PLAN, PROSPER AND RELAX

(In commendation of Income-Tax Planning)

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A large part of a tax-payer's income goes away by way of Income-tax. For this reason tax-payer is always on the look-out of ways and means for minimising his tax liability. The best way to achieve this objective is to utilise the services of a tax-expert and get one's tax-affairs so arranged within the four corners of taxation-laws, that his incidence of taxation is minimised. In this context various aspects of tax-planning are dealt with hereinafter.

1. Concept of Tax-Planning

For any endeavour to be successful, proper and timely planning is a must. To a layman planning for taxation may appear to be odd, as to him it is an unfamiliar concept. However, if the purpose and benefits of tax-planning are properly explained to him he would become an enthusiastic admirer of the same. So far as income-tax is concerned, planning in respect thereof, is not a new concept. Tax-payers, over the years, have been using various ways and methods for the purpose of minimising their tax liabilities. Some tax-payers limit themselves to tax-avoidance, whereas others cross the limits and indulge in brazen tax- evasion.

For a growing and developing economy like ours, appropriate development Plans and sound economic and financial base, are required; and for that purpose, huge revenues are required. In order to maximise the revenue collections the taxation laws are being subjected to frequent changes/amendments so as to keep pace with the changing times.

With ever-changing laws and rules the tax-paying public is placed under a heavy stress and strain. Therefore the tax-payer, who is always trying to minimise the incidence of taxation, has to seek the help and guidance of tax-experts who could help keep his head above the everswirling and changing waters of taxation. In other words the tax-payer finds a saviour in a taxation expert who could so arrange his tax-affairs as to reduce the incidence of taxation to the minimum. It is in view of the aforesaid reasons that relevance of the tax-expert and tax-planning can be realised.

2. Tax-planning is a legal measure

"It is a well accepted principle of law that an assessee, can so arrange his affairs as to minimise his tax burden;" says the Apex Court in the case of Commissioner of Income-Tax (C. I. T.) Vs Calcutta Discount Co. Ltd, 91 I.T.R p8 (S.C.).The march of judicial thinking by English Courts has also favoured aforesaid view of the Indian Supreme Court. The Apex Court had to deal with

the pros and cons of "Tax-planning" in the by now famous case of McDowell & Co Ltd Vs C.T.O; 154 I.T.R p.148(S.C.). The Supreme Court has approved Tax-planning but disapproved use of colourable devices for evading tax liability.

3. Tax-avoidance Versus Tax- evasion

When one thinks of "Tax-planning", one has to clearly understand the distinction between "Tax-avoidance" within the frame work of Taxation laws and "Tax-evasion". Tax-evasion implies use of colourable devices or sham transactions for reducing one's tax liability. In my opinion use of such devices/transactions for tax-planning, should be avoided. I have a strong belief and conviction that there is vast scope of tax-planning by legitimate and honest means/methods within the framework of taxation laws.

4. Objective of Tax-Planning

Tax-planning serves to achieve (i) Reduction of tax liability, (ii) Minimisation of litigation, and (iii) Productive investment; for the tax payer and

(i) Healthy growth of economy and (ii) Economic stability, for the Nation. All the aforesaid objectives of Tax-planning are discussed one by one as follows:

(a) Reduction of tax liability

The main objective of tax-planning is reduction of tax- liability of the tax-payer. By proper tax-planning a tax-payer can so arrange his affairs within the frame-work of taxation laws as to reduce his tax -liability to the minimum. He can also avail of various deductions and exemptions available under the tax-laws to the maximum, if his tax- affairs are properly arranged.

(b) Reduction of litigation

The greatest desire of tax-payer is to minimise his taxes whereas the tax-collector is guided by a desire to extract maximum tax from the tax-payer and more often than not overzealous tax collectors act in an injudicious manner and involve the tax-payer in avoidable litigation. However if the tax-affairs are properly planned in accordance with the taxation laws, such kind of litigation can certainly be minimised and thus the tax-payer is saved from the hardship & inconvenience caused by unnecessary and avoidable litigation.

(c) Productive investment

Taxation laws offer vast avenues for productive investment of income by granting total or substantial relief from taxation. A tax-payer has to be constantly aware of such avenues. If the income is properly invested in the aforesaid manner then the tax-payer not only saves tax but also gets better returns on his investments. If the tax-payer is mentally prepared to take advantage

of such legally sanctioned devices of productive investment then he has to seek the advice of a competent tax- advisor.

