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Tourism Development and Exchequer's Encouragement

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Abstract

Despite the arguments against the development of tourism, a large number of positive aspects can be noticed in favour of tourism development. The data presented in this paper substantiates the need for development of tourism in India. It is observed that the yields emanated from this sector percolate to every corner of the economy and society starting from advanced cities to hamlets. As a result it leads to balanced and inclusive growth. To tap the latent potential of the tourism sector, it is necessary to make integrated efforts from all corners of the economy. One such effort, focused in this paper, has been initiated by the Indian Tax System. The system has designed various special provisions to motivate the sector, but they are scattered in various Acts. The knowledge of these provisions facilitate a sound tax planning. This paper makes an attempt to put important tax provisions, relating to different players in the tourism sector scattered in various tax laws, in one place to provide a basic understanding. It concludes that the sops offered by the exchequer are inadequate looking at the needs of the industry. This sector is a cash-cow. Its yields outweigh the sops and efforts. Hence, this sector needs focused attention from the policy makeRs

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Introduction

Travel and Tourism Industry is one of the gigantic industries in the world. Tourism, particularly in emerging and Third World countries, is projected as an engine of economic growth. Of course, there are anti-tourism and pro-tourism arguments prevalent in the world. Anti-tourism proponents emphasize on environmental degradation, drug trafficking, cross-cultural ill-effects, and commercial sex on account of commercialization of tourism and elevating it to the level of tourism industry. Pro-tourism advocates have tried to unveil the brighter side of tourism by focusing on the benefits it showers on the economy. They state that tourism enhances international relations through global cultural exchange; creates awareness of the need for environmental protection; acts as catalyst in wealth creation and as a whole it cements the bonding amongst people.

It is a well-known fact that the tourism industry is labour-intensive. The ratio of employment creation to the funds invested is more in the tourism sector than that of any other sectors of the economy. It (i.e., tourism sector) offers varied job opportunities to specialized persons and the unskilled workforce. It creates employment even in remote areas. Thus, it removes the barriers to growth and ultimately results in an all-pervasive and inclusive growth. Tourism industry is a tool for the creation and generation of wealth. The share of the tourism industry in the world's GDP (Gross Domestic Product) in 1994-95 was 10 percent, which was higher than the world's military budgets put together. Hence, considering the socio-economic potential of the tourism sector, it is felt all over the world that there is a necessity to develop this sector. However, the concerns of anti-tourism proponents are to be kept in mind while designing a policy framework for the development of tourism. Those concerns help keep the policy makers, administrators and supervisors on the right track.

India is bestowed with a rich heritage and cultural tradition. It can tap the potential. The tourism sector in India has recorded phenomenal growth in the last couple of decades. However, there is a lot left

untapped. The following data substantiates the wealth-generating capability of tourism industry.

Table 1. A Comparative Statement of International Tourist Arrivals

Year	International Tourist Arrivals (in millions)		Foreign Tourist Arrivals (FTAs) in India (in millions)	India in the World		India in Asia and the Pacific	
	World	Asia and the Pacific		Percentage of Share	Rank	Percentage of Share	Rank
1997	593.0	89.0	2.37 (3.8)	0.40	—	2.67	—
1998	611.0	88.3	2.36 (-0.7)	0.39	47	2.67	—
1999	633.8	97.6	2.48 (5.2)	0.39	46	2.54	—
2000	683.3	109.3	2.65 (6.7)	0.39	50	2.42	11
2001	683.4	114.5	2.54 (-4.2)	0.37	51	2.22	12
2002	703.2	123.4	2.38 (-6.0)	0.34	54	1.93	12
2003	691.0	111.9	2.73 (14.3)	0.39	51	2.44	11
2004	762.0	143.4	3.46 (26.8)	0.45	44	2.41	11
2005	803.4	154.6	3.92 (13.3)	0.49	43	2.53	11
2006	846.0	166.0	4.45 (13.5)	0.53	44	2.68	11
2007	894.0	182.0	5.08 (14.3)	0.57	41	2.79	11
2008	917.0	184.1	5.28 (4.0)	0.58	41	2.87	11
2009	882.0	180.9	5.17 (-2.2)	0.59	41	2.86	11
2010	940.0	203.8	5.58 (8.1)	0.59	40	2.74	11

Note: 1. Figures given in parentheses are change (of arrival of FTAs) in percentage over the previous year. They have been calculated by considering actual figures without rounding off to the nearest million (compiled). Hence, they should not be compared with data which are expressed in terms of million.

