

**SPEECH OF HON'BLE MINISTER OF LAW AND JUSTICE
AT THE VALEDICTORY SESSION OF PLATINUM JUBILEE
FUNCTION OF INCOME TAX APPELLATE TRIBUNAL
ON 25TH JANUARY, 2016 AT NEW DELHI.**

Hon'ble Minister for Finance, Corporate Affairs and Information and Broadcasting Shri Arun Jaitley Ji, Law Secretary Shri P.K. Malhotra, President, Vice Presidents and Members of the ITAT, Ladies and Gentlemen,

I am extremely glad to be present here at the Valedictory session of the Platinum Jubilee Celebrations of ITAT. The Tribunal which was set up in 1941 to function as an impartial quasi-judicial body to resolve the disputes between the Revenue and taxpaying public, is completing 75 years now.

The concept of Tribunals has been borrowed from the French system of 'The Droit Administratif, which referred to a system of administrative courts that ran parallel to the civil courts. The intention behind this system was to ease the civil courts from administrative matters while laying separate standards for administrative disputes.

The modern Indian Republic was born as a Welfare State and thus the burden on the government to provide a host of welfare services to the people was immense. The quasi-judicial powers acquired by the administration led to a huge number of cases with respect to the manner in which these administrative bodies arrived at their decisions. The vast number of welfare legislations coupled with the right to judicial review was thought to burden the civil courts with more matters than they would be able to handle. Thus, various

Tribunals for income tax matters, railway rates, labour matters, and company courts were given statutory legitimacy to function parallel to ordinary civil courts.

The concept of Droit Administratif is in contradistinction to Dicey's 'Rule of Law', where everybody in a State shall be subjected to some common law and there is no need for extraordinary Tribunals to deal with cases of Government and its servants. To Dicey, it seemed strange, that when the injured individual sought protection against the administration he had to turn to an administrative body, the Conseil d'Etat, which was certainly closer to the administration than the judicial courts.

In India, the adjudication of administrative disputes has been commented by the judiciary through various cases placed before it over a period of time. As of now, we understand that a complete adaptation of Droit Administratif is not possible in India because judicial review of Tribunals' orders cannot fully be removed, judicial review being an integral part of our Constitution. While the matter seems to be put to rest with Supreme Court's 1997 famous decision in L. Chandra Kumar's case, the debate has not ended yet and much remains to be debated in the context of working, independence and efficacy of the Tribunals. There have been many success stories of the Tribunals, yet there have been instances of delays and favouritism as well though the Courts have consistently held that these bodies must maintain procedural safeguards while arriving at their decisions and observe principles of natural justice.

Yesterday, during the Inauguration of Platinum Jubilee Session, when Hon'ble President of India was also present, I had briefly touched upon the criticism of the Tribunalisation of justice from some quarters. While in some quarters, increasing tribunalisation has been criticized as an encroachment on the judiciary's independence and contrary to the constitutional scheme of the separation of powers between judiciary and the executive, the other concern has been that though they were supposed to address the issue of delays and pendency in the existing judicial system, they seem to be bogged down with the same problems. Also, it is alleged that the Tribunals lack independence and are no better than the administrative arm of the Ministries.

Be it like that, the Tribunals are here to stay. The Tribunals play an important role in the sphere of the adjudication of disputes. Tribunals function differently from courts, from the manner of appointment to the procedure followed. The Tribunals do not have to follow the uniform procedure as laid down under the Civil Procedure Code and under the Indian Evidence Act but they have to follow the principles of natural justice. Nevertheless, they seek to achieve the same objective as that of the courts i.e. – to impart and deliver Justice.

Friends, within the four walls of judicial review, the Tribunals carry a great responsibility of not only resolving disputes but also exhibiting higher standards of performance as mostly the tribunals have been reviewing or overseeing appeals from the actions of the administration.

The effectiveness of the tribunals can be gauged and, in fact,

the very objective of setting up of the Tribunals can be said to be fulfilled only when the Tribunals come up to the expectations of its stakeholders. And if the litmus test is that whether the Institution is maintaining consistency of it being fair and judicious, apart from rendering speedy justice, I think ITAT has passed with distinction. Working of the Institution depends upon the reputation which it builds up over a period of time and ITAT has lived up to the expectations.

Friends, we must recognize the intrinsic link between the simpler tax dispute resolution mechanism and the effect it has on overall economic growth of a country. A good tax administration which includes an efficient and prompt tax dispute resolution mechanism, plays a major role in the growth of a globalised economy, either in general terms or in specific sectors like improving ease of doing business or attracting foreign investment. Tribunals are important instruments of governance and must function in fair and judicious manner outside the regular cumbersome judicial process.

While ITAT strives to achieve the mandate assigned to it, I am of the view that it must constantly evaluate its internal procedures to look for the avenues for improvements. Whether it is digitisation of documents or setting up of e-courts, the ITAT must find new ways and means to speed up disposal for time bound justice. There is an immediate need for taking up reforms like Pre-trial hearing, so popular in developed countries. Improvement of infrastructure wherever necessary must be aggressively pursued. The requirement of skill enhancement through various learning techniques and evolving with the new developments in taxation

following socio-economic revolution in last three decades or so and India's increasing presence across the globe, can hardly be over emphasized. My Ministry is willing to support any measure for the improvement of functioning of ITAT.

I am sure, the three technical sessions in the last one and half day have been enlightening and extremely helpful to the participants and deliberations here have been able to stimulate the thought process in your minds. I am looking for new and innovative ideas out of your stimulated and ignited minds.

With these words I wish the Tribunal all the best on this occasion of platinum jubilee celebrations. I hope and am confident that the Tribunal shall continue to serve the nation and the people of this great country as an instrument of governance in a much better way. I thank all of you for patiently hearing me and giving me an opportunity to speak on this occasion.

Jai Hind.