



**IFA INDIA-WRC**  
Conference on the

# **International Tax Budget Proposals of 2016**

29th April 2016 at YBC Pratishthan





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Conference on the

**International  
Tax Budget  
Proposals of  
2016**

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# IFA INDIA-WRC CONFERENCE

29th April 2016 at YBC Pratishthan



Dear Delegates,

On behalf of the International Fiscal Association India – Western Region Chapter, we welcome you to the conference on 'International Tax Budget Proposals of 2016', at YBC Pratishthan, Mumbai.

Far reaching & significant amendments have been proposed by the Finance Bill 2016 particularly with regard to the provisions relating to cross border transactions & transfer pricing regulations. Influence of the reports as part of the Action Plan 1 to 15, released by the OECD under its ambitious & overarching BEPS project, is very much evident. The analysis of the proposals to determine its impact on present judicial precedents & legal provisions by the tax experts of the respective sessions shall be extremely useful to the delegates. This will facilitate in formulating appropriate action plans for effective compliance of the new/amended proposals.

We are over whelmed with the support & enthusiasm of our eminent tax experts of each session who have agreed to share their experience with us at this seminar.

We are fortunate that the seminar will be inaugurated by Mr Porus Kaka, President IFA Netherlands.

We hope you find the deliberations interesting, practical & insightful.

We look forward to meeting & interacting with you at the Seminar.

Yours Sincerely,

For Western Region Chapter

IFA – India Branch

**Pranav Sayta**  
*Chairman*

**Kuntal Dave**  
*Vice-Chairman*



## PROGRAM SCHEDULE

Subject	Time	Speakers / Panellists
<b>Registration (9 AM to 9.30 AM)</b>		
1. Key note & Welcome Speech	9.30 AM to 9.50 AM	Mr. Porus Kaka, President, IFA Netherlands
2. Equalisation levy & related case studies including comparative analysis with foreign regimes	9.50 AM to 11.20 AM	Chair: Mr. Pranav Sayta Panellists: Mr. Rashmin Sanghavi, Ms. Shefali Goradia (BMR)
<b>Networking &amp; Tea Break (11.20 AM to 11.35 AM)</b>		
3. Patent Box & related case studies including comparative analysis with foreign patent regimes India APA update and Q&A session	11.35 AM to 1.00 PM	Chair: Mr. Vipul Jhaveri Panellists: Budget proposal and issues, International perspective: Mr. Kuntal Dave APA Updates – Mr. Paresh Parekh
<b>Lunch Break (1 PM to 1.45 PM)</b>		
4. Place of Effective Management & related Case studies	1.45 PM to 3.15 PM	Chair: Mr. Gautam Doshi Panellists: Mr. Padamchand Khincha, Mr. Nilesh Kapadia, Mr. Praveen Sood (Tata Steel)
<b>Tea and Networking Break (3.15 PM to 3.30 PM)</b>		
5. Master file & Country by Country (CbC) Reporting – Resultant BEPS-type Risks & compliance challenges	3.30 PM to 4.45 PM	Chair: Mr. T. P. Ostwal Panellists: Mr. Vishal Nanavati (PwC), Mr. Hasnain Shroff (KPMG) Mr. Ameya Kunte (TaxSutra)
6. Closing remarks	4.45 PM to 5 PM	Mr. Sushil Lakhani



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**Porus Kaka**  
*Advocate*

President, IFA, Netherlands

## **Education**

- Porus Kaka is practicing lawyer who completed his LL.M from Harvard Law School in the United States as an Inlaks Scholar in 1991, where he was elected the LLM Class representative on the Harvard Law School Council.
- Completed his education from the Cathedral School and Sydenham College and qualified in First Class as a lawyer from the Govt. Law College. He was declared Best Outstanding student and was a fellow of the Govt. Law College.

## **Professional Qualifications**

- President of International Fiscal Association (Netherlands)(IFA).
- Named one of India's Leading Tax Counsels for 2006 and 2007 by International Tax Review (Washington)
- Appointed an Expert Witness on Indian Tax Law in London in International Arbitration.
- Co-author of the Indian chapter on the Taxation of trusts, published by the International Bureau of Fiscal Documentation, Amsterdam
- Convener of the All India Co-ordination Committee of the All India Tax Bar Associations of the Federation of Tax Practitioners 2000-02

Is a frequent speaker and writer on International and domestic tax and other Corporate Law issues in India and abroad and Counsel for several Major Business houses, MNC's, Accountancy firms, Individuals etc.





**CA Pranav Sayta**

- Pranav is a Gold-Medallist Chartered Accountant (CA) attaining first rank at All-India level. He was also awarded the prize for the Best Paper on Direct Tax Laws by The Institute of Chartered Accountants of India. He has more than 25 years of experience in the practice of Direct Tax Laws.
- Pranav Sayta is a Partner in EY, India and is based in Mumbai. He is the national leader of the Tax Practice for the TMT (Technology, Media & Telecommunications) sector in EY India. He has played diverse roles in EY India & has been the national leader for the Transaction Tax practice in EY India. Previously he was national head of the Tax litigation and Controversy practice in EY, India and has also been a key part of the Knowledge and Solutions team. He has also been the national head of Tax Learning & Development at EY India.
- Pranav is also Family Business Services Leader at EY India. He also leads the Private Client Services practice at EY India.
- Pranav is a regular contributor of articles and features on various tax and regulatory issues in leading publications and professional journals. He co-authored the Transfer Pricing Manual published by Bombay Chartered Accountants' Society.
- Pranav has been consistently rated as one of the leading tax advisors in India by International Tax Review & by the Legal Media Group Guide to the World's Leading Tax Advisers.
- Pranav has a wide range of experience in advising various large multinationals and leading Indian corporates, including various Fortune 500 companies on various international tax matters including cross-border structuring, tax litigation & controversy & international tax policy. He specializes in advising on complex inbound and outbound transactions, cross-border and domestic mergers, acquisitions & joint ventures, group financial and corporate restructuring and international tax planning.
- Pranav has addressed and presented papers at various seminars and conferences organized by various professional bodies including International Fiscal Association (IFA), The Confederation of Indian Industry (CII), Indo-American Chamber of Commerce (IACC), The Indian Merchants' Chamber (IMC), The Institute of Chartered Accountants of India, Bombay Chartered Accountants' Society and The Chamber of Tax Consultants.





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**CA Rashmin C. Sanghvi**

Rashmin Sanghvi, partner in Rashmin Sanghvi & Associates, is practising as a Chartered Accountant in Mumbai since 1975.

His pet subjects of interest are:

1. International Taxation;
2. Foreign Exchange Management Act;
3. International Economics.

He has made presentations at conferences organised by the Institute of Chartered Accountants of India, Bombay Chartered Accountants' Society, Chamber of Tax Consultants, IFA and several other institutions on cross-border collaborations, investments & international economics.

He has also given lectures at Income-tax department's Training Institutes and UTI Institute of Management, several management institutes, etc. on tax treatment for foreign collaborations, E-commerce taxation, etc. He is known for his views – different from the main stream – whether it is economics or taxation.

He was appointed by the CBDT on E-Commerce Committee in the year 1999 and again appointed on the new E-Commerce Committee in the year 2015. Committee report has resulted into Equalisation Levy in Finance Bill, 2016.





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**Shefali Goradia**  
Partner, BMR Advisors

Shefali Goradia is a partner with BMR & Associates LLP's corporate and international tax practice. She has over 25 years' experience in advising clients on international tax.

Shefali specializes in cross-border taxation. She advises multinational corporations in designing global holding and operating structures, inbound and outbound investments, cross-border mergers, acquisitions and corporate reorganizations. She also advises multinationals on BEPS implications. She works extensively with leading investment and private equity fund houses on developing and implementing domestic and international fund structures. She has advised banks in designing structured finance products. She advises several companies in hospitality and pharmaceutical industries on taxation in India. She also advises IT companies on the taxability of software and e-commerce transactions. She has obtained private rulings for several clients.

