The Business Case Of IFRS In Indian Context

International Financial Reporting Standards (IFRS) is gathering storm and most countries barring the US and a few others have either adopted IFRS or their national generally accepted accounting principles (GAAP) are converging to IFRS.

Australia, New Zealand, China, Singapore, Japan, Middle East, Africa and the European Union have either adopted or are converging to IFRS. The eminent status to IFRS came about after the EU made it mandatory for all its listed companies starting 2005. Consequently, more than **8,000 EU-listed companies adopted IFRS in one go**.

US capital markets are losing their attractiveness as a result of what many view as excessive regulation. As a consequence, many believe that the predominance of US GAAP as a standard may be coming to an end. This could make large companies look at other capital markets, and in many of those capital markets IFRS are accepted.

More than 1,100 Chinese companies have recently switched over to new accounting standards bringing their books in line with international norms. India follows Indian GAAP, which is inspired by International Accounting Standards (IAS)

However, Indian GAAP has not kept pace with the changes that followed IAS' metamorphosis to IFRS. The most important change in IFRS is the application of fair valuation principles. Key standards based on fair valuation principles that have not yet been rolled out under Indian GAAP relate to business combinations, financial instruments and investment properties. There are also several areas where there are critical differences between Indian GAAP and IFRS.

The key questions for India are:

* Should Indian GAAP be converged with IFRS?
* What are the pros and cons?
* What are the hurdles and impediments in fully converging with IFRS?
* What are the precautions that need to be taken?

* Whether Indian GAAP should be converged with IFRS?
* Is there an option or alternative?

International Organisation for Securities Commission requires all its constituents to converge to IFRS and therefore departing from IFRS is not a solution. Besides, India has globalised and if it has to invest abroad or attract inbound investments it must follow global standards. Seen from this perspective, the sooner we converge to IFRS the better. When most of the developed world follows IFRS, can we lag behind?

The accounting framework in India has been characterized by relatively less complex accounting guidance with a bias towards historical cost accounting and focus on the contractual form of the arrangement. Therefore, audit committee awareness of concepts around fair value recognition and measurement, reflecting the substance of the arrangement and applying relatively more complex accounting concepts and models is likely to be low. This would necessitate the need to create awareness among audit committee members on these concepts as it affects companies that they are involved with.

As compared to formal classroom-type training, a preferred approach in the Indian context would be for management to spend sufficient time in advance with audit committee members on key changes to accounting policies of the company and their implementation upon adoption of IFRS.

This process should commence sufficiently in advance of the actual transition to enable audit committee members to familiarize themselves with IFRS accounting concepts and their implementation. Similarly, auditors would need to spend relatively more time with members of the audit committee educating them on IFRS interpretation and judgmental matters as they affect the company. A customized and company-specific approach is likely to be a good way to educate audit committees.

In the initial period, audit committees will likely rely more on both management and the external auditors to understand concepts and accounting models that are unique to IFRS and that represent a change from current accounting practice.

During this initial period, audit committees will likely focus on sufficient debate between management and the external auditors on key judgement and interpretation issues and would focus on these areas as they evaluate the financial reporting process adopted by the company. Audit committees may question the manner in which such matters have been resolved, with a focus on whether the external auditor is satisfied in relation to the position adopted by management.

Fair value

In India, relatively few assets are traded on markets—primarily plain vanilla equities and bonds. How will the 'fair value' concept of IFRS be applied? Are there other challenges for audit committees in handling fair value?

Given the relatively less developed debt and asset markets in India, fair value determination will be a challenge for management, auditors and audit committees.

There are no easy answers and management, auditors and audit committee members would need to work together closely to evaluate the process used by management for determining fair values. Having said that, generally the assets and liabilities held/issued by Indian organizations are also relatively less complex and accordingly some of these valuation challenges may be addressed by extrapolating available information.

It is likely that asset and financial markets in India will develop over time easing the process of fair value determination. In the initial period, management, auditors and audit committees may decide to place relatively more reliance on external independent valuation specialists.

Indian management and audit committees are also not familiar with managing the volatility that arises out of applying fair value concepts to financial instruments such as derivatives. The committees would need to devise and implement appropriate hedge accounting principles and policies to address such volatility or familiarize themselves with communicating such volatility to external stakeholders.

