 (24%)	6,340 (20%)
- e-ailing	978	1,120	1,550	2,050
- Digital Downloads or Paid Content				
- Subscription	238	290	435	680
- Financial Services*		1,200	1,540	2,000
- Other Online Services (incl. Online Classifieds)	680	520	1,210	1,610

* Financial Services were not calculated in the years prior to 2008. - Estimated Figures

Growth of Net Commerce over the Years (Figures in INR Crores)



Source: Internet

<http://www.mca.gov.in>

Figure 1: E-commerce statistics

The wide range of business activities related to e-commerce brought a new range of terms and phrases to describe Internet phenomenon in business sectors. The words I-commerce, web-commerce, business-commerce are rarely used due to transactions go through Internet. The words like Web-Store, Web-mall, Virtual-mall, cybermall, virtual stores or cyber stores are terms for new shop or business firms.

The term *e-business* a analogy of *e-commerce* is the conduct of the business on the Internet, not only buying and selling but also servicing customers and collaborating with business partners.

III. IMPACT OF E-COMMERCE IN AREA OF BUSINESS

E-commerce is new concept which incorporates all business process, management and policies concept of traditional business. So of the area where E-commerce has a strong impact are as follows:

Marketing: - In the past door-to-door marketing, home parties, catalogues, leaflets, telemarketing, TV, radio and other forms were used for marketing. Today Internet is a biggest tool for marketing of products. The advertisements are posted on the websites, information and promotional schemes are sent through emails, etc.

Manufacturing: - The production of the company is now changed from mass production to demand production. Web based Enterprise Resource Planning systems (ERP) can be used to forward orders directly to designers or production floor directly in seconds thus cutting down or increase in production with immediate effect.

Management information system: - The information can be used for analysis, design and implementation of e-business system in an organization. The system helps us to integrate the front-end and back-end systems.

Tax and ethics: - The ecommerce supports online payments of taxes and different legal and ethical issues such as copyright law, privacy of customer information, legality of electronic contracts etc.

IV. TAX EVASION

Governments are continuously striving to reduce the problem of tax evasion because without taxation survival of any government is at stake. Therefore, there is a need to properly understand tax evasion dimensions and develop a sound strategy to tackle it. This paper aims to explore the possibility of tax evasion during the transaction through E-commerce.

Tax evasion is not a new phenomenon; it has been in existence for a long time and still continues to prevail and impose growing challenges on tax authorities and governments. Tax evasion is the minimization of one's tax liability by way that violates the provisions of the tax codes. It is therefore observed an offence, and could lead to the imposition of criminal proceedings against the offender.

In legal terms there is a clear distinction between tax evasion and tax avoidance. Tax avoidance involves every attempt by legal means to use loopholes in order to minimize ones tax liability. However, from economic point of view, and focusing on the consequences of both, in terms of tax collection, evasion and avoidance are similar even if one is illegal and the other one is not.

V. ISSUES IN TAX EVASION

Government of India imposes different taxes on business house. Value Added Tax is a multi point sales tax with set off for tax paid on purchases. It is basically a tax on the value addition on the product. In many aspects it is equivalent to last point sales tax. It can also be called as a multi point sales tax levied as a proportion of Valued Added. The second one is the service tax, which is imposed on the services or consultancy provided by the professional. So looking to the figures and the table, we can conclude that:

1. Vat tax as it is a multipoint tax, as per the nature of E-business, it directly involves consumer with business (B2C). Since the different points are decreased so the tax is reduced and it result is tax loss of the Government.
2. Service sector covers approx 80% of the share of total turnover of E-commerce transactions. Service sector on recommendation of finance commission gives some share to the state. But the services provided by dot com companies give the whole tax to one state only. So the other state income is lost due to nature of the business.
3. The provision of services and the licensing of intangible assets, each of which is subject to some form of taxation and other taxes such as municipal taxes, professional taxes, are too reduced of the state Government.