(d) Healthy growth of Economy

Savings made by legally permissible tax-planning are very important for healthy growth of national economy. Income saved and wealth accumulated in violation of taxation laws , are the bane of national economy ; as generation of black money weakens national economy and leads the nation to avoidable economic destruction. It is against this background that the importance of legally saved income and investments made therefrom, can be realised.

(e) Economic stability

By proper tax-planning legally due taxes are paid without any hassle either from the side of the tax-payer or the tax- collector. Through tax-planning, avenues of productive investments are availed of by the tax-payers. Productive investments increase the economic prosperity of the nation. Thus tax-planning creates economic stability of the nation and it's people by better distribution of economic resources.

From the aforesaid discussion it is clear that tax-planning leads to prosperity. If one plans his tax -affairs and pays taxes properly then he has no fear of any extra-ordinary actions on the part of I.T. Department like surveys and searches & seizures. Such a state of affairs leads to complete mental relaxation of the tax-payer. Therefore, if you PLAN your tax-affairs then you may PROSPER as well as RELAX.

5. Some Practical examples of Tax-Planning

In this para I am giving some practical examples of tax-planning which are based either upon the relevant provisions of the I.T. Act or High Court / Supreme Court judgements. These examples would clearly demonstrate that timely and proper advice of an expert can save lot of money and trouble for the tax-payer.

(i) Donation to a Fund for the benefit of public for securing benefit to Assessee's business, is allowable as a deduction

In a landmark judgement the Supreme Court , in the case of Sri. V.S. Rice Mill Contractors Co. Vs C.I.T,89 Taxman p.92 (S.C.) or 223 I.T.R. p. 101 (S.C.); has held that a donation /contribution whether voluntary or otherwise, made to a Fund for the benefit of the public , in order to secure benefit to the assessee's business; is allowable as a deduction .

In the aforesaid case the assesse was carrying on the business of exporting rice from the State of Andhra Pradesh . Rice could be exported only on obtaining a permit from the District Collector and permits were given if payment was made to a Welfare Fund established by the District Collector. The assessee claimed contribution made to the 'District Welfare Fund 'as a business expenditure. The issue was finally settled by the S.C. in the aforesaid case where it has held that such donation/ contribution whether voluntary or at the instance of the authorities concerned made to a C.M's Drought Relief Fund ; District Welfare Fund established by the District Collector or any other

Fund for the benefit of the public with a view to securing benefit to assessee's business ;can not be regarded as opposed to public policy and the same is, therefore, allowable as deduction.

(ii) Case of each Vendor Co-owner in the house property transferred, has to be considered separately and not as a single transaction of sale

The Delhi H.C, in the case of Surinder Gupta Vs Chief C.I.T. & others, 221 I.T.R p.375 (Delhi), has held that Appropriate Authority , can pass order u/s 269 UD only in respect of that Co-owner whose share in the sale price was exceeding the requisite limit .

In the aforesaid case there were four Co-owners who agreed to transfer the property by a single composite deed of agreement and single sale-deed. Value of share in the sale price of the property exceeded Rs.10 lakhs only in respect of one of the four Co-owners . The H.C. held that only the aforesaid Co-owner was required to file form No. 37-I. The H.C. has relied upon the judgement of many other H.C's and also S.C. while delivering the aforesaid judgement.

(iii) <u>A case where fair-Market Value of Property was substituted by the A.O. in place of full value of consideration declared in the deed of transfer and the matter went right upto the I.T.A.T.</u>

A senior Executive of a Company sold a house property for sum of Rs. 11 lakhs . The Assessing Officer(A.O.) obtained valuation of the property by the District Valuation Officer at Rs.25 lakhs and he took the sale price at Rs. 25 lakhs and taxed capital gains accordingly . The Executive consulted the Company I.T. advisor, who advised him to fight out the valuation report of D.V.O.

In appeal before the C.I.T.(A) only valuation of the property sold ,was challenged. The C.I.T.(A) dismissed the appeal . Thereafter the assessee went in appeal to the Income-Tax Appellate Tribunal(ITAT) against the order of the C.I.T.(A). It was before the hearing of the case before the ITAT that the assessee approached me for advice through a common friend. I was flabbergasted to see the facts of the case and its tortuous journey upto the ITAT requested the assessee to see me along with his IT advisor. I confronted the I.T. advisor as to whether he was aware of the landmark judgement of the S.C. on the issue, in the case of K.P.Verghese Vs I.T.O.,131 I.T.R. p. 597 (S.C.) and also that relevant provision in S.52 of the I.T. Act, had already been omitted w.e.f. 1.4.1988. The I.T. advisor was not aware either of the aforesaid S.C. judgement or the omission of S.52 w.e.f. 1.4.1988.