It not true that IFRS necessarily imposes any additional short-term, quarterly results-oriented views of corporate strategy. Indian corporations have been publishing quarterly results for quite some time now and adopting IFRS will not result in a change in financial reporting strategies. What will be needed is a will to change mindsets to get a better understanding of the financial results, along with a strategy to manage and communicate volatility that arises from applying the fair value principles.

The accounting framework in India is deeply affected by laws and regulation. In India we have multiple regulators of accounting standards. For example, if there is a listed bank, it has to follow the accounting norms prescribed by SEBI, RBI, ICAI, Companies Act and the Banking Regulation Act. Some of the accounting requirements may be inconsistent with each other and some are definitely inconsistent with IFRS.

The success of convergence to IFRS in India will depend on how well the regulators cooperate. At the moment, if the law conflicts with any requirement of an accounting standard, the law overrides the accounting standard. For instance, the presentation of financial statements as per the Companies Act, 1956 conflicts with the requirements of IFRS, and business combinations accounting is governed by the courts, which may conflict with IFRS.

Besides the Companies Act, 1956, other regulators in India like SEBI, RBI and income-tax department will need to accept IFRS in lieu of their sets of rules of accounting. So, the Companies Act and related laws would need to be amended to ensure that the law does not conflict with the accounting framework that may be prescribed by the Institute of Chartered Accountants of India.

Asset Sale At A Discount To Not Attract Capital Gains Tax

In a ruling that will help Corporates planning to transfer capital assets to other companies at a cost price less than the market price, the Mumbai tax tribunal has held that tax cannot be levied on the capital gains that never accrued. The tribunal ruled against the income tax department's order that considered the difference between the transaction value and the prevailing market price as capital gains and levied tax on it.

This particular case involved shares transaction among two group companies of Essel at the cost price. The Mumbai Income Tax Appellate Tribunal (ITAT) held that the difference between the cost price and the prevailing market price cannot be construed as capital gains, if the shares were transferred at the cost price. In this case, the appellant is an investment company Rupee Finance & Management.

Under an MOU between the group companies, shares of a group company were transferred to another group company at a cost price. The cost price was less than the market price. The I-T department disregarded the transfer price and levied capital gains tax on the difference between market price and the cost price of shares. ITAT held that capital gains that never accrued in reality to a tax payer cannot be brought under capital gains tax. For computing capital gains, the transfer price of the capital asset is what the transferor actually receives for the assets that he transfers and it cannot include prevailing market price of asset which was never received by the taxpayer.

The tribunal observed that capital gain is to be computed as the difference between full value of consideration received or accruing as the result of the transfer of capital asset and not the fair value of capital asset so transferred.

The decision is significant as it will have a bearing on companies who for various reasons, transfer capital assets within the group companies at the cost price and not necessarily at the market price. For real estate, there are statutory provisions in the I-T Act in section 50C to regard the stamp duty value of the property as full value of consideration for computing capital gains unless the actual transfer value is more than such value.

“This is an important ruling. So long as the transaction is bonafide and not a colourable device for tax avoidance, it would be only fair for the tax authorities not to dispute such transaction value to bring the difference between the cost price and market price to capital gains taxation,” said Sanjay Sanghvi, tax director at law firm Khaitan & Co said.

Allowability of Commission Paid to Govt. Employees

Section 37(1) of the Income-Tax Act, 1961 is a residuary provision stipulating that the expenditure laid out or expanded wholly and exclusively for business or profession by an assessee shall be deducted in computing the income liable to tax provided (i) it is not deductible under Sections 30 to 36 of the Act; (ii) is not in the nature of capital expenditure, or (iii) personal expenditure of the assessee.

An explanation was added to this provision by the Finance (No. 2) Act, 1998 w.e.f. April 1, 1962.An interesting issue in the context of this explanation has been decided by the Allahabad High Court in the *CIT vs Pandit Vishwanath Sharma (2008 21 I ITCL 238 Allahabad HC)*. The assessee in this case was dealing in *ayurvedic* medicines. For the assessment year (AY) 1989-1990, he claimed that he spent Rs 2,46,254 as business expenditure by paying commission to various doctors for prescribing his medicines to the patients. The said doctors/*vaids* were involved in private or government practice. The assessing officer (AO) disallowed the aforesaid amount as business expenditure, but the Commissioner (Appeals), while allowing payment made to private doctors/*vaids,* disallowed a sum of Rs 1,08,678 claimed to have been paid to government doctors. The assessee claimed that payment of said commission was a business necessity and a practice followed by him over the years.

