

## **FOREWORD**

The High Powered Committee on 'Electronic Commerce and Taxation' was constituted by the Central Board of Direct Taxes vide F No 500/ 122/ 99 dated December 16, 1999 with the following members:

1. Kanwarjit Singh, Chief Commissioner Income tax, Jaipur (Convenor);
2. Alope Majumdar, Commissioner Income tax, Mumbai;
3. AN Prasad, Joint Secretary (TPL-1), Central Board of Direct Taxes, New Delhi;
4. Vijay Mathur, Joint Secretary (FT&TR), Central Board of Direct Taxes, New Delhi;
5. MP Lohia, Joint Commissioner Income tax, Mumbai;
6. Rashmin Sanghvi, c/ o Rashmin Sanghvi & Associates, Mumbai;
7. Mukesh Butani, Partner, International Tax and Transfer Pricing, Arthur Andersen, New Delhi;
8. Ajai Chowdhary, Chairman, HCL Infosystems Ltd, Noida; and
9. TV Mohandas Pai, Senior Vice President (Finance), Infosys Technologies, Bangalore.

The Committee was required to examine:

- the projected overall growth in e-commerce business and flow of technology transfer in and out of India;
- whether e-commerce and technology transfers, etc should be subject to tax;

- the position of taxation of e-commerce transactions under the existing law and the changes required, if any, in the domestic law/ treaty law for this purpose; and
- the implementation aspect of taxation of e-commerce besides examining the position adopted by the advanced countries and the neighboring countries such as China, Nepal, etc.

Shri Suman Ghose Hazra of HCL Infosystems Ltd was co-opted in the Committee on the request of, and in place of, Shri Ajai Chowdhary. The first meeting of the Committee was held on January 20, 2000. Thereafter, the Committee met at regular intervals to consider the issues involved. The meetings were held mostly at Delhi. Mumbai, Jaipur and Bangalore were the other venues. In all, 13 meetings were held before a ‘Summary of Conclusions and Recommendations’ was presented to the Chairman, Central Board of Direct Taxes in the month of February, 2001. The detailed report is being presented now.

The subject of the study being relatively new, the assigned task was more in the nature of research with enormous amount of literature having to be studied to understand the issues before considering solutions. The convenor would like to place on record his deep gratitude to each and every member for the hard work undertaken in addition to their heavy regular workload and the very high standard of discussions in the course of the meetings.

The Committee benefited enormously from the work done in the OECD and the International Fiscal Association where voluminous reports and papers have been produced on different aspects of taxation of e-commerce. These and the papers published by some eminent scholars like Charles McLure of the United States and Professor Chang Hee Lee of South Korea, as well as the surveys published in the Economist, helped the members understand the issues and formulate their views. The Committee also had the benefit of views from some of the chambers of commerce and NASSCOM. It also had the privilege of discussions with Professor Richard L Doernberg - one of the co-authors of the report produced for IFA and Dr N L Mitra from the National Law School of India, University of Bangalore. The Committee would like to place on record its grateful thanks to all these organizations and eminent persons.

In the end, the Committee would like to thank the Central Board of Direct Taxes, particularly the Chairman Shri A Balasubramaniam, for giving the members an opportunity to express their views on this very crucial and interesting topic and for extending all the support to facilitate the work of the Committee.

Kanwarjit Singh

Convenor