VI. CONCLUSION AND SUGGESTION

The e-commerce presents both challenges and huge opportunities for taxation and tax administration. The tools and techniques of e-commerce that can assist tax payers in their dealings with e-government should be designed and developed. At the same time the Government is working to develop the policy for the taxation on e-commerce, with business and its international partners. The Indian Government had constituted the High Powered Committee ("HPC") in December 1999, to examine the position of e-commerce transactions under existing taxation laws. With a view to provide a global perspective on the taxation of e-commerce to the Government of India, Mr. Nishith Desai, the founder member of Nishith Desai Associates ("NDA"), a legal and tax counselling firm has through his firm NDA, approached renowned and eminent experts in the field of international taxation, including academicians, professionals and industry experts around the world both from developed and the developing countries and convened a group called the "eComTaxpert Group". The consequences of the tax evasion increase the black money, give birth to personal economy, decreases the Government revenue and many more. Some of the important principles that should be considered during defining the policies are:

- Neutrality – the taxation of e-commerce should seek to be technology neutral so that no particular form of commerce is advantaged or disadvantaged;
- Certainty and transparency – the rules for the taxation of e-commerce should be clear and simple so that businesses can anticipate, so far as possible, the tax consequences of the transactions they enter into;
- Effectiveness – the tax rules should not result in either double or unintentional non-taxation, and risks from increased evasion and avoidance should be kept to a minimum. The overriding aim should be that the right amount of tax is paid at the right time and in the right country; and
- Efficiency – the tax rules should be efficient, keeping the compliance costs of business and the administration costs of government to the minimum compatible with effective tax administration. Measures to counter evasion or avoidance should be proportionate to the risks which they seek to address.

REFERENCES

- [1] Neelesh Jain & Dr. R. K. Manwani, "E- Accounting a New Challenge in Tax Evasion", a paper presented in Conference at Dr Hari Singh Gour Vishwavidyalaya, Sagar.
- [2] Allingham M. G. and A. Sandmo. (1972) "Income Tax Evasion: A Theoretical Analysis". *Journal of Public Economics*. 1 (3/4) pp. 323-340.
- [3] Braithwaite Valerie. (2003) *Taxing Democracy, Understanding Tax Avoidance and Evasion*. The

Australian National University Canberra. Ashgate Publishing Company U.S.A.

- [4] Dubin, Jeffrey, Michael Graetz, and Louis Wilde. (1990) "The Effect of Audit Rates on the Federal Individual Income Tax". *National Tax Journal*, 43(4) pp. 395-409.
- [5] Gramsmick H.G. and Scott W.J. (1982) "Tax Evasion and Mechanism of Social Control. A Comparison with Grand and Petty Theft". *Journal of Economic Psychology*. (2) pp. 213-230.
- [6] Klepper S. and D.S. Nagin. (1989) "The Anatomy of Tax Evasion". *Journal of Law, Economics and Organization*, 5(1) pp.1-24.
- [7] Pyle David J. (1989) *Tax Evasion and the Black Economy*. London: Macmillan Press LTD.
- [8] Slemrod Joel and Jon Bakija. (2001) *Taxing Ourselves. A Citizen's Guide to the Great Debate over Tax Reform*, U.S.A: MIT Press.
- [9] Song Y. D. and T. E. Yarbrough. (1982) "Tax Ethics and Taxpayer Attitudes Survey". *Public Administration Review*.
- [10] Witte R. D. and Woodbury. (1985) "The Effects of Tax Laws and Tax Administration on Tax Compliance: The Case of The U.S. Individual Income Tax". *National Tax Journal*.
- [11] Website www.w3c.org visited on Feb 14, 2012.
- [12] Website <http://gmpg.org>, news on "Indian E-commerce market at 47k cr by 2011 by Viral Dholakia on March 17, 2011", visited on Feb 14, 2012.
- [13] Website www.imediacconnection.com, news on, "Ecommerce in India – Statistics, Trends & Insights", visited on Feb 14, 2012.
- [14] Stephen Timms, "E-Commerce: UK Taxation Agenda", a web page of www.hm-treasury.gov.uk/press/1999/index.html, visited on Feb 14, 2012.
- [15] *Taxation of Ecommerce in India*, a report submitted to Central Board of Direct Taxes, India by eComTaxperts Group.