Tribunal upholds claim

The Tribunal upheld the contention of the assessee with respect to the Rs 1,08,678 to be treated as business expenditure, observing that the payment was not disputed by the Revenue, and as it was evident that such amount was paid over the years, it was a business necessity and was allowable as business expenditure.

The case of the Revenue was that the amount paid as commission to government doctors is nothing but an illegal gratification/bribe. No such payment in a legal manner was permissible to any government servant and, therefore, a payment made illegally, which amounts to an offence under the statute, cannot be treated to be a business expenditure under Section 37 of the I-T Act.

Revenue's view accepted

The High Court accepted the Revenue's view. According to the court, Section 37(1) allows an expenditure wholly and exclusively incurred for the business or the profession in computing the income chargeable under the head 'profits or gains of business or profession'.

The Explanation thereof disallows an expenditure, which is incurred by an assessee for a purpose which is an offence or which is prohibited by law. The Explanation thus makes it clear that such expenditure shall not be treated to be a business or professional expenditure.

A government servant is not entitled to receive any amount in consideration of discharge of his official duty unless provided/permitted by the rules and regulations applicable to his conditions of service. The amount paid to the government doctors by the assessee clearly comes within the category of 'illegal gratification' or 'bribe', which is an offence under the Prevention of Corruption Act, 1988.

Earlier, it was an offence under Section 161 IPC. The conduct rules applicable to government servants also prohibit such realisation of money and any amount, if so received, is a serious misconduct. Without going to the question of whether the payment made as 'commission' to government doctors is moral or not, there is no doubt that such commission is an offence in law.

Both the persons, namely, the one who gives such illegal gratification/bribe as well as the one who receives it, are offenders under law. That being so, by virtue of Explanation to Section 37, the aforesaid expenditure cannot be treated to be as one incurred for the purpose of business or profession.

Legal approach

The High Court observed that the taxability of an assessee under the I-T Act should not be decided based on emotions/morals but on a legal approach.

A distinction has already been made by the authorities while allowing deduction to the assessee in respect to commission which the assessee has paid to private doctors since in their case, payment of commission cannot be said to be an offence under any statute but in respect of government doctors such payment could not be allowed as it is an offence under the statute.

Payment of commission to government doctors for obtaining a favour from them, in this case by prescribing medicines, in which the assessee was dealing in, cannot be said to be“business expenditure” and no deduction can be allowed thereof under the Act.

Thus the commission paid to government doctors was disallowed by the High Court in accordance with the language and sprit of the Explanation to Section 37(1).

Industry seeks clarity in tax laws for SEZs

Industry experts and entrepreneurs on Friday emphasized the need for clarity in the interpretation of service tax exemption for special economic zone (SEZ) units and SEZ developers, 100% exemption in income tax exemption on entire export income of SEZ units, effective single window clearance mechanism for SEZs in all states, uniformity in octroi levies and service tax matters.

They were speaking at an open house meet to discuss issues including the outstanding procedural problems that are affecting the functioning of SEZs and Export Oriented Units (EOUs). The meeting was presided over by commerce secretary GK Pillai and organized by the Export Promotion Council for EOUs and SEZs.

The meeting was a part of the ongoing meetings held by the ministry in all metros, including smaller cities like Pune, Surat and Ludhiana. The suggestions from the meeting would be considered for the amendment of SEZ rules for streamlining the policy, said an official.

Industry members noted that with the government no longer acquiring land for SEZs, it is becoming difficult for developers to acquire required land for their projects.

A member of the Gems and Jewellery Association said the association has demanded a short-term concession to market branded jewellary in domestic market against the backdrop of a major setback faced by the industry with the recession in the US.

Despite all odds, SEZs in India have registered robust growth during the last five years. SEZ exports posted a spectacular 93% growth during 2007-08 going up from Rs 34,787 crores to Rs 66,638 crores. The total exports from SEZs and EOUs stood at Rs 1,91,638 crores during 2007-08.

A senior member from the EPCES said that only eight states, including Gujarat, Tamil Nadu, Uttar Pradesh, Maharashtra and Andhra Pradesh, have passed their own SEZ laws for smoother implementation of the centre’s SEZ policy and there are in all, 222 notified SEZs.