As per the aforesaid judgement of the S.C "full value of consideration" can never denote notional consideration but only real and actual consideration i.e the full price actually paid. Besides, S.52, which empowered the A.O. to substitute fair market value of the property in case of understatement of the same in the sale-deed, has also been deleted from I.T.Act w.e.f. 1.4.1988. The assessee was advised to rely upon the aforesaid judgement of the S.C, in support of his case before the I.T.A.T. instead of making submissions on the merits of valuation made by the D.V.O. The I.T.A.T.

appreciated the case of the assessee correctly and held the action of the A.O. ; ab-initio and absolutely wrong and thereafter deleted the addition made by the A.O; in to-to .

(iv) Expenditure for Acquisition and / or use of Technical Know-How

Ours is a developing economy and often Indian businessmen enter into technical Collaboration Agreements with foreign concerns for use of technical know - how in order to manufacture technically improved product(s) or to update the technology . In all such agreements the Indian businessmen acquire only a right to use technical know- how. They do not acquire technical know-how as proprietors. If the technical know-how is acquired only for use then the expenditure incurred in respect thereof is a revenue expenditure. Therefore, it is in the drafting of the technical collaboration agreement , that the real catch lies . Such agreements should be so drafted that it is clearly indicated that the tax- payer has made payment (either in lump-sum or in instalments) only for the use of the technical know-how .It may be emphasised here that S.35 AB, does not cover a case where there is only a right to use technical know-how without acquisition of the same . A great care is, therefore, advised while drafting a technical collaboration agreement . It would, therefore, be in the interest of the tax-payer that a competent I.T. expert is consulted while drafting the technical collaboration agreement.

(v). Other expenses which are held to be of revenue nature by Courts and, therefore, allowable as deduction :

(a) Expenditure on raising plantations for making the environment pollution-free

The Madhya Pradesh High Court , in the case of Hindustan Electro Graphites Ltd. Vs C.I.T., 218 I.T.R. p.688 (M.P.), has held that expenditure incurred in raising a plantation in factory premises in order to make atmosphere pollution-free, is a revenue expenditure and allowable as a deduction .

(b) Expenditure incurred for obtaining feasibility report for manufacture of raw materials

The Calcutta High Court in the case of C.I.T. Vs Graphite India Ltd , 221 I.T.R. p.420 (Cal) has held that expenditure incurred for obtaining feasibility report for manufacture of raw materials, where the project did not materialise, was revenue expenditure and therefore, allowable as a deduction.

The assessee incurred an expenditure of Rs.56,665 on project report, in order to explore the possibility of setting up a petro-chemical project which could provide a captive plant for manufacturing raw materials at the assessee's own factory , so that the assessee could get continuous supply of raw materials even during periods of acute shortage. The Tribunal found that the expenditure did not result in bringing into existence any capital asset of enduring nature, and it, therefore, held the expenditure as deductible. On a reference by the I.T. Department, the High Court held that the aforesaid expenditure was a revenue expenditure and therefore, allowable as a deduction.

(c) Contribution to Railway Department for construction of railway track and sidings

In this connection reference may be made to a decision of Gauhati High Court in the case of C.I.T. Vs Bongaigaon Refinery and Petro - Chemicals Ltd , 222 I.T.R. p.208 (Gauhati). The assessee which was running a refinery contributed a sum of Rs. 87,20, 598 to the Railway Department for construction of railway track and sidings outside the refinery complex, which was necessary for the purpose of smooth running of business in a profitable and advantageous manner.

In this respect it is pertinent to note that the aforesaid expenditure did not bring into existence any capital asset belonging to the assesee company as the company did not acquire any ownership right in the railway track and sidings which continued to belong to Railway Department. It is for this reason that the aforesaid expenditure will have to be treated as a revenue expenditure . For this purpose reliance may be placed on the decision of the Supreme Court in the case of C.I.T. Vs Bombay Dyeing and Manufacturing Co. Ltd, 219 I.T.R. p. 521 (S.C.).

(vi) **<u>Gift of money by a non-resident to resident Indian</u>**

In order to avoid gift tax liability under the Indian Gift Tax-Act, a gift made by a non-resident to a resident Indian; proper tax-planning is very necessary as the device for avoiding Indian gift tax on such gifts is very subtle.

