CAIRN ENERGY PLC

> The tax demand from Cairn Energy Plc relates to an alleged Rs.24,500 crore worth capital gains Cairn Energy Plc has made in 2006 while transferring *all* its *India* assets to a *new company*, Cairn *India*, and got it listed on the stock exchanges.
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> According to order passed by IT Department, Edinburgh-based firm made capital gains of Rs.24,503.50 crore when it transferred its entire India business from subsidiaries incorporated in places like Jersey, a tax haven, to the newly incorporated Cairn India in 2006.
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> According to IT Department, Cairn received Rs.26,681.87 crore for the asset transfer against its entire investment of Rs.2,178.36 crore in the India business. After transferring the assets, the Scottish explorer listed Cairn India on the stock exchanges through an initial public offering (IPO) in 2006 that raised Rs.8,616 crore.

The above facts absolutely necessitate payment of tax by Cairn Energy Plc. There cannot be two yardsticks for assessment of tax liability. Though the Company is under loss at present and having sold most of the subsidiary, the company claims to have distributed much of the profit to shareholders, while retaining some for new exploration, in Greenland, the North Sea and off the west African coast. But still the Tax demand is purely legal and within time, thanks to 2012 IT law, which permits to raise claims on past deals. However, instead of paying tax demanded by the IT Department, Cairn Energy Plc has filed a dispute. So, the Government of India and Cairn, under the terms of the UK-India Investment Treaty, should enter a period of negotiations and seek a resolution to the dispute. If satisfactory resolution is not reached during that period, an international arbitration panel should be constituted to adjudicate on the matter.

However, the political ramifications of this can be far and wide considering the commitment of Modi Government to make the taxation law corporate friendly and the impact of this demand of IT authority on FDI. In any case as stated above this cannot and should not be the criteria for any tax incentives. But then, that is the subject requiring much space and at some other time.