2. Data for 2010 are provisional.

Source: India Tourism Statistics (2011). *Market Research Division*. Ministry of Tourism. Government of India. New Delhi.

From the analysis of the data in the above table the following inferences can be drawn:

1. It can be observed that foreign tourist arrivals registered a growth rate of 58.52%, 128.08% and 135.44% in the world, the Asia and the Pacific region and in India respectively from the year 1997 to 2010. One can easily notice the dominance of India in attracting foreign tourists during this period. As a result of this, India would be able to move up the ladder from 47 to 40 in terms of ranking in the world during the same period. It is also noticed that India, during the period under review, was not able to improve (remained at the 11th position) its ranking when compared to that of the Asia and the Pacific region though the average growth rate of FTAs in India exceeded than that of the Asia and the Pacific region.
2. During the period 1997-2002, India has experienced oscillation in FTAs. If one starts to identify the reasons, among others things, insecurity caused by terrorist attacks may be a prominent cause. Coimbatore bombings in February 1998, terrorists attack on Jammu and Kashmir Assembly Complex in Srinagar and on the Indian Parliament complex New Delhi in 2001, attack on Aksharadhama temple in Gujarat and army camp near Jammu in 2002 are few of the incidents took place during the period.
3. During the period 2003-07, FTAs posted double digit growth rate in all the yeaRs Year on Year (YOY) growth rate was excellent in 2004. The ranking in that year found a sudden jump to 44 from 51 in the immediate preceding year. YOY growth rate was worst hit, during the period under review, in 2002 and 2001. This negative growth resulted in a stumble in the ranking of India in the world and the Asia and the Pacific.

Table 2. A Comparative Statement of International Tourism Receipts

Year	International Tourism Receipt (in US $ billions)		Foreign Exchange Earnings in India (in US $ million)	India in the World		India in Asia and the Pacific	
	World	Asia and the Pacific		Percentage of Share	Rank	Percentage of Share	Rank
1997	442.8	82.6	2889 (2.0)	0.65	—	3.50	—
1998	444.8	72.3	2948 (2.0)	0.66	34	4.08	—
1999	458.2	79.1	3009 (2.1)	0.66	35	3.80	—
2000	475.3	85.3	3460 (15.0)	0.73	36	4.06	10
2001	463.8	88.1	3198 (-7.6)	0.69	36	3.63	12
2002	481.9	96.5	3103 (-3.0)	0.64	37	3.22	13
2003	529.3	93.7	4463 (43.8)	0.84	37	4.76	9
2004	633.2	124.1	6170 (38.2)	0.97	26	4.97	8
2005	679.6	135.0	7493 (21.4)	1.10	22	5.55	7
2006	744.0	156.9	8634 (15.2)	1.16	22	5.50	7
2007	857.0	187.0	10729 (24.3)	1.25	22	5.74	6
2008	939.0	208.6	11832 (10.3)	1.26	22	5.67	6
2009	851.0	203.1	11394 (-3.7)	1.34	22	5.61	6
2010	919.0	248.7	14160 (NA)	1.54	16	5.71	6

Note: 1. Figures given in parentheses are change (of FEE) in percentage over the previous year. They have been calculated by considering actual figures without rounding off to the nearest US $ million (compiled). Hence, they should not be compared with data which are expressed in terms of US $ million.

2. Data for 2010 are provisional.

Source: India Tourism Statistics (2011). *Market Research Division*. Ministry of Tourism. Government of India. New Delhi.

It can be observed from the data in the above table that the tourism sector plays significant role in contribution to foreign exchange kitty. The following points based on further analysis shed more light on the development of tourism in India.

1. During the period 1997-2010, Foreign Exchange Earnings (FEE) has grown by almost five (4.90) times in India. During the same period, international tourism receipts in the world and in Asia and the Pacific region have grown by more than two times and three times respectively. India's progress in FEE is remarkably good, which surpasses by a huge margin the growth rate of international tourism receipts in the world. It is substantiated by the percentage share of tourism receipts of India in the world. The share of tourism receipts of India in the world was 1.54 percent in 2010 compared to just about 0.65 percent in 1997, posting a growth of more than double. The rank of India in the world moved from 34 to 16 during the same period.
2. Year on Year (YOY) growth rate of FEE was very good in 2003 followed by 2004. It may be noted that YOY growth rate in FTAs in India was 14.3 percent resulting in 43.8 percent YOY growth rate of FEE in India in 2003. It can also be observed from the data in Table1 and Table2 that there is a positive relationship between YOY growth rate of FTAs and FEE. Hence, the higher number of FTAs results in higher growth rate of FEE.