Shefali is a regular writer and lecturer on international tax topics. She was the General Reporter for the IFA Congress held in Mumbai, India in 2014 on 'Cross-border outsourcing – issues, strategies and solutions'. She had contributed the India chapter on 'Is there a Permanent Establishment?' for the 63rd IFA Congress, Vancouver, 2009.

Shefali was voted as one of the region's preeminent advisors for taxation in the 2011 Asialaw Leading Lawyers survey. She featured in the Guide to the *World's Leading Banking, Finance and Transactional Lawyers 2012* as one of the outstanding practitioners in the field of investment funds and is also listed in *The International Who's Who of Corporate Tax Lawyers* and *The International Who's Who of Private Funds Lawyers* consecutively from 2009-16. She was recognised as among the eight best Indian tax advisers by Legal 500 and the Tax Directors Handbook 2009. Shefali represented India in Legal Media Group's Guide to the World's Leading Tax Advisers and was recognised as among the top 10 tax advisers in India in World Tax (2004-06).





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**Vipul Jhaveri**

Managing Partner, Tax, Deloitte

Vipul is the Managing Partner for Tax for Deloitte in India. Vipul has over 29 years of experience on advising foreign and Indian companies on entry strategy, M&As, regulatory services and devising tax-efficient ownership and operating structures.

He has wide ranging experience in advising on domestic and international tax issues for Indian MNCs and has led large projects involving multiple service lines, structuring of transactions and operations, tax management and compliance related services, litigation support, tax due diligence for acquisitions/privatizations, advising on tax issues for restructuring and reorganizations of businesses etc.

He has advised funds on structuring their investments into India under the Foreign Institutional Investors (FII) route.

He has also played a key role in advising clients bidding to acquire some of the biggest privatizations offers made by the Government of India.

Vipul has a Bachelors in Commerce from University of Mumbai and is a Fellow Member of the Institute of Chartered Accountants of India. He has also completed a Diploma in Business Finance from Chartered Financial Analysts Institute.

Vipul is Chairman of the Tax and Accounting Committee of the ASSOCHAM, a Member of SEBI Committee on Securitized Debt Instruments and Preference Shares and was also co-opted as Member of CII Tax & Accounting Committee on Direct Tax Code, 2010.





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**CA Kuntal Dave**

“Presently Proprietor of Nanubhai Desai & Co., Chartered Accountants (the Firm is based at Mumbai, India, set up in 1950). He has over 22 years of experience in the matters of Corporate Finance, advising clients on tax, attestation, foreign exchange and valuation matters. Actively involved in assisting and advising clients on various aspects of cross-border transactions affecting international tax, commercial laws and regulatory compliances. Authored budget publications for circulation amongst business houses. Recently co-authored a book providing detailed analysis on Black Money (Undisclosed Foreign Income & Assets) & Imposition of Tax Act, 2015. Has presented various articles, papers, case studies, etc. on the subjects of International Tax for various professional magazines, publications, forums (including at IFA Mauritius, IFA USA & IFA India), etc.. Ex-Chairman of the Young IFA Network, International Fiscal Association, Netherlands. Currently, the Vice Chairman of Western Region Chapter of International Fiscal Association – India Branch and member of Direct Taxation Committee of Indian Merchants’ Chamber.”





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## Patent Box & Related Case Studies

- International Perspective
- Budget 2016 Proposals & Issues

Kuntal Dave  
29th April, 2016

YBC Pratishthan

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Why Patent Law & Action Plan under BEPS

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Budget 2016 Proposals vis-à-vis Global Study

Budget 2016 Proposals – Issues/Challenges

Case Studies

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## Why Patent law & Action Plan under BEPS



Physical assets – Intangible Assets

- Patent Law
  - Scientific document
  - Legal Document

- Patent law must provide
  - Adequate incentive for technology creation
  - Opportunity for competitive diffusion

- Index for Score of Patent System
  - Extent of coverage
  - Membership in International Patent Agreement
  - Provision for loss of protection
  - Enforcement Mechanism
  - Deviation of Protection

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## Why Patent law & Action Plan under BEPS Cont'd...



Targeted at tackling preferential regimes which are potentially or actually harmful and not to harmonize or dictate the tax rates or tax structures.

Most of the 34 Organization for Economic Co-Operation and Development (OECD) countries offer preferential tax treatment to R&D expenditure—including current deductions, allowances and credits, and accelerated depreciation of R&D capital expenditure.

A number of countries have innovation or patent boxes, under which income attributable to intellectual property (IP) developed through R&D is taxed at favorable rates

Global Survey of Research and Development (R&D) Incentives reflects the wide variety of tax and fiscal policies adopted by governments worldwide to promote business R&D.

Restrict taxpayers to arrange their affairs in a manner that income generated from IP is allocated to a country where it benefits from a preferential tax rate, without having a strong link to that country.

The fundamental aim to prevent multinational companies from moving their profits around the group to gain tax advantages.

FHTP mandated to frame rules to counter harmful tax practices.

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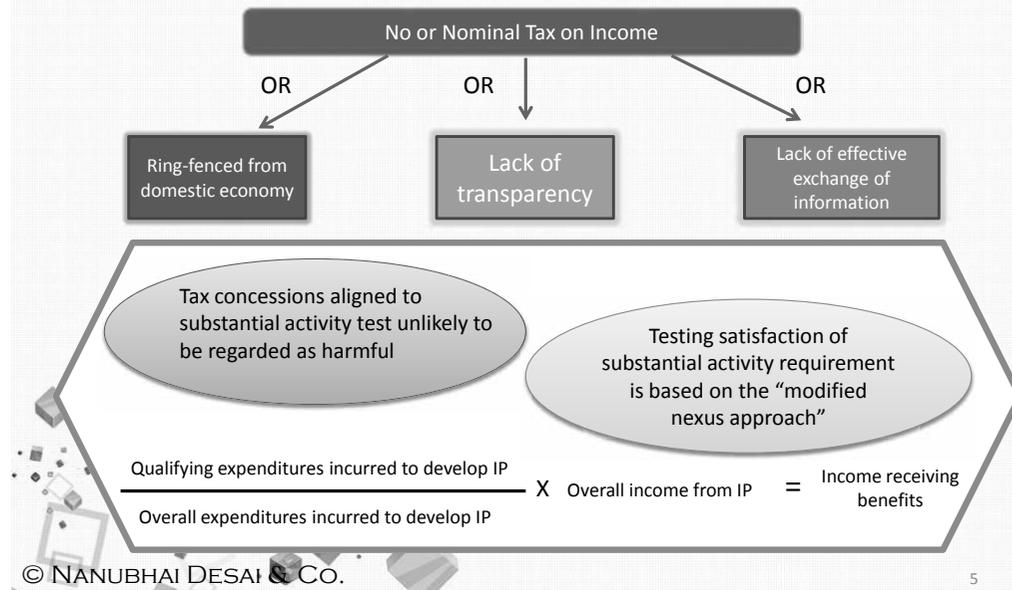


### Why Patent law & Action Plan under BEPS Cont'd...



#### When does Preferential Regime become Potentially Harmful

1998 report set out four key factors:



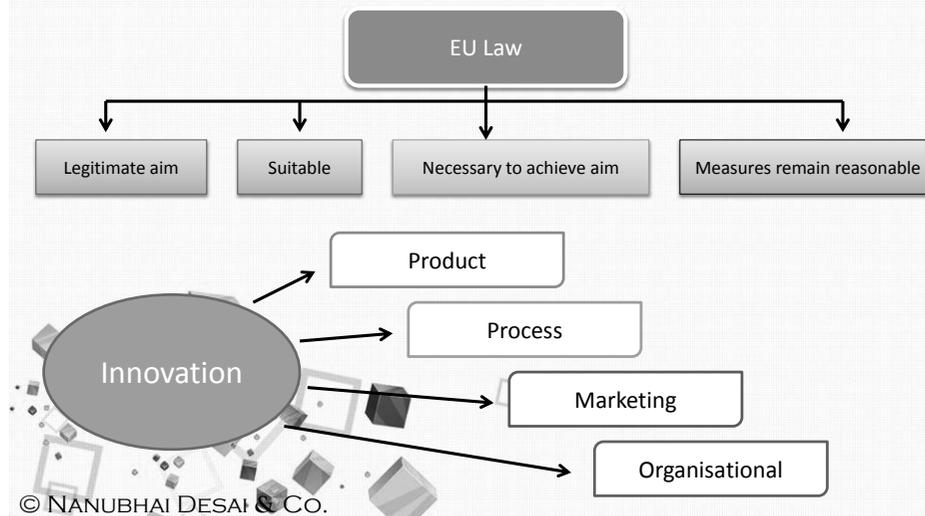
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### IFA Congress 2015 (Subject 1)



- Tax system objective to achieve neutrality. R&D tax incentives deviate from this principle of neutrality
- According, the deviation should remain proportionate



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### IFA Congress 2015 (Subject 1) Cont'd...



