



# Challenges and Remedies in Valuation and Taxation of Fringe Benefits

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## Abstract:

Fringe Benefits means additional benefits provided by employer to his employees in addition to regular salary and wages. It includes various types of payments amenities, facilities and services out of which some are voluntary and some are legally compulsory according to Factory Act-1948. In India these facilities i.e., benefit classified in five major categories:

1. Payment for time not worked
2. Employee security
3. Safety and healthy
4. Personal service and family benefits
5. Old age and retirement benefits

These benefits are helpful in increasing production and productivity retaining skilled and trained employee in factory employees feel mental and physical satisfaction. But in practical there is a great possibility to tax evasion in regard of fringe benefits from early state to till date. To prevent tax evasion in this regard the Finance Act-2005 introduced a newly tax Fringe Benefit Tax w.e.f. Assessment year 2006-07 which levied in the hand of employer in addition to income tax. But due to several reason it abolished by Finance Act-2009 w.e.f.

Assessment year 2010-11. Then after the value of fringe benefits become part of gross salary and now it taxable in hand of employee. Through this research paper I focus challenges and remedies in valuation and taxation of fringe benefits.

**KEY WORDS:** Fringe Benefits, Auditing, Tax Evasion, Gross Salary, Assessment Year

## **I. INTRODUCTION**

We know that salary is an important source of income of employees and there is no doubt in tax liability in this regard. In recent time employer pays to employees good salary which includes cash and non-cash benefits so that employees get maximum satisfaction and contribute his maximum efforts to organization. Here, there is no problem in taxation of cash salary and allowances but from initial stage problems always presents in taxation of non-cash benefits. Government continuously try to remove such problems and issue clear provisions regarding taxation of rent free accommodation, car facility, medical facility, etc. There is no problem regarding to those benefits which enjoyed individually real problem arise when benefits enjoyed collectively and cannot attributed individually. Here a great possibility of tax evasion presents always.

In India prior to assessment year 1998-99 according to see-15 of Income Tax Act some benefits are taxable in hand of employees and some benefits are taxable in hand of employer on the basis of employer based disallowances method which actually litigated then through Finance Act- 1997 withdrawn. Then after a long time the finance Act-2005 introduced a newly tax Fringe Benefit Tax which taxable in hand of employer in addition to income tax The rational background of Fringe Benefit Tax is that-

“Many perquisites disguised as fringe benefits and neither employer nor employee pays any tax. Those benefits which individually enjoyed by employer are taxable in hand of employee and that position will continue. But,

those benefits which are usually enjoyed collectively by employer and cannot be attributed to individual employee that shall be taxable in hand of employer.”

But due to several reasons it was matter of debate promoted paper work increase collecting expenses, and become burden over employer so finally it was abolished by Finance Act-2009 with effect from assessment year 2010-11. Now in present time with effect from assessment year 2010-11 fringe benefits provided by employer to his employees are taxable in hand of employee. The taxable value of such benefits become part of gross salary in term of section 17 (2) (VIII).

## II. Meaning of Fringe Benefits

Fringe Benefits means extra benefits given to employees by his employer in addition to regular salary and wages which fulfills the salary of employees and for which no payment made by them. It includes various typed of payments, services, facilities and welfare schemes which may be individual or collectively, at present or in future and essentially financial, On the basis of three majors we justify fringe benefits.

1. Benefits must be measurable in term of money.
2. Benefits must not be pre-determined
3. There is not contract regarding payment of these benefits.

On the basis of above justification following differences found between fringe benefits and perquisites.

Perquisites	Fringe Benefits
Perquisites are always Individual	Fringe Benefits may be individually or collectively.
The amount of perquisites are pre-determined	The amount of fringe benefits are not pre-determined
There is a contract regarding payment of perquisites	There is no contract regarding payment of fringe benefits

Perquisites are always optional never compulsory	Fringe Benefits may be optional and legally compulsory according to Factory Act-1948
Perquisites payable in period of service	Fringe Benefits may be payable in service period or after retirement
Perquisites given according to post position not equity basis Ex-Car Facility	Fringe Benefits given to all employee on equity basic Ex-Provident fund

### III. Objectives of Giving Fringe Benefits

Fringe Benefits depends upon payment capacity and Labour power. At the time of determining Fringe Benefits Program cost, payment capacity, needs of employee, various taxes, public-relation, social responsibility and reaction of employees must be considered Fringe Benefits program fulfill the following objects.

- (i) To provide equal benefits to the employees of own organization as compare to other in market.
- (ii) To increase the income of employees.
- (iii) To maintain adequate level of skilled and experienced man power.
- (iv) to increase production and industry peace.
- (v) To increase moral of employee by providing necessary paid vacation on occasion of social and religious events.
- (vi) To fulfill economic, social and psychological needs of employees by organizing various programs.
- (vii) To help in participate labour conferences or seminars.
- (viii) to increase income and personal and social satisfaction of employees.

(ix) To ensure forced savings for retirement and bad time.

(x) To giving tax consideration.

(xi) To enhance motivational level.

(xii) To reduce the rate of absenteeism.