It is very clear from the facts and figures that India has great potential for growth in the tourism sector. It is to be tapped by well-designed policies and programmes. The tourism industry, as stated already, is all-pervasive, and has the capability to drive the economy by stimulating other sectors like agriculture, horticulture, handicrafts, transport, and construction resulting in a great synergy. WTTC projects that tourism in India could contribute Rs 8,50,000 crore to the GDP by 2025. Hence, it is imperative that India has to craft state of the art infrastructure to create an image in the world. "Incredible India" has already positioned a brand image in the world. India should capitalize on the opportunity. It is possible only through the

well-thought out plans, designing of tourism products and making the stay of the tourists very comfortable. This could also enthuse the Indian tourists. This requires an integrated approach of public-private participation and urban-rural involvement. It means that there should be a convergence of competing stakeholders to reap the fruits of tourism development.

Government of India has taken a number of initiatives, though not adequate enough, to meet the needs of the tourism industry. Indian Railways play a significant service in linking various parts of India. It runs tourist trains besides its normal lines. It has established (in 1999) Indian Railway Catering and Tourism Development Corporation Limited. The Golden Quadri-lateral Highway Project and North-South and East-West Corridors are big steps in developing much required road transport system. Pradhan Mantri Gram Sadak Yojana (PMGSY-2000) is a welcome step in improving the rural infrastructure. Modernisation of airports and metros and major cities and establishment of new airports in tier-II cities has also given a big boost for the movement of people. The government has also taken steps to entertain 100 percent Foreign Direct Investment (FDI) in tourism projects.

Need for the Study

The evaluation of facts and figures supports the introductory remarks on tourism development. Tourism sector can become the backbone of the economy if it is developed in a right perspective. Its development needs an integrated approach from different corners of the economy. One of the important supports that the tourism industry requires is from the exchequer. The Indian Tax System has offered various concessions, exemptions, and deductions. A cursory review of various tax provisions revealed that they are scattered and found under a number of sections in various Acts and Rules. The perfect understanding of these provisions is required. Hence, the present study has been undertaken to put the important provisions in one place, which can be used for sound tax planning.

Methodology

The present study depends on authenticated secondary data to substantiate the growth story of the tourism sector. It focuses on legal issues which are related to both direct and indirect tax. The tax provisions contained in different Acts like Income Tax Act, 1961, Income Tax Rules 1962, Central Excise Act, 1944, Customs Act, 1962, Baggage Rules, 1988, Finance Acts, CBDT and CBEC circulars and authoritative books on tax provisions are used. An attempt has been made to put details of important provisions. However, one has to go through relevant provisions referred to in this paper to get better insights and to avoid legal complications while tax planning.

Exchequer and Tourism

As it is already made very clear that it requires integrated approach for the sustainable development of tourism. One of the very important areas which require the attention of policy makers and the stakeholders is the tax system. Development of tourism and allied services require a strong support of the taxman. Considering the importance of tourism development, the government of India has offered various concessions and deductions under the different tax provisions. The present study is an attempt to focus on direct and indirect tax provisions which could also contribute for the development of tourism and its constituent sectoRs

Tax Provisions under Income Tax Act, 1961

There are number of provisions which could influence the tax planning and management of different constituents of the tourism sector. The important provisions are discussed below.

1. Salary received by ship's crew: Remuneration received by, or due to, a non-resident foreign national as ship's crew is exempt from tax under

section 10(6) (viii), if his stay in India does not exceed a total of 90 days during the previous year.

2. Deduction in respect of capital expenditure under section 35 AD: Any person engaged in building and operating a new hotel under the category of 2-star or above is entitled to avail 100 percent deduction under section 35 AD in respect of capital expenditure (excluding cost of land or goodwill or financial instrument) in the previous year in which the expenditure is incurred

3. Special provision for computation of income from shipping business of the assessee who is a non-resident Indian under section 44B: Sections 28–43A are not applicable to the non-resident (India) assessee who is engaged in the business of operation of ships. The income of such assessee shall be calculated at the rate of 7.5% of the aggregate amount of the following:

    a) The amount payable or paid, whether in or outside India, to the assessee or to any person on behalf of the assessee on account of the carriage of passengers, livestock, mail or goods shipped at any port in India; and

    b) The amount received or deemed to be received in India by or on behalf of the assessee on account of the carriage of passengers, livestock, mail or goods shipped at any port outside India.