#### R&D Input (Front End) Incentives

- Definition R&D
  - Novelty to firm
  - Novelty to market
  - Novelty to world
- Qualifying R&D expenditure
  - Current
  - Capital
  - Related to contractual R&D
  - Staffing cost generally covered
- Outsourced R&D Expenditure
  - person who should claim tax incentive
  - outsourced to related party
  - outsourced to unrelated party (R&D reimbursement)

#### R&D Output (Back End) Incentives

- Increasingly introduced in European market
- Different features
  - Apply to Research and license fees
  - Capital gains
  - Embedded royalty
  - Partial Exemption
  - Notional deduction
  - Privileged IP income (15% tax)

### Overview of Action Plan 5 vis-a-vis Patent Regime



**Mandated FHTP "to revamp the work on harmful tax practices with priority on :**

- Improving transparency

- Requiring substantial activity for any preferential regimes.

- Compulsory spontaneous exchange on rulings related to preferential regimes



## Overview of Action Plan 5 vis-a-vis Patent Regime Cont'd...



### Substantial Activity requirement for an IP regime

#### Three approaches

- **Value creation approach**

Requires taxpayers to undertake significant activities for development of IP in order to claim benefits against the IP income.

- **Transfer pricing approach**

Taxpayer to claim benefits against the IP income if a set level of important functions were located in the jurisdiction proving the benefits.

- **Nexus approach**

Looks to whether there is nexus between the R & D activities undertaken by the taxpayers and IP income receiving benefits.

## Overview of Action Plan 5 vis-a-vis Patent Regime Cont'd...



### Nexus Approach

- Nexus approach focuses on establishing a nexus between expenditure, IP assets and income i.e. determines what income may receive the tax benefits.

- Nexus approach does not include all expenditure incurred in the development of an IP asset.

- Uses expenditure as a proxy for activity & builds principle that a substantial activity requirement should ensure that taxpayers are benefiting from these regimes did in fact engage in such activities.

- Nexus Ratio is calculated as follows: 
$$\frac{a+b}{a+b+c+d}$$

where -

a = R & D expenditure incurred by taxpayer itself

b = expenditure on R&D for unrelated-party outsourcing

c = expenditure on acquisition cost

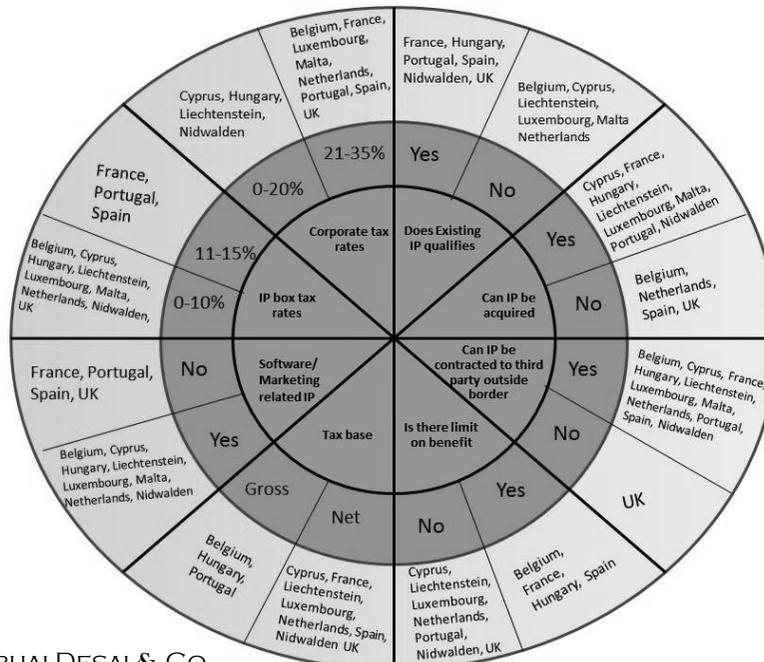
d = expenditure for related party outsourcing



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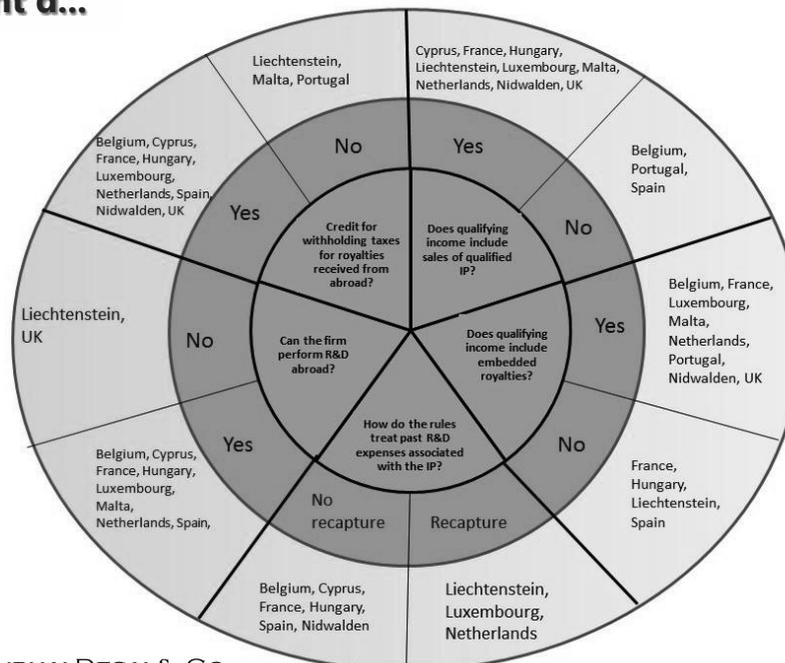
## Key features of Patent Regime-International Practice



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## Key features of Patent Regime-International Practice Cont'd...



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## India – R&D/Patents



- 3500 patents registered
- Patent Act, 1970 as amended upto 2005
  - Definition of “New Invention” [Sec 2]  
any invention or technology which has not been anticipated by publication in any document or used in the country or elsewhere in the world before the date of filing of patent application with complete specific.
  - Exclusions under Sec 3 (E.g. Atomic Energy)
  - Excludes Innovation Software
  - Patent protection for
    - Novelty;
    - Inventive step /non-obviousness; and
    - Industrial applicability
  - Validity 20 year
- PRISM (Promoting Innovation in Individuals Start-ups & MSMEs)
- Existing Tax incentives [excludes output R&D incentives]
- As per OECD- not found to be harmful tax practice.
- Introduction of Patent Regime
  - Twin Objective
    - Encourage R&D activities
    - Global R&D hub
  - Aim
    - Provide additional incentive to retain and commercialized exists patents
    - Develop new innovative patented products
- Encourage location of high-value jobs in India
- Recognition of nexus approach under Action Plan 5

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## Budget 2016 Proposals - Patent Regime



- Section 115BBF - Tax on income from patents.
- Total income of an **eligible assessee** includes any income by way of royalty in respect of a patent **developed** and **registered** in India.
- Concessional tax rate- 10%
- No other deductions or allowances
- Effective from 1st April, 2017 (Assessment year 2017-18 onwards)