Out of these eight states, only Gujarat has constituted a single-window clearance mechanism for faster clearance to SEZ projects including permissions on electricity, water, pollution, building construction and granting easier refund of state level taxes, he said.

Pillai said the EOU/SEZ sector is playing a pivotal role in encouraging manufacturing activity, providing substantial employment opportunities, thereby accelerating the pace of economic growth. The units set up under these schemes are already providing direct employment to over 6.5 lakh people.

An entrepreneur requesting anonymity said that SEZ units and developers are facing certain problems in the context of service tax, benefit of Duty Entitlement Pass Book (DEPB)/Duty Drawback on supplies to SEZ developers, interpretation of Section 10AA of the Income Tax Act.

Exports from SEZs in the year 2006-07 was Rs 34,787 crore and is likely to cross Rs 1,00,000 crore in the year 2008-09. Similarly, exports from EOUs have gone up to Rs 1, 25, 000 crore from Rs 69,965 crore in 2007-08, showing a growth of 82%. Interestingly, the contribution of EOUs/SEZ in the total export of India has gone up from 13% in 2002-03 to 31% in 2007-08, added Pillai.

Leave encashment: Cos not following prudent norms

NEW DELHI: Experts feel that most companies, in both the private and public sectors, may not be following prudent accounting practices while providing leave encashment of their employees. At a time when pension liabilities are being provided for as per new accounting norms, they feel that significant unfunded leave encashment liabilities have accrued for some of these companies.

Indian banks and companies have an unusual practice of 'leave encashment' unlike other employers globally. Although not unique to India, the concept of employees being able to carry forward and encash unused leave until as late as the point they leave the company is definitely something not commonly seen globally, experts feel.

Leave encashment liability for a company would depend upon the salary eligibility for leave encashment, the number of accumulated leaves, the upper limit or cap for leave accumulation, number of employees, etc. Every company follows a different leave encashment policy.

Chris Mayes, senior benefits consultant, Watson Wyatt India said: "Generally, the international leave policy is a use-it-or-lose-it policy and therefore future leave encashment liabilities do not arise. In India, we observe that significant liabilities have accrued in respect of the leave benefit for most companies and this liability needs to be fully accounted for under AS15 revised norms. In our experience, we see companies offering accumulation of up to 300 days in some cases.

In addition, historically this was a liability which companies were not funding for separately in the same way they funded for gratuity." Companies are mandated to provide for gratuity under law.

Gautam Kakar, business leader, and retirement benefits consulting, Mercer India said: "From our experience, unfunded leave encashment is prevalent in both the private as well as state-owned companies. In countries with advanced pension regulations, there is minimum funding requirement. In India, such regulations are yet to be framed."

D Swarup, chairman, Pension Fund Regulatory and Development Authority (PFRDA) said: "Leave encashment is not a part of retirement benefits and hence PFRDA does not prescribe regulations. The rules for providing for leave encashment are as per those prescribed by the department of personnel and training (DoPT) under the government of India. For the government, leave encashment is a part of the salary budget and there is no separate account. Liabilities, on account for leave encashment, may not be huge since employees are eligible for it during their tenure, unlike gratuity."

Under AS 15 norms, employers are mandated to disclose their accounting for retirement benefits in the financial statements. Although these accounting norms do not talk of leave encashment explicitly, AS 15 uses the phrase 'compensated absences' as an umbrella term instead.

Mr Kakar at Mercer said: "AS 15 revised covers short-term as well as long-term compensated absences. Leave encashment during service as well as leave encashment at the time of separation requires valuation. The liability as per AS15 revised could be even higher if the assumption for salary inflation is higher than the discount rate. Unlike gratuity, leave encashment policies do not typically have 5 year vesting criterion. Therefore, leave encashment liabilities could be as high as gratuity liability of a company."

In an age of unfunded liabilities especially in the public sector, employees may be better off, claiming leave encashment as they go.

IPL heroes may face tax bouncer

NEW DELHI: For the IPL heroes who made a fortune from the just-concluded tournament, a new challenge is in the works. The tax department is planning to bowl a yorker, which could result in a higher tax burden, upfront.

They may now have to cough up more as tax deducted at source (TDS). The Central Board of Direct Taxes (CBDT) is examining a proposal by which sportspersons would have to pay 10% TDS against the current 1%-2%.