The amount referred to (a) and (b) above shall also include the amount received by way of demurrage charge or handling charge or any other amount similar in nature. While referring to the provisions under this section one can also refer to section 172 to find the similarity and dissimilarity of the provisions.

4. Special Provision for computation of income of Foreign Airlines under section 44BBA: Sections 28 to 43A are not applicable for computing income of a non-resident who is engaged in the business of operation of aircraft. Income of such business is computed at a flat rate of 5% of the following:

a) Amount received in or out of India by the assessee or by a person on his behalf on account of the carriage of passenger, live stock, mail or goods from any place in India; and

b) Amount received or deemed to be received in India by the assessee or by any person on behalf on account of the carriage of passenger, livestock, mail or goods from any place outside India.

5. Deduction in respect of profits and gains from hotel under section 80 IB:The hotels which are approved by the Director General (Income-tax Exemptions) in concurrence with the Director General, Directorate of Tourism, Government of India are eligible to claim the deduction under this section. The deduction is provided for the first 10 years commencing from the initial assessment year relevant to the previous year in which the hotel starts functioning. The hotels for this purpose are classified into two categories:

a) Specified Hotels which get the deduction at the rate of 50 percent of profits from such business and

b) Non-Specified (Other) Hotels which are entitled to get deduction at the rate of 30 percent of profits from that business.

The following conditions are prescribed for availing the benefit of deduction under this section.

a) The hotel is owned and the business is carried on by an Indian company with a paid up capital of Rs 5, 00,000 or more.

b) It starts functioning at any time during the period April 1, 1990 and March 31, 1994 in Kolkata, Chennai, Delhi and Mumbai and during the period April 1, 1997 and March 31, 2001 in any other area.

c) Specified hotels: The business of hotels which are located in hilly areas (i.e., the areas located at a height of 1000 metres or more above the sea level) or rural areas (i.e., areas, outside the jurisdiction of municipalities, and cantonment boards, and has a population of less than 10,000; or areas which are not within prescribed distance from the local limits of such municipalities, as the Central Government may notify) or places of pilgrimage (i.e., places where temples, mosques, gurudwaras, churches, or other places of public worship of renown throughout any State or States is situated) or such other places as notified by the Central Government for the purpose of development of infrastructure for tourism. Non-specified hotels are located in any place other than the place referred to above.

d) The hotel is approved by the Director (Income Tax Exemptions) in concurrence with the Director General, Directorate of Tourism, Government of India.

6. Deduction in respect of profits and gains from convention centres under section 80 IB: Convention Halls are used for the purpose of holding conferences, seminars, and corporate board meetings. The convention halls which have the facilities and amenities prescribed under Rule 18 DC are eligible to get the deduction to the extent of 50 percent of the profits and gains from such business for a period of five years beginning from the initial assessment year (i.e., the assessment year relevant to the previous year in which the convention centre starts operating on a commercial basis). The convention centre should have been constructed during the period between April 1, 2002 and March 31, 2005.

7. Deduction in respect of profits and gains from hotels and convention centres in specified areas under section 80 ID: An assessee who is engaged in the business of hotel or building, owning and operating a convention centre in the specified areas is eligible to get 100 percent deduction of profits and gains from such business, for five consecutive assessment years beginning from the initial assessment year (relevant to the previous year

during which the hotel or convention center starts operating). The relevant details are as follows:

a) The two/three/four star hotels constructed in the national territory of Delhi, Faridabad, Gurgaon, Gautam Budh Nagar or Ghaziabad and started operating during the period between April 1, 2007 and July 31, 2010 is eligible to get deduction from the assessment year 2008-09.

b) The two/three/four star hotel at world heritage site constructed in the districts of Agra, Jalagaon, Aurangabad, Kancheepuram, Puri, Bharatpur, Chhatarpur, Thanjavur, Bellary, South 24 Paraganas (excluding areas falling within the Kolkata Urban Agglomeration), Chamoli, Raisen, Gaya, Bhopal, Panchamahal, Kamrup, Goalpara, Nagaon, North or South Goa, Darjeeling and Nilgiri and started working during the period between April 1, 2008 and March 31, 2013 is eligible to get deduction from the assessment year 2009-10.

c) Convention Centre (a complete centrally air-conditioned building of a minimum 25,000 square metre covered plinth area with a minimum seating capacity of 3000 and comprising ten convention halls (each hall) equipped with modern public address system and LCD projector or video screening facility to be used for the purpose of holding conferences and seminars) constructed in the national capital territory of Delhi, Faridabad, Gurgaon, Gautam Budh Nagar and Ghaziabad and started functioning on commercial basis during the period between April 1, 2007 and July 31, 2010 is entitled to avail the deduction from the assessment year 2008-09.