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**Budget 2016 Proposals - Patent Regime Cont'd...**



**DEFINITIONS:**

**“developed”**

• means the expenditure incurred by the assessee for any invention in respect of which patent is granted under the Patents Act, 1970 (herein referred to as the Patents Act);

**“eligible assessee”**

• means a person resident in India and who is a patentee;

**“invention”**

• shall have the meaning assigned to it in clause (j) of sub-section (1) of section 2 of the Patents Act;

**“lump sum”**

• includes an advance payment on account of such royalties which is not returnable;

**“patent”**

• shall have the meaning assigned to it in clause (m) of sub-section (1) of section 2 of the Patents Act;

**Budget 2016 Proposals - Patent Regime Cont'd...**



**DEFINITIONS:**

**“royalty”**

in respect of a patent, means consideration (including any lump sum consideration but excluding any consideration which would be the income of the recipient chargeable under the head “Capital gains” or consideration for sale of product manufactured with the use of patented process or the patented article for commercial use) for the—

- i. transfer of all or any rights (including the granting of a licence) in respect of a patent; or
- ii. imparting of any information concerning the working of, or the use of, a patent; or
- iii. use of any patent; or
- iv. rendering of any services in connection with the activities referred to in sub-clauses (i) to (iii);

**“true and first inventor”**

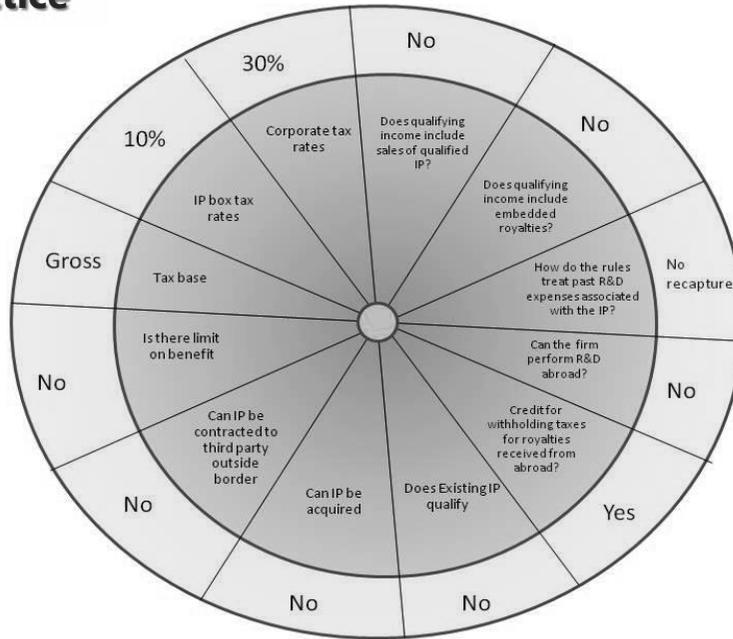
• shall have the meaning assigned to it in clause (y) of sub-section (1) of section 2 of the Patents Act.’



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## Budget 2016 Proposals vis-à-vis International Practice



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## Budget 2016 Proposals vis-à-vis Global Study



- IFA congress 2015
  - Neutrality and proportionate ✓
    - Legitimate aim
    - Suitable
  - Necessary to achieve aim
  - Measures remain reasonable
- Definition of Qualifying expenditure ✓
- Relying for Acquired IP ✗
- Loss for unsuccessful R&D ✗
- Design issues
  - Definition of Qualified IP ✓
  - Link with R&D activity ✓
  - Relation to R&D Expenditure ✓
- Efficient in stimulating R&D ?
- Nexus based on approach /BEPS Action Plan 5
  - Favours place where actual performance takes place ✓
  - Interaction with input tax incentives ✗
  - Copyrighted software ✗
  - Outsourcing of R&D functions (related & unrelated) ?

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## Budget 2016 Proposals - Issues/Challenges



### GENERAL

- Sunset/Grandfathering
  - Existing schemes or projects
  - Existing deductions/allowances to Resident
  - Existing deductions/allowances to PE of Foreign Co.
- Acquired IP & its enhancement
- Level of activities at India vis-à-vis privileged IP income
- Privileged IP income-PE Foreign Co. Article 24(3)
- MAT
- Foreign Tax Credit
- Set-off of losses for failed R&D projects
- AOP
- "Developed" –covers Outsourced activities
- Existing patents registered? Not yet registered ?
- Expenditure incurred outside of India – e.g. Clinical tests

### TRANSFER PRICING

- Applicability and validity of the CBDT Circular 6/2013
- Adjustment to the income under the Income Tax Act. [e.g. expenditure for developed not at Arm's Length Price]
- Action Plan 8- Identifying the parties that are entitled to the returns produced by intangibles

### PoEM

- Foreign Co.(Patentee)- Resident u/s 6 (3)
- Resident becoming Non-Resident?
- Action Plan 3-Adoption of CFC Rules –Pick up qualifying IP income

### GAAR

- BO
- Impermissible avoidance arrangement

Non Tax Issues

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## Case Studies



### Case Study 1

1. Company P is resident of State R. Company P has incurred following expenditure towards development of its patent.
  - USD 20,000/- at State R up to 31<sup>st</sup> March, 2016
  - USD 40,000/- at State R after 1<sup>st</sup> April, 2016.
  - USD 50,000/- paid after 1<sup>st</sup> April, 2016 for work related to research carried out by a consultant at State Z.
2. The Company P finished its research and secured appropriate entry of such research work in the patent register of State R on 10<sup>th</sup> April, 2016
3. Company P shall realise royalty income for year to end 31<sup>st</sup> March 2017 as under:
  - By undertaking sales of the relevant products manufactured by use of the patent. Such sale will take place in State R. The allocated royalty amount from such sale shall be USD 1 million.
  - Royalty income from associate enterprise situated outside State R. Such associate enterprise shall pay royalty at the rate of 2% on the projected sales of USD 20 million.
4. During the year to end 31<sup>st</sup> March, 2017, Company P shall also complete its corporate restructuring exercise thereby it would also become owner of the several patents belonging to the group. Such patents were developed by the group prior to 31<sup>st</sup> March 2016. It is likely that such patents may also get registered at the patent register maintained by the authorities at State R. It is estimated that royalty income accruing to Company P from such patents shall be to the tune of USD 1.5 million.
5. Please examine the tax consequences for the royalty income in the hands of Company P if State R is India.
6. Please also comment on following points:
  - Deduction/depreciation available to Company P at India on the amount of expenditure incurred for the development of patents.
  - Interplay between provisions of Section 80RRB and provisions of proposed section 115BBF

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## Case Studies Cont'd...



### Case Study 2:

1. Company P is resident of State R. Company P has registered several patents with the appropriate authorities of State R.
2. In view of the provisions of section 6 of IT Act, Company P shall become resident at India for the year to end 31<sup>st</sup> March, 2017.
3. Please examine the tax incidence at India in the hands of Company P on the amount of royalty income arising to company from the patents developed and registered outside India.