The law is fairly clear that if a cheque or draft is sent by post the receipt would be at the place where the cheque or draft is posted, provided the mode of sending it by post is adopted at the

express or implied request of the recipient. Otherwise the receipt would be at the place where the cheque or draft is delivered by the post-office to the addressee. In this connection it may be understood that , if the cheque /DD is posted in a foreign country at the request of the donee, then the post-office in such a foreign country becomes an agent for the donee and the receipt of the money, therefore, also the gift, are treated to have taken place in the foreign country itself , and hence no gift- tax is exigible on such gifts in India. In this connection the decisions in the case of A. J. Gomes Vs CGT 56 Taxman p.151 (ker) and CGT Vs K. A. Abdul Kader, 217 I.T.R p.780(Mad); are relevant.

(vii) <u>Taxability of Unclaimed Credit Balance of Customers/Clients Ss 28 (i)/ 41 (1)</u>

There has been a long- standing controversy as to whether unclaimed credit balances in the books of the tax-payer, are liable to tax and if yes, at what point of time. Various High Courts have held that even if the tax-payer has credited such unclaimed balances to its profit and loss account , they are not liable to tax because the liability of the tax-payer to pay the same to its customers has not ceased . Some of the High Courts have taken a contrary view also. The aforesaid controversy has been settled by the Supreme Court vide two land-mark judgements viz.(i) C.I.T. Vs Karamchand Thapar, 222 I.T.R. p.112 (S.C.) and (ii) C.I.T. Vs V. S. Iyengar & Sons Ltd , 88 Taxman p. 429 (S.C.).

In the first case, the assessee Shri Thapar, was a del credere agent of collieries and also agent of purchasers of coal. The purchasers had to pay full freight to the railway even if the wagon was not loaded to its full capacity. The assesee on his own used to claim from collieries, excess freight charged on account of under-loading and receive receipts known as 'under charges'. If and when demanded the assessee paid such receipts to purchasers . After meeting these demands the asessee transferred unclaimed amount to its profit and loss account. The essence of the S.C. judgement is as follows:

"The conduct of the assessee showed that the assessee himself did not treat the amount as trust money. The amount was not shown as a liability nor was it kept in a suspense account. It was taken as a miscellaneous receipt to the profit and loss account. He mingled the money with his other profits of business and treated the money as his own .A trustee normally should not mingle his own money with money held in trust. Hence there was nothing to suggest that the money received by the assessee from the colliery company actually belonged to the consignees and were not the assessee's own money."

In the second case the assessee received certain deposits from its customers in the course of its business. Unclaimed credit balances which were time- barred , were written back by the assessee to its profit and loss account. The essence of the S.C. judgement is as follows :

"The claims of the customers had become barred by limitation. The assessee itself had treated the money as its own and taken the amount to its profit and loss account. There was no explanation from the assessee why the surplus money was taken to its profit and loss account if it was somebody else's money."

Thus in both the aforesaid cases the Supreme Court held that the unclaimed credit balances of the customers which had been transferred by the assessee to its profit and loss account, were liable to tax.

As a tax-planning measure the only suggestion which can be made is that the tax-payer should not write -back such unclaimed balances, to the profit and loss account and instead he should take them to a 'suspense account'. Besides, the relevant entries in the books of the accounts should be so passed that such amount is shown to have been treated as trust-money for and on behalf of the customers.

(viii) Accrual of Income in case of Non-residents/foreigners when cheque/ D.D. Payments are sent by Post; S.5

Here I would like to discuss a judgement given by Hyderabad Bench of I.T.A.T. in the case of Dr. Reddy Laboratories Ltd. Vs C.I.T.,58 I.T.D. p.104 (Hyd-Trib.). The assessee paid commission to foreign agents through foreign currency bank drafts obtained at Hyderabad and sent through post office or courier channel. Drafts were payable at banks in foreign countries. The question before the I.T.A.T. was whether the receipt of draft/cheque, in the hands of the foreign agents, had taken place in India and accordingly the commission paid to them was taxable in India. The I.T.A.T. held that as the commission was remitted by cheque/draft, sent through Post office, without such a request by payee the Post office would not constitute agent of payee and place of payment of commission would the place of receipt of cheque / draft by payee and therefore, the commission so paid to foreign agents was not taxable in India and accordingly the assessee was not liable to deduct tax at source in respect of such commission payment. The S.C. decisions supporting the aforesaid view are as follows:

(a) Indore Malwa United Mills Ltd. Vs C.I.T;59 I.T.R. p. 738 (S.C.)