Although the proposal will cover all sportspersons, the impact will be greater on cricket stars, because of their huge income. The move, which comes close on the heels of the IPL tournament, could lead to a higher tax outgo when sportspersons - players, commentators and umpires, receive their payments.
CBDT is expanding the scope of ‘professionals’ defined under Section 44 AA of the Income-Tax Act, 1961. At present, only persons pursuing medical, engineering or architectural careers and those who are offering accountancy, technical consultancy and interior decoration services are covered under the provisions of the Act. The new law would also require sportspersons to maintain books of accounts.

Sources said at present sportspersons are covered under Section 194C of the Income-Tax Act, which makes them eligible for a lower TDS at 1%-2%. But, CBDT’s plan is to bring them under Section 194J of the Act, which covers professionals.

Under Section 194J, if the fee for professional or technical service contract undertaken by any of these professionals is more than Rs 20,000, the contract awardee has to deduct tax at the rate of 10%. The government had increased the rate of TDS to 10% from 5% in Budget 2007-08.

Although tax deducted can be claimed as a refund once the return is filed, for a person without any liability, it could be an irritant, as it blocks one’s funds.

Sources said the government is working on expanding the TDS net as it is easier way of collecting tax.

TDS collection grew by over 50% in 2007-08 to Rs 1, 06, 700 crore compared with an over 2% growth in 2004-05. The government had last year set up a separate TDS Directorate to monitor collections.

CRR, Repo rate hiked by 0.5%

Individual borrowers, corporates, stock market investors and cash-starved property developers are set to walk a long and painful road, with their worst fears coming true.

In a double blow, the Reserve Bank of India (RBI) has hiked the benchmark repo rate and cash reserve ratio (CRR) by 50 basis points each.

Repo is the rate at which banks borrow from RBI while CRR is the slice of customer deposits that banks set aside as cash with the central bank. The monetary actions, announced late Tuesday evening, reflects a desperate political leadership and a decisive central bank taking inflation head-on.

Home loan market leader HDFC is expected to hike interest rates, and all banks—government-owned as well as private—will revise their prime lending rates. Thanks to hardening bond yields—a reflection of interest rates in the money market—even sub-PLR loans will go up.

“We will take a call on interest rates at the end of the week or on Monday. Any new rate will be effective July 1. Developers who have been merely accumulating land will face the crunch. However, I don’t expect home loan demand to suffer,” said HDFC managing director Keki Mistry.

In the case of home loans, a 50-basis-point hike means an additional EMI of Rs 35 for every Rs 1-lakh loan. Large PSU banks like PNB are also planning to hike rates.

Not just home loans, but two-wheeler, auto and working capital loans for companies will also turn more expensive by 50-100 basis points. In the stock market, banks will be the worst hit followed by realty and auto scrips.

The question that crops up is to what extent higher rates will affect investment demand and pull down GDP growth. According to Ambuja Cements MD AL Kapur, “Corporate margins and expansion plans will be adversely affected. Even raising money will be a huge task. This measure, which is aimed at controlling the headline inflation, will put the economy in a Catch-22 situation.”

While the move was expected and only die-hard optimists in the financial market will be caught on the wrong foot, a twin hike will only deepen the gloom in the stock market. “In the wake of a terrible week, it’s not the best of news.

Growth will suffer and markets are likely to remain under pressure,” said BSE broker Ramesh Damani. The half-a-percentage point CRR hike will see close to Rs 16,000 crore being withdrawn from the market.

CLB likely to replace BIFR for practicing euthanasia

Sick industrial units may no longer have to wait for decades for the authorities to decide whether they should be revived or liquidated. To fast-track the determination of industrial sickness of enterprises, the government is planning to expand the scope of the Company Law Board (CLB) to assess whether a sick unit should be liquidated or revived. At present, this procedure is carried out by the Board for Industrial and Financial Reconstruction (BIFR), which would be wound up. The corporate affairs ministry is working on a proposal to vest CLB with this authority.

While the original idea for the ministry was to close both BIFR and CLB to make way for a multi-purpose forum called the National Company Law Tribunal (NCLT), legal complexities have come in the way. This has forced the government to seek alternative routes to speed up the process of reviving sick units. Officials attribute the ministry's proposal to pass on BIFR's powers to CLB on the government's urgency to settle large number of cases pertaining to industrial sickness.

Officials say even though both BIFR and CLB would eventually be wound up, CLB is considered to be better poised to fast dispose of such cases. For this reason, the government is also working on a scheme to improve CLB's administrative setup. While the BIFR is regulated by provisions of the Sick Industrial Companies Act, (SICA) the CLB is governed by the provisions of the Companies Act.