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# THANK YOU



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**Paresh Parekh**

Partner, Ernst & Young, India,  
International Taxation & Transfer Pricing

### **Background**

- Paresh is a Partner with Ernst & Young, India
- Paresh joined Ernst & Young in 2001 and is based in the Mumbai office
- Paresh is a qualified Chartered Accountant and has over 16 years of experience

### **Key Skills**

- Complex direct tax, international tax and corporate tax matters/Tax incentives
- Transfer Pricing
- Mergers and Acquisitions
- India entry strategies/Structuring
- Foreign Direct Investment policy
- Tax Litigation
- Cash repatriation strategies

### **Professional experience**

- Paresh has a wide range of experience in advising various large multinational companies/Funds, on tax incentives, various international tax, transfer pricing, corporate tax, and regulatory matters
- Paresh has advised clients on strategizing TP models, TESCO, TP litigation, APAs, TP documentation, etc.
- Paresh has been involved with many large US, European, South Korean, Australian, Japanese, and other companies' India entry plans
- Paresh has also advised major Indian companies / business houses in restructuring their operations, and structuring their expansion and funding plans/M&A etc.
- Paresh has also been involved in Mutual Agreement Procedures under Double Tax Avoidance Treaties, and, in Advance Pricing Agreements, and, also in Advance Rulings
- Paresh has contributed to various thought leadership material in leading business dailies and has also addressed various seminars including those organized by IFA, BCAS, ICAI, UKIBC, USIBC, Commonwealth Asia Alliance, FICCI, etc.
- Paresh is also regularly interviewed by live TV media (BBC, NDTV, CNBC, ETNow, Bloomberg, Rajya Sabha TV, etc.) and is frequently quoted by print media. Paresh was also panel speaker on BEPS in Global IFA Congress 2014 in Mumbai





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**CA Gautam Doshi**

Mr. Gautam Doshi, a Chartered Accountant and Masters in Commerce, is a Group Managing Director of Reliance Anil Dhirubhai Ambani Group, a conglomerate with interests in telecom, power, infrastructure, entertainment and financial services sectors. He also serves as independent director on boards of public limited companies.

Mr. Doshi has more than 40 years of experience in wide range of areas covering Mergers and Acquisitions, Direct, Indirect and International Taxation, Transfer Pricing, Accounting and Corporate and Commercial Laws. He has been actively involved in conceptualizing and implementing a number of mergers and restructuring transactions both domestic and cross-border, involving many of the top 20 listed companies on the BSE as also those forming part of FTSE 100.

A prolific speaker, Mr Doshi has addressed several seminars and conferences within and outside of India and courses organized by the Institute of Chartered Accountants of India, International Fiscal Association, other professional bodies and Chambers of Commerce.

He has served on the Councils of Western Region as also All India level of the Institute of Chartered Accountants of India which has the task of development and regulation of profession of accountancy in India. During his tenure on the Council, he served on several committees and contributed significantly to the work of Board of Studies which is responsible for education and system of training of students. He also served as Chairman of Committees on direct and indirect taxation.





**CA H. Padamchand Khincha**

- Name : H Padamchand Khincha  
CA Membership Number : 200/22179  
Qualifications : B.Com, LLB, FCA  
Academic Distinctions : 5th Rank in B.Com, Bangalore University  
25th Rank in CA Final (November 1982)  
Presently : Partner in: M/s H C Khincha & Co., Chartered Accountants  
Other Activities : **TEACHING:**  
(a) Visiting Faculty at IIM, Bangalore;  
(b) Was a Faculty at the intensive coaching classes of ICAI teaching Income Tax for CA final students;  
(c) Visiting faculty at the Direct Taxes Training Institute – of the Income Tax Department.  
**PROFESSIONAL:**  
(a) Presented papers at various Seminars, Conferences all over the country;  
(b) Was writing a monthly column on 'Tax Patrika' – a magazine in Hindi devoted to Direct & Indirect Taxes;  
(c) Was a panel member for answering queries at the 'NRI Taxation – on line' of the Economic Times;  
(d) Was on the advisory board for answering queries of Lex Site.Com a legal portal;  
(e) Was the convenor of the study group formed to prepare the approach paper on the "Transfer Pricing Guidance Note".  
**AUTHORSHIP:**  
(a) Co-author of "Tax Holiday u/ss.10A and 10B – An analysis  
(b) Author of Tax Treaties of India – A compilation  
(c) Author of three booklets:  
(i) Capital Gains of Non-residents;  
(ii) Tax deduction at source;  
(iii) Concept of Indexation under capital gains;  
(d) Articles published in Current Tax Reporter, BCAJ, Journal of CA Institute etc.  
**SPORTS ACHIEVEMENTS:**  
(a) Was a keen cricket player. Was selected to represent All India Colts vs the visiting West Indies team at Pune in 1978;  
(b) Won prizes in middle distance running in St Joseph's College Athletic Meet.  
**OTHERS:**  
Adjudged the 'Best Outgoing Student' of St. Joseph's College of Commerce in 1979.





# Place of effective management (POEM)

BY H. Padamchand Khincha  
Chartered Accountant, Bangalore

## Introduction

- "Place of effective management" means a place where key management and commercial decisions that are necessary for the conduct of the business of an entity as a whole are, in substance, made.
- Section 6(3) of the Indian Income tax Act, 1961 contains provisions for determining residential status of a company. An Indian company is always a resident company
- POEM is a norm/test to reckon residential status of a company other than Indian company.

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## Introduction

- Hitherto a foreign company was regarded as a resident if the control and management of its affairs was situated wholly in India.
- POEM replaces the test of control and management.
- The concept POEM was introduced by the Finance Act 2015.

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## Objective

Memorandum to Finance Bill 2015 –

- *“Due to the requirement that whole of control and management should be situated in India and **that too for whole of the year**, the condition has been rendered to be practically inapplicable. **A company can easily avoid becoming a resident by simply holding a board meeting outside India. This facilitates creation of shell companies which are incorporated outside but controlled from India.**”*
- *‘Place of effective management’ **(POEM) is an internationally recognized concept** for determination of residence of a company incorporated in a foreign jurisdiction.*

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## Objective

Memorandum to Finance Bill 2015 –

- *Most of the tax treaties entered into by India recognise the concept of 'place of effective management' for determination of residence of a company as a tie-breaker rule for avoidance of double taxation.*
- *Many countries prefer the POEM test to be appropriate test for determination of residence of a company.*
- *The principle of POEM is recognized and accepted by Organisation of Economic Cooperation and Development (OECD) also.*

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## Objective

Memorandum to Finance Bill 2015 –

- *The OECD commentary on model convention provides definition of place of effective management to mean the place where key management and commercial decisions that are necessary for the conduct of the entity's business as a whole, are, in substance, made.*
- *The modification in the condition of residence in respect of company by including the concept of effective management would align the provisions of the Act with the Double Taxation Avoidance Agreements (DTAAs) entered into by India with other countries and would also be in line with international standards. It would also be a measure to deal with cases of creation of shell companies outside India but being controlled and managed from India.*

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## Guiding Principles for POEM

- Generally, the process of determination of POEM will be based on –
  - a) facts and circumstances of a given case;
  - b) the place where decisions are taken, rather than the place where decisions are implemented ;
  - c) substance over form principle;

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## Guiding Principles for POEM

- POEM will be required to be determined on year to year basis.
- Entity may have more than one place of management (POM) but can have only one place of effective management (POEM).
- The process of determination of POEM would be primarily based on the fact as to whether or not the company is engaged in active business outside India.

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## Guiding Principles for POEM

- Company shall be **engaged in “active business outside India”** if the passive income is not more than 50% of its total income and
  - i) less than 50% of its total assets are situated in India; and
  - ii) less than 50% of total number of employees are situated in India or are resident in India; and
  - iii) the payroll expenses incurred on such employees is less than 50% of its total payroll expenditure ;

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## Guiding Principles for POEM

- For the above test, the average of the data of the previous year and two years prior to that shall be considered. If the company has been in existence for a shorter period, then data of such period shall be considered.
- POEM in case of a company engaged in active business outside India shall be presumed to be outside India if the majority meetings of the board of directors of the company are held outside India.
- POEM shall be considered in India if powers of management are exercised by either the holding company or any other person (s) resident in India.

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## Guiding Principles for POEM

- “**Passive income**” of a company shall be the aggregate of -
  - (i) Income from the transactions where both the purchase and sale of goods is from / to its associated enterprises; and
  - (ii) income by way of royalty, dividend, capital gains, interest or rental income;

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## Guiding Principles for POEM

- Determination of POEM for **companies not engaged in active business outside India** would be a two stage process –
  - i) identification or ascertaining the person or persons who actually make the key management and commercial decision for conduct of the company’s business as a whole.
  - ii) determination of place where these decisions are in fact being made.