To be eligible to claim deduction under sections 80 IB and 80 ID stated above, the business entity should not have formed by the splitting up or the reconstruction of a business which was in existence earlier. It should be a new business, which is not started by transfer of any building or machinery or plant used for any purpose earlier. The deduction should be claimed in the return and such return should

be submitted to the tax authorities on or before the due date for submission of return of income under section 139(1) of the Income Tax Act 1961.

Indirect Tax Provisions

An attempt has been made in the following paragraphs to present a few indirect tax provisions which could help in tax planning.

1. Cenvat Credit: The duty paid on input goods [except light diesel oil, high speed diesel oil, motor spirit (commonly known as petrol) and motor vehicles] used by a provider of service is eligible for Cenvat credit. Cenvat credit is also available on the duty paid on input services used by a provider of output service under Cenvat Credit Rules 2004.

2. Customs Duty: The tourist who comes to India for a stay of not more than six months in the course of twelve-month period with legitimate non-immigrant purpose such as touring, recreation, sports, health, family reasons, study, religious pilgrimages or business is provided with a few exemptions/ concessions under Rule 2(iii) of Baggage Rules 1998.

    a) Used personal effects of tourist and travel souvenirs are allowed duty-free. Personal effects should be for personal use of the tourist and these goods, other than consumed, should be re-exported when the tourist leaves India for foreign destination.

    b) Tourist of Indian origin (even if holding foreign passport) other than those coming from Pakistan by land route as specified in Annexure-IV of Baggage Rules are entitled to General Free Allowance in addition to 'personal effects'.

    c) Foreign tourists are permitted to bring articles up to Rs 8,000 for making gifts. This can include up to 200 cigarettes or 50 cigars or 250 grams of tobacco and up to 2 litres of alcoholic liquor or wine over the value of Rs 8,000 (Rs 6,000 if they are coming from Pakistan).

d) Tourists of Pakistan origin or foreign tourists coming from Pakistan or tourists of Indian origin coming from Pakistan, by land route as specified in Annexure-IV of Baggage Rules, are entitled to bring used personal effects and travel souvenirs duty-free. Personal effects should be for personal use of the tourist and these goods, other than consumed, should be re-exported when the tourist leaves India for foreign destination. Further, the tourist is allowed bring in articles duty-free up to Rs 6,000 for making gifts.

d) Tourists of Nepalese origin coming from Nepal or of Bhutanese origin coming from Bhutan are not entitled to any exemption. However, articles of baggage for use of passenger or his family are exempt from customs duty under section 79(1) (b) of Customs Act, 1962.

3. Service Tax: Services of tour operator covered under the service tax net. Planning, scheduling, organizing or arranging tours (which may include arrangements for accommodation, sightseeing or other similar services) by any mode of transport is covered under service tax net. Operating tours in a tourist vehicle or a contract carriage-coverage by a permit, other than a stage carriage permit, granted under Motor Vehicle Act. General rate of service tax is 10.3% including education cess of 2% and secondary and higher education cess of 1% (before this period this rate of tax was 12.36%). The following are the service tax provisions applicable to a tour operator:

   a) In case of package tour with effect from August 23, 2007, service tax is payable on 25% (40% in case of other than package tour) of gross amount charged, if no cenvat is availed. It is observed that earlier it was 40% even for package tours as well.

   b) 10% of the amount is taxable when tour operator provides only booking services.

Conclusion

The present study reveals that tourism plays a significant role in the development of economy. However, this sector has not received the attention to the extent it deserves. An attempt in this paper has been made to compile the relevant important tax provisions at a place to ease the process of tax planning. Though the exchequer has offered the sops, it seems there is inadequate looking at the needs of the industry. This sector is a cash-cow. Its yields outweigh the sops and efforts. An integrated and focused approach with lot of intensity is the need of the hour to develop and sustain this highly labour-intensive sector.

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