The new company law bill, expected to be placed in Parliament this monsoon session, would propose strengthening the powers of CLB as the government fears that setting up of NCLT and its appellate tribunal would still take some time. In the present scenario, the government sends the names of suspected sick companies to BIFR to decide as to whether they could be financially revived or liquidated. The BIFR, known for its procedural delays, takes years for a decision. The framework is time-consuming as well as inefficient, sources said.

Income-Tax Law Only Covers Cos Incorporated In India: Vodafone

Telecom operator Vodafone said that the Income -tax laws in the country do not have “extra-territorial jurisdiction” and hence the company cannot be expected to pay capital gain taxes on payments made to Hutchison for acquiring controlling stake in Hutchison Essar.

Moreover, the company did not have any taxable presence in India at the point of entering into the deal with Hutchison.

The Income Tax Department and Vodafone are locked in a legal battle after Vodafone received a $2-billion bill from the former saying that the company was liable to pay capital gains tax as most of the assets it bought are based in India. Last year, Vodafone International had picked up controlling stake in Hutchison Essar for $10.9 billion

Mr Iqbal Chagla, Senior Counsel for Vodafone, said in the Bombay High Court that companies incorporated outside India could come under the purview of India law only if it is explicitly mentioned (in the law) in words. Vodafone International and Hutchison Essar- the two companies involved in the acquisition deal - are incorporated in the Netherlands and Cayman Islands, respectively.

It has also challenged the recent amendments to two sections of the Income Tax Act, Sec 191 and Sec 201, with retrospective effect, disputing its constitutionality. Vodafone has said Indian law at the time did not require it to withhold tax on the acquisition.

“Even if we assume the validity of the 2008 amendment to Section 201 of the Income Tax Act, it cannot be applied to Vodafone as the I-T law only covers companies incorporated in India,” said Mr Chagla.

This high profile case would continue till the next week.

US-Based Engineer Denied NRI Status for Delay At Mumbai Airport

THESE are tough times for income-tax officers. The intense pressure by the finance ministry to increase collections is forcing many officers to adopt quirky ways to squeeze out money on the pretext of trivial violations.

An Indian professional working in the US got a taste of the taxman's eccentric ways when his departure from Mumbai got delayed. Had it not been for the intervention of the Income-Tax Appellate Tribunal, it could have proved costly for him.

Gautam Banerjee, a marine engineer, was on a late night flight to the US on March 28, 2000. He reached the airport well before midnight and had completed 181 days in India on that day. However, by the time the security check was completed, it was past midnight and hence the immigration stamp on the passport showed the time and date as 1.30am on March 29. The delay resulted in a change in his status from a non-resident Indian to resident. Mr Banerjee was told by the income-tax department that he had overshot the limit of 181 days' stay in India. The tax officer, on the basis of the date of departure on the passport, held that Mr Banerjee was liable to pay tax as an Indian resident.

Under income-tax rules, a person can be deemed a resident Indian if he stays in the country for 182 days or more in a financial year. He is considered an NRI if he stays outside for 182 days or more. A resident is liable pay tax in India while a non-resident is exempt, since he would be paying tax in the country of his residence.

Mr Banerjee, represented by lawyer Jignesh R Shah, said he did not complete an additional day in India as an hour's stay could not be construed as a full day.

Last week, the Income-Tax Appellate Tribunal ruled in favour of Mr Banerjee. The tribunal held that for all practical purposes, he was in India only for 181 days since he reached Sahar Airport well before midnight on the day of departure. The documents also showed that he joined duty in the US on March 29.

Harassment of small taxpayers

Mr Banerjee had appealed before the commissioner (appeal), the first appellate body on tax matters. The commissioner ruled in favour of the taxpayer, but the I-T department appealed against the order.

“In our opinion, there is no infirmity in the order of the commissioner (appeal). The assessing officer is directed to compute the income of the assessee in the status of a non-resident,” the ITAT said. Mr Banerjee won the case, but not before spending hours and thousands of rupees fighting the case, which many experts say should never have been filed.

“Instead of harassing small taxpayers, the income-tax department should try to help them. Taxmen should not waste time and money in fighting frivolous cases against taxpayers,” said senior chartered accountant TP Ostwal.