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## Guiding Principles for POEM

- **“Senior Management”** of a company – Persons who are generally responsible for developing and formulating key strategies and policies for the company and for ensuring or overseeing the execution and implementation of those strategies on a regular and on-going basis and may include–
  - i) Managing Director or Chief Executive Officer;
  - ii) Financial Director or Chief Financial Officer;
  - iii) Chief Operating Officer; and
  - iv) The heads of various divisions or departments (for example, Chief Information or Technology Officer, Director for Sales or Marketing).
  
- **“Head Office”** of a company – Place where senior management and their direct support staff are located but not necessarily where majority of its employees work or where its board typically meets;

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## Guiding Principles for POEM

- **Some of the guiding principles to determine POEM**

A) LOCATION OF MEETING - The place where the company's board regularly meets and makes decisions can be considered as the POEM provided the company's board:

- i) retains and exercises its authority to govern the company; and
- ii) does, in substance, make the key management and commercial decisions necessary for the conduct of the company's business as a whole.

- Relevant Place for POEM :- Place where key decisions by the directors are taken and not where formal board meetings are held.

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## Guiding Principles for POEM

- In cases where senior management or any other person are delegated by the board to make key management and commercial decisions for the company - POEM will ordinarily be the place where such senior managers or the other person make those decisions.
  
- B) DELEGATION OF AUTHORITY TO EXECUTIVE COMMITTEE - Location where the members of the executive committee are based and where that committee develops and formulates the key strategies and policies for mere formal approval by the full board will often be considered to be the company's place of effective management.
  
- Delegation of authority may be either de jure (by means of a formal resolution or Shareholder Agreement) or de facto (based upon the actual conduct of the board and the executive committee).

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## Guiding Principles for POEM

- C) LOCATION OF HEAD OFFICE OF COMPANY - A company's head office often represents the place where key company decisions are made.
  
- **Determination of location of the head office of the company:**
  - i) Principal place of business or headquarters - If the company's senior management and their support staff are based in a single location and that location is held out to the public as the company's principal place of business or headquarters.

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## Guiding Principles for POEM

- ii) If the Company is more decentralized - Location where senior managers:
  - a) are primarily or predominantly based; or
  - b) normally return to following travel to other locations; or
  - c) meet when formulating or deciding key strategies and policies for the company as a whole.
  
- iii) Location where the highest level of management and their direct support staff are located - Members of Senior Management operate from different locations on a more or less permanent basis and members participate in various meetings via telephone / video conference.

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## Guiding Principles for POEM

- iv) Location of Head Office not relevant - In situations where the senior management is so decentralised that it is not possible to determine company's Head Office with a reasonable certainty
  
- D) Day to day routine operational decisions shall not be relevant for determination of POEM.
  
- E) USE OF MODERN TECHNOLOGY - It is no longer necessary for the persons taking decision to be physically present at a particular location.
  
- Place where the directors or the persons taking the decisions or majority of them usually reside may also be a relevant factor impacting POEM.

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## Guiding Principles for POEM

### F) SECONDARY FACTORS for the identification of POEM –

- i) Place where main and substantial activity of the company is carried out; or
- ii) Place where the accounting records of the company are kept.

#### ➤ **Points for considerations –**

- i) The above principles are for guidance only and no single principle will be decisive in itself.
- ii) The principles have to be seen with reference to activities performed over a period of time and no ‘snapshot’ approach is to be adopted.

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## Guiding Principles for POEM

- iii) If based on facts and circumstances, it is determined that during the previous year, the POEM is in India and also outside India, then POEM shall be presumed to be in India if it has been mainly /predominantly in India.

- AO to seek permission of principal commissioner or the commissioner before proposing to hold a company incorporated outside India as being resident in India, on the basis of its POEM.
- The Principal Commissioner or the Commissioner shall provide an opportunity of being heard to the company before deciding the matter.

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## Issues for consideration

- What should the “total assets” consists of ?
- Whether coverage of “total assets” should be restricted to tangible assets only?
- How should the valuation of assets be carried out ?
- Will satisfying all four conditions cumulatively be **burdensome or onerous** on companies engaged in “active business outside India” ?

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## Issues for consideration

- What parameters should be used to establish that an employee is situated in India?
- Whether part time employees or trainees are covered ?
- Whether employees on deputation or secondment are covered?
- Whether onus is on revenue to prove POEM's existence?

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## Issues for consideration

- Can the payroll expenses include perquisites given to employees ?
- How is use of 3 years data relevant where the POEM is an year on year exercise?
- What should prevail - the test of POEM as per Act or tax treaty?

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## Issues for consideration

- What is 'royalty' for the purpose of "passive income"?
- How apt is to cover transactions passing the arms length test as per transfer pricing regulations, as "passive income"?
- Whether exclusion of services rendered between associate enterprises in definition of "passive income" impacts the conclusion?
- Whether the foreign company should have both transactions (purchase and sale ) with its associate enterprise to qualify as '**passive income**'?

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## Issues for consideration

- Whether the tests of control, ownership or stock holding are really not important factors while determining POEM?
- What constitutes "key managerial and commercial decisions"?
- Is there a greater reliance on "decision-making" rather than conduct of business affairs?
- Can '**Listing of companies**' be a key criteria to decide on the activeness of companies?

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## Issues for consideration

- Which TDS provisions would apply to Foreign companies that are resident in India?
- Can foreign company which is a resident invoke/ avail tax treaty benefits ?
- At what rate will the foreign company be subjected to tax if it becomes a resident company ?
- Whether MAT provisions be applied to foreign company which are resident in India?

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Thank You

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**Nilesh M. Kapadia**

Mr. Nilesh M. Kapadia, partner, is a Bachelor of Commerce from the University of Bombay, and is a Fellow member of the Institute of Chartered Accountants of India. He was placed in the **9th rank in the all India merit list** in 1981. Even earlier he had a first class academic career. In 2012 he has completed LL.M. in International Taxation from Wien University (placed in 5th rank in batch of 2012).

Immediately after qualification he worked for three years as Asst. Tax Manager with M/s. A. F. Ferguson & Co., Chartered Accountants, which then had an affiliation for India with one of the global big six firms. Thereafter he started practising in the name of **M/s NMK & Co**

He specializes in the area of International taxation issues, structuring cross border investments, Transfer Pricing strategies and compliance, Structuring Executive compensation, Service tax matters, Foreign Exchange Regulations, Tax issues for BPO units etc.

#### **Professional Contributions**

Mr. Nilesh M. Kapadia is an active member of the various professional organizations in India. He was a regular faculty on the course on Double Tax Avoidance Agreements being conducted by the Bombay Chartered Accountants Society and the ICAI.

He has co-authored books titled Taxation of Non-Residents and International Taxation and FEMA published by the Bombay Chartered Accountants' Society; FEMA Law and Practice published by ICAI, and Master Guide to TDS published by CCH Walters Kluwer.

He is the Hon. Secretary of the International Fiscal Association – India Branch. He was member of the International Taxation Committee of the WIRC of the Institute of Chartered Accountants of India and the Bombay Chartered Accountants' Society, and currently is member of the International taxation Committee of the Chamber of Tax Consultants, Mumbai. He is also a director of Foundation for International Taxation.

He also contributes articles to various websites, professional journals and leading business newspapers on variety of professional topics. He has been appointed on the United Nations' Sub Committee on Taxation of Services.