(b) Azamjahi Mills Ltd Vs C.I.T; 103 I.T.R. p. 449 (S.C.)

(c) C.I.T.Vs Patney and Co;36 I.T.R. p.488 (S.C.)

(d) C.I.T. Vs Ogale Glass Works Ltd , 25 I.T.R. p. 529 (S.C.);and

(e) Shri Jagdish Mills Ltd Vs C.I.T.,37 I.T.R. p.114 (S.C.)

From the aforesaid discussion, it can be seen that difference between whether payment made to foreign agents etc is taxable in India or not, is very subtle and wafer-thin. It is therefore, necessary that in all such matters timely advice of a competent I.T. advisor is sought.

x) Income of Minor beneficiaries of Trust which was to be accumulated during minority of assessee settlor's sons was not to be included in the income of the settlor C.I.T. Vs M.R. Doshi, 211 I.T.R. p.1 (S.C.)

The assessee, an individual, had created a Trust for the benefit of his minor sons. The income of the Trust was to be accumulated until attainment of majority by his three sons. The accumulated income was then to be divided into three equal shares and 1/3 rd share was to be paid to each of the sons .The question before the S.C. was, whether income from the Trust could be included in the total income of the assessee under the provisions of S.64(1) (v).It was held by the S.C. that the specific provision of law is that the immediate or deferred benefit should be for the minor child.

In this case the deferment of the benefit was beyond the period of minority of the assessee's sons; and as the assets were to be received by them when they attained majority , the provisions of S.64 (1)(v) had no application. S.64 (1)(v) has been omitted and another S.64 (1A) has been incorporated in the I.T. Act w.e.f. 1.4 1993. S.64 (1A)lays down that any income which accrues or arises to a minor child of an individual will be includible in the total income of the individual .It may be stated here that even S.64 (1A) does not take in its sweep the income of Trusts where the income is accumulated during minority of the children and accumulated income is paid only on attainment of majority. <u>The aforesaid case provides us with a very effective and beneficial device of tax-planning.</u>

x) Saving of tax by sale of long term Capital asset

Ram Prasad is a very happy man. He has sold a plot of land at a very good price. The plot which was purchased by him on 1.2.92, for a sum of Rs. 60,000, has been sold on 26.1.95 for a sum of Rs.5 lakhs. On being queried as to whether he had thought of income-tax implications before executing the sale-deed of the plot, Shri Ram Prasad replies in a candid "NO". Shri Ram Prasad's other income for the A.Y.1995-96, is Rs.2 lakhs. Poor Ram Prasad feels sad , on being told about the I.T. implications of the sale of the aforesaid plot of land. The plot has been sold within a period of less than 36 months from the date of its purchase.

Therefore, the tax on short term capital gains of Rs. 4,40,000 (5,00,000 minus 60,000)@ 40% would be Rs. 1,76,000. If the sale-deed had been executed on or after 2.2.95, i.e. after a period of 36 months, the tax on long term gains of Rs. 4,22,000 (after deducting the indexed cost of plot at Rs. 78,000 from

its sale price); would have been Rs. 84,400, being 20% of Rs. 4,22,000. Thus Shri Ram Prasad would have saved tax to the extent of Rs. 91,600, had he sought the advice of some income-tax expert before executing the sale-deed of the plot and executed the sale-deed only after a mere 6 days' period i.e. on or after 2.2.95.

(xi). Saving of tax in the case of an HUF by payment of remuneration to its members

Shri Hari Narain , the Karta of his HUF, has been running a family business, with the help of his three sons. For the A.Y. 1996-97, the total taxable income of Shri Hari Narain HUF; is Rs. 5 lacs, the income-tax on the income being Rs.1,74,000. Shri Hari Narain is not aware that the HUF could pay remuneration to all the four working members of the HUF including himself as a Karta, for the services rendered by them to the family business and claim deduction for the same from the income of the HUF. On being properly advised the HUF pays remuneration to all the four members @ Rs,55,000 p.a under a valid agreement. The taxable income of the HUF, would now be Rs.280,000 (Rs. 5,00,000 minus 2,20.000); I.T. on the same being Rs. 86,000.After standard deduction of Rs.15,000 , the income of each member of the HUF, would be Rs. 40,000.Therefore tax on the income of the members of the HUF, would be nil. Thus the tax saving would be Rs. 88,000 (Rs. 1,74,000 --Rs. 86,000) every year.