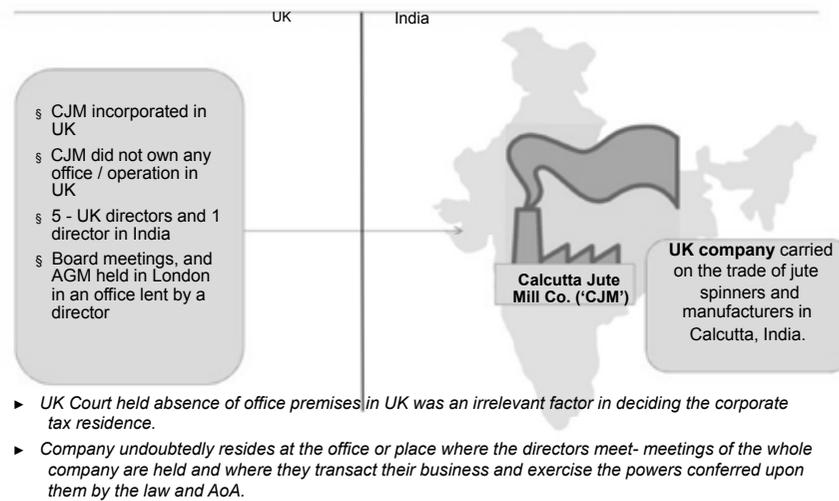




## PLACE OF EFFECTIVE MANAGEMENT & RELATED CASE STUDIES

Nilesh Kapadia

### Calcutta Jute Mills Co v Nicholsan (1 TC 83) 1876



Slide 1

POEM Discussion



**Cesena Sulphur Company v Nicholсан  
(1 TC 88) 1876**

<i>United Kingdom</i>	<i>Italy</i>
County of Incorporation	Country of registration
No sale	Mining and sale of Sulphur
Meeting of BOD and shareholders	Majority shareholders Italian residents
Declaration of dividend and determining the future of business	MD lived in Italy

Findings of UK Court

Company for tax purpose is Resident:

- ▶ Where every act connected with the administrative part of business was done;
- ▶ The place from where all the orders came, all the directions flowed;
- ▶ Where the appointments of the various officers were made and revoked,
- ▶ Where agents were nominated and recalled,
- ▶ Where the money was received and dividends were declared and were payable.

*We find all these acts performed in London... thus resident of UK*

**De Beers Consolidated Mines Ltd v Howe  
(5 TC 198) 1905**

Particulars	London	Kimberley
Country of Incorporation - owned mines and mining property	-	√
Ordinary directors	9	7
Life Governors	2	1
Meetings held weekly	√	√

**Powers of BOD in London**

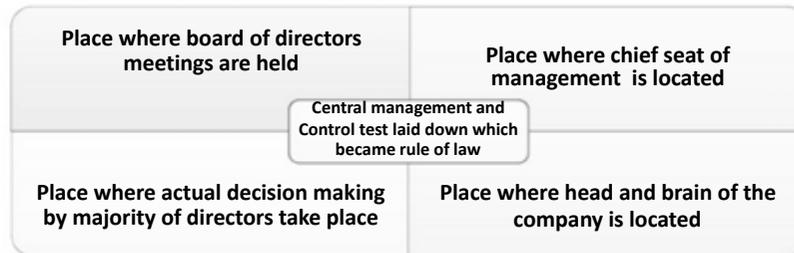
- Negotiation of the contracts with the Diamond Syndicates
- Advise directors in Kimberley on matters of exceptional importance
- Policy in respect of disposal of diamonds and other assets
- Policy in respect of working and development of mines and output of diamonds
- Policy in respect of application of profits and appointment of directors
- Appointment of directors
- BOD meetings to arrive at absolute majority for decision-making purposes

**Powers of BOD in Kimberley**

- Determine the course of business in respect of mining diamonds



## De Beers Consolidated Mines Ltd v Howe (5 TC 198) 1905



“A company cannot eat or sleep, but it can keep house and do business. We ought, therefore, to see where it really keeps house and does business.”

“The decision of Kelly C.B. and Huddleston B. in the *Calcutta Jute Mills v. Nicholson* and the *Cesena Sulphur Co. v. Nicholson*, now thirty years ago, involved the principle that a company resides for purposes of income tax where its real business is carried on. **I regard that as the true rule, and the real business is carried on where the central management and control actually abides**”

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POEM Discussion

### Smallwood v Revenue & Customs (Spcc 669) (2008)

- CM&C differed from POEM, in part due to the fact that the former was a ‘one residence test’, while the latter would be applied as a ‘dual residence test’.
- “Effective” in POEM should be understood in the sense of French effective which connotes **real** [French is another official version of OECD model]
- First in time in *Wensleydale's Settlement Trustees* case in which Special Commissioner David Shirley said of POEM to mean:



## Smallwood v Revenue & Customs (SpC 669) (2008)

- "I emphasise the adjective 'effective'. In my opinion it is not sufficient that some sort of management was carried on in the Republic of Ireland such as operating a bank account in the name of the trustees. **'Effective' implies realistic, positive management.** The place of effective management is **where the shots are called**, to adopt a vivid transatlantic colloquialism."
- Also warned about adopting alternative paraphrases such as "calling the shots" because in a way shareholders called the shots but this was not a relevant type of control. However, we adopt his reference to **"realistic, positive management."**

### Key principles emerging from other decisions – relevant for subsidiaries.

Bullock v Unit  
Construction  
Company (38 TC  
738)

- While certain operational decisions have been made at a subsidiary level, the directors of the UK parent company had always made key decisions in respect of the three subsidiaries.
- It was thus held that the subsidiaries were UK residents.

Egyptian Delta  
Land & Investment  
co. Ltd v Todd (14  
TC 119)

- If a company has no place of trade in the UK and does nothing at its head office except for minimum and occasional formalities, it cannot be a resident there. The company therefore held to be resident in Egypt. Court emphasised that the place of incorporation alone would be inadequate to conclude on the residency of a taxpayer.

American Thread  
company v Joyce  
(6 TC 1/163)

- Control of the management of the affairs of the American Company vested in UK given that strategic decisions were made at a UK level and that the American Company's board was constantly dominated by the English Company.



**POEM – International judicial precedents**

Case	Held
Hoge raad der netherlands (Netherlands SC)	<ul style="list-style-type: none"><li>• The term “effective management” is related to taking core decisions, directing, and taking initiatives, rather than carrying out, or preparing or determining, policy, or determining the company's activities.</li><li>• As daily management seems in opposition to key management, it is unlikely that it could ever make up part of any core decisions.</li></ul>
Case 2C 1086/2012, 2C 1087/2012 (Switzerland SC)	<ul style="list-style-type: none"><li>• POEM must be distinguished from both top-level management activities and purely administrative activities.</li><li>• POEM defines as the economic and effective center of a company.</li><li>• The decisive factor is the management of daily business activities within the company's purpose.</li></ul>
Yankowis Holdings Ltd v. Holon income tax Assessor (Israel district court)	<ul style="list-style-type: none"><li>• POEM should be determined on the basis of a factual assessment of where the decisions as to the company's business policies, strategy and daily decisions were taken</li><li>• Place where the management decisions were actually taken instead of execution the same.</li></ul>

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## UK HMRC Position- INTM120210

- It may be exceptional for the directors of a company to stand aside completely. It is, however, not unusual for directors to act in accordance with the wishes of the parent. We took advice about the matter and the advice was that the test should properly be whether the local directors apply their minds to `suggestions' from the parent and form an independent judgment before implementing their parent's wishes or whether, on the other hand, they merely `rubber stamp' and carry out without serious question the higher policy wishes of the parent company.



## Residency Rules - interpretation of POEM

	A company becomes a resident of Australia if it is incorporated in Australia or if it carries on business in Australia, and has either its central management and control in Australia or its voting power is controlled by shareholders who are residents of Australia
	Belgian tax law defines POEM as the place where the actual key decisions controlling the company are taken, disregarding the location where the BOD formally approve decisions taken elsewhere
	France has interpreted the OECD commentary for the determination of POEM as place where the person or the group of persons exercising the most senior functions makes its decision
	POEM is the place where the day-to-day management of the company takes place, where the strategic business decisions are made, where the key meetings take place, where the accounting books are kept or if the BOD comprises of Greek residents. The tax administration may also examine additional factors
	POEM is the place where the key management and commercial decisions are made, where the top executives are located and where the senior executives carry on day to day management of the enterprise
	Italian tax laws determine POEM as the place where the main and substantial activity of the entity is carried on. However, the courts consider POEM as the place where key decisions are actually taken, irrespective of the place where they are formally made

## Residency Rules - interpretation of POEM

	Domestic tax law considers POM where the place of ultimate managerial responsibilities over the place where day-to-day management is effected
	A foreign company is deemed to be a resident in Russia if a relative majority of board meetings are held in Russia, if executive body regularly conducts company related activities from Russia or if the Chief executives perform their managerial duties from Russia. Tax administrations may consider other criteria such as place of maintenance of accounting records, place from which HR functions are undertaken, etc
	US follows the OECD commentary for the determination of POEM. However, it reserves the right to use a place of incorporation test for the determination of tax residency of a corporation

**Each contracting state adopts different criteria for determining the POEM**







## IFA INDIA-WRC CONFERENCE

29th April 2016 at YBC Pratishthan



**CA Praveen Sood**

Praveen Sood is a Chartered Accountant by qualification and currently serves as the Chief of International Taxation for Tata Steel Group. Mr. Sood has over twenty years of experience across functions, domains and locations including marketing, finance, accounts, investor relations and taxation. He has been awarded the best Metal and Mining IR professional for 3 consecutive years in the Asian Poll for his contribution as the Head of Investor Relations at Tata Steel. He has been working in the International Taxation for over a decade.

He is a sports enthusiast and is also the cricket captain for the Tata Steel HO team.





## IFA INDIA-WRC CONFERENCE

29th April 2016 at YBC Pratishthan



**CA T. P. Ostwal**

T. P. Ostwal is a Senior Partner in TP Ostwal & Associates and is based in Mumbai, having more than three decades in practice. He is a Final Rank holder.

He is a member of the newly constituted Sub Committee on Transfer Pricing for Developing Countries by United Nations and was also a part of the previous Sub Committee for the first edition of United Nations TP Manual. He has been a member of several committees set up by Government, Ministry of Finance, CBDT, OECD and other associations.

He is a visiting professor at Vienna University Austria for teaching International tax for LLM studies. He has addressed and presented several papers at National and International Conferences on variety of subjects.

As a co-chair of IFA 2014 Mumbai Congress held from 12th-17th October 2014. He has also been the first vice-President of the Executive committee IFA-NETHERLANDS and a Chairman of IFA India.

He has been adjudged as 11th in the top 50 Tax Professionals in the world for the year 2006-07 by Tax-Business magazine of UK in Nov. 2006.

Author of Black Money Act 2015 public education by Bombay Chartered Accountants society apart from other books.

Director of public and multinational companies in India such as J. P. MORGAN AMC P. Ltd.





## IFA INDIA-WRC CONFERENCE

29th April 2016 at YBC Pratishthan



**Vishal Nanavati**

Partner, Transfer Pricing, PwC

Vishal Nanavati is a Partner with PriceWaterhouse & Co LLP's Transfer Pricing team. He has been with PwC for more than 12 years.

Vishal has advised several foreign multinational companies on setting up their operations in India and helped them resolve issues relating to international taxation, transfer pricing and regulatory matters. He has also assisted a number of Indian multinational organisations on global transfer pricing projects in their overseas operations. He has significant experience in dispute resolution in transfer pricing matters and guides clients on the Mutual Agreement Procedure and Advanced Pricing Agreement.

Vishal was seconded to the PwC UK office for a year in 2008, where he became familiar with European tax and transfer pricing related issues faced by clients in the region. He was instrumental in successfully establishing PwC India Tax's Desk in Singapore and led it for three-and-a-half years before returning to India in June 2015. He has worked with MNCs on global documentation and litigation matters and has wide experience in various industries, including oil and gas, energy, transportation and logistics, pharmaceuticals, retail and consumer products, technology, infrastructure, and media and entertainment, from both Indian inbound and outbound perspectives.

He speaks regularly on transfer pricing at various events.

Vishal is a graduate from the University of Mumbai and a Chartered Accountant.





# IFA INDIA-WRC CONFERENCE

29th April 2016 at YBC Pratishthan



**Hasnain Shroff**

<b>Position</b>	Partner in Global Transfer Pricing Services in Mumbai office (BSR And Company)
<b>Specialization</b>	Transfer Pricing
<b>Qualifications</b>	<ul style="list-style-type: none"><li>– Fellow of the Institute of Chartered Accountants of India</li><li>– Doctorate from Mumbai University - "Management of transfer pricing strategies by multinationals in India".</li><li>– Bachelor of Commerce, University of Mumbai, India</li></ul>
<b>Experience</b>	<ul style="list-style-type: none"><li>– Hasnain is based out of Mumbai office and has almost 18 years of experience in advising multinational clients on issues relating to transfer pricing.</li><li>– He has advised various Indian/multinational clients on global transfer pricing matters relating to setting of transfer pricing policy, cost allocation, intangibles, business restructuring, etc. He has extensively assisted clients in preparing documentation (including global documentation) and represented them in the course of transfer pricing audits and before first appellate authority.</li><li>– His international experience includes 6 months secondment to KPMG Australia. He was one of the key members of KPMG Australia's dedicated India Business Practice. He has assisted a number of Australian companies to set up operations in India.</li><li>– He has been instrumental in negotiating the first IT/ITES APA in India and paving the way for many more APAs to be signed in this important industry.</li><li>– Hasnain is part of the prestigious Editorial Board of Taxmann's International Taxation Journal.</li><li>– Hasnain is a prolific speaker and has presented in various events in India and internationally. He also contributes articles on regular basis to various national and International publications.</li><li>– Prior to KPMG, Hasnain has worked with RSM &amp; Co. and Ernst and Young in Mumbai.</li></ul>
<b>Industries / Clients serviced</b>	Hasnain services clients across various industries including manufacturing and industrial markets, IT, ITES, Financial and Advisory Services, etc.





## IFA INDIA-WRC CONFERENCE

29th April 2016 at YBC Pratishthan



**CA Ameya Kunte**

Ameya Kunte is Co-founder and Executive Editor of Taxsutra, a leading tax news and analysis portals in India. Ameya co-founded Taxsutra in 2010. Prior to that, Ameya worked with tax consultancy firms like EY and PwC and has over 13 years of experience in taxation. Ameya specialises in corporate and international taxation.

Ameya is a Chartered Accountant and regularly speaks at conferences arranged by ICAI, Chamber of Tax Consultants, Bangalore Chamber of Commerce and IFA. He is a visiting faculty at ILS Law College (one of the leading Government law colleges in the country) on the subject of taxation. Ameya is a member of the sub-Group set up by ICAI on "Base Erosion and Profit Shifting" (BEPS) project.





## IFA INDIA-WRC CONFERENCE

29th April 2016 at YBC Pratishthan



**CA Sushil Lakhani**

Sushil Lakhani is a Fellow member of the Institute of Chartered Accountants of India with thirty three years of experience in the field of taxation. He had a bright academic career and was a rank holder in both – the Intermediate & the Final C.A. examinations.

He has vast experience in the field of International Tax and has been involved in advising in structuring of a variety of cross-border transactions. He has his own firm by the name Lakhani and Associates, Chartered Accountants.

He has authored a publication titled “TDS on Payments to Non-Residents & Foreign Companies” for The Chamber of Tax Consultants, Mumbai. He has co-authored a publication titled “EPC Contracts-A Monogram” for the Bombay Chartered Accountants’ Society. He was a panellist on the subject “Tax Issues of Global Families” at 2015 Basel Congress of IFA .

He represents India since 2011 on the Executive Committee of International Fiscal Association, Netherlands. He is presently the Chairman of the India Branch of International Fiscal Association. He is also an active member of International Taxation Committee of Bombay Chartered Accountants Society, Taxation Committee of Indian Merchants’ Chamber.

He has been a faculty at various courses & seminars in India and abroad of Institute of Chartered Accountants of India (WIRC), Bombay Chartered Accountants Society, International Fiscal Association, Chamber of Tax Consultants and National Academy of Direct Taxation.