(xii) The case of an Indian going abroad for job etc.

Shri Kishen Lalwani is in a very relaxed mood as after long and concerted efforts; he has landed a very good job in Singapore. It is already the month of June 1996.Shri Lalwani has the option of joining his new job in Singapore upto the end of December 1996. Shri Lalwani being in an expansive mood, spends quite a long time in visiting his relatives and tourist spots in India . Now it is already the month of October 1996. By chance Shri Lalwani meets an I.T. expert in a party and tells him about his job etc. He is told that he should have left India before the end of September 1996 in order to save Indian income-tax on his Indian and future foreign income for the F.Y. 1996-97.Shri Lalwani gets a shock of his life on being told that his status has already become "resident" and therefore he would be required to pay income-tax in India to the extent of Rs. 2 lakhs, which could have been avoided or saved, had he left India for Singapore, before the end of September 1996.

(xiii) Case of a tax-payer owning more than one residential houses

Shri Bharat Agarwal is a well to do businessman from Pune. Shri Agarwal purchased a bungalow in Koregaon Park in 1975. In 1990 he constructed another bungalow on the outskirts of Pune which is used for week-end relaxation of the family of Shri Agarwal. Shri Agarwal was stunned when he received a demand notice from his I.T.O. for the payment of additional income-tax to the tune of Rs. 94,250 in respect of the second bungalow owned by Shri Agarwal. Shri Agarwal is at a loss to understand as to how the I.T.O. has levied on him such a huge tax when both the bungalows are fully self-occupied and no rental income is received from there .Well,

the problem of Shri Agarwal is that he is not aware of the provision of S. 23(2) of I.T.Act; 11 according to which no income is to be added to the total income of an assessee in respect of one house property which is self-occupied. However if there are more than one residential house properties which are self-occupied, there is a tax liability even for such properties which are self occupied and have not been given on rent. Had the second bungalow been purchased in the name some other member of the family of Shri Agarwal, the aforesaid liability of additional tax would have been avoided. There are thousands of tax-payers who are not aware of the provisions of the I.T. Act and therefore they are liable to pay huge sums of income-tax as deemed notional income for second residential house owned by them in their name. Tax-planning demands that no individual should own more than one residential house in his name.

(xiv) Expenditure incurred by a Company in the form of contribution to Maharashtra State Housing board

It is a case of a big corporate entity .M/s ABC Ltd had made a contribution of Rs. 20 lakhs to the State Housing Board towards construction of tenements for its workers, by way of labour welfare measure. The C.A. of the Company, on the basis of his knowledge regarding capital Vs revenue expenditure, gave an opinion that the aforesaid expenditure, being of capital nature, would not be allowed as a deduction and the same was therefore, not claimed as deduction in the profit and loss A/C of the Company. It was during the course of seminar on " Latest Development of the case- law in taxation ,"that the C.A. came to know about his blunder which had proved very costly to the Company. The latest view of the Supreme Court on the allowability of such expenditure is in favour of the tax-payer, on the basis of reasoning

(i)that such expenditure is for the purpose of assessee's business (ii)though apparently such contribution results in the creation of capital asset, such a capital asset would not belong to the assessee as it would belong to the Government or its agency and(iii)therefore such expenditure would not result in an enduring benefit to the assessee. The relevant case law is as follows:

(a) 186 I.T.R. p. 276 (S.C.) (b) 219 I.T.R. p.521 (S.C) (c) 140 I.T.R. p.73 (Bom)
(d) 104 I.T.R. p.249 (Or i).

Thus had the assessee Company received timely and proper advice from a competent tax-expert, it would have saved tax to the extent of more than Rs. 10 lakhs.

6. Conclusion :

From the aforesaid practical examples , it becomes clear that a tax-payer can save himself from lot of tax, litigation and trouble if he seeks timely and proper advice from a competent Tax-Advisor. I keep on seeing cases where tax-payers first mess up their cases and then approach the Tax-Advisor. The Tax-Advisor can not render much help in such type of cases. The Tax-Advisor should, therefore, be consulted before entering into important transactions. The best arrangement would be to retain the

services of a competent Tax-Advisor, so that he can keep a constant watch on the tax-affairs of the tax-payer and advise timely remedial action in case of important H.C / S.C. judgement or amendment of the I.T. Act.

Therefore, utilize the services of a competent Tax-Advisor and follow the advice " PLAN, PROSPER and RELAX ".

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