#### **IV. Types of Fringe Benefits**

In India various type of benefits provided by employer to his employees which are classified into following five categories:

##### ***A. Payment for time not worked***

Paid Vacation , Paid Holiday, Voting pay allowances, Shift Premium, Grievance Tim , Bargaining Time ,Sick Leave with pay

##### ***B. Employee Security***

Retrenchment compensation , Lay-off compensation, Continuous and minimum wages ,Job security

##### ***C. Safety and Healthy***

Safety measures ,Workmen's compensation, Health benefits ,Sickness benefits ,Maternity benefits, Disablement benefits, Dependent benefits

##### ***D. Public Services and Family Benefit***

Canteen facility, Consumer stores, Credit Societies

Holiday Homes, Education Facility, Tour and Travel ,Transportation Loan Programs, Onsite child care facilities ,On site fitness and medical benefits ,Stock option ,Adoption Assistance, Elder care facility

##### ***E. Old Ager and Retirement Benefits***

Old age survivors, Disability and Health Insurance, Provident fund

Pension Scheme, Gratuity, Old ager assistance

Old ager counseling, Job to son or daughter of deceased employees.

## V. VALUATION OF FRINGE BENEFITS

With effect from assessment year 2010-11 Fringe Benefits provided by employer to his employees are taxable in the hand of employee and become part of taxable salary. In term of section 17(2) (VIII) the value of following benefits and amenities are to be included in the income of employee:-

1. Interest free or concessional loan
2. Holiday Enjoyment
3. Free Food
4. Gift
5. Credit Card Facility
6. Club Expenses
7. Use of Movable Assets
8. Transfer of Movable Assets
9. Any other benefits or amenity

### ***01. Interest Free or concessional Loan***

Where the employer or any other person on his behalf has made available interest free or concessional loan to employee or any member of his house hold, the value of fringe benefits shall be determined as under:

(A) Where the amount of loan in the aggregate during previous year doesn't exceed Rs. 20,000/- the value shall be taken as NIL.

(B) Where loan are made available medical treatment in respect of diseases specified in Rule-3A (e.g.-cancer, tuberculosis, AIDS, etc.). The value shall be taken as NIL. However the exemption shall not apply to so much of the loan has been reimbursed to the employee under any medical insurance scheme.

For example, the employee has taken a loan from his employer Rs. 200.000 for cancer treatment. He receives Rs. 80.000 under medical insurance scheme. The benefit of interest Rs. 120.000 (200,000-80000) shall be tax free and on Rs. 80.000 shall be liable to tax.

(C) Loan for any purpose discussed above A and B. The value shall be the sum equal to the interest computed at the rate charged per Annam by State Bank of India as on the 1<sup>st</sup> day of the relevant previous year in respect of loans for the same purpose advanced by it. The interest shall be computed on the maximum outstanding monthly balances or reduced by the interest if any actually paid by the employee or any member of the house hold. Here maximum outstanding balance means the aggregate outstanding balance for each loan as on the last day of each month.

## ***02. Holiday Enjoyment***

A. The value of travelling touring accommodation, any other expenses paid for or borne or reimbursed by the employer for any holiday availed by employer in the behalf. However this rules shall not only apply to Leave Travel Concession under sec. 10 (5) and Rule 2(b)

B. Where such facility is maintained by the employer and is not available uniformly to all employees, the value of benefit shall be taken to the value at which such facilities are offered by other agencies to the public.

It means if such facilities are maintained by the employer and it is made available to all employee uniformly the value of benefits shall be nil.

C. Where employee is on official tour and the expenses are incurred in respect of any member of his household accompanying him, the amount of expenditure incurred by the employer shall be the value of benefits.

D. Where any official tour extended as a Vacation, the value of benefits shall be valued to the expenses incurred in relation to the extended period of stay or vacation

In all the aforesaid cases, the amount so determine shall be reduced by the amount if any paid or recovered from employee for such benefit

### **03. Free Food**

(A) The value of free food and non-alcoholic beverage provided during working hour at office or business premises or through paid vouchers which are not transferrable and usable only at eating joints the value therefore shall be amount of expenditure incurred by employer as reduced by (i) the amount paid or recovered from employees and (ii) Rs. 50 per meal.

(B) Free Food and non-alcoholic beverage provided during working hours in a remote area or an off-shore installation-NIL

(C) Tea and snacks provided during working hour-NIL

### **04. Gifts**

The value of any gift or voucher or token in lieu of which such gift may be received by the employee or by member of his household on ceremonial occasions or otherwise shall be the sum equal to the amount of such gift.

Where the gift are given to the employee social and religious occasions like Diwali, Christmas, New Year, The anniversary of the organization etc. such gift up to 5000 in the aggregate during previous year would be exempt, beyond which it would be taxed as perquisites.

However gift made in cash or convertible into cash like gift cheque etc. shall not be exempted.

### **05. Credit Card**

The amount of expenses including membership fees and annual fees incurred by the employer or any members of his household, which is caressed to a credit card provided by employer or otherwise paid or reimbursed by the employer shall be taken to the value of perquisites.

However from such amount, the amount paid or recovered from employee for such benefit or amenity shall be reduced and the balance shall be value of benefits.

Where the expenses are incurred wholly and exclusively for official purpose and the prescribed details and certificates are maintained, the value of perquisites shall be taken or NIL

### **06. Club Expenses**

Where employer pays or reimburses any expenditure incurred in a club by the employee or by any member of his household, the value of benefits shall be the actual amount of expenditure incurred or reimbursed by the employer on that account.

From the value so determined the amount paid or recovered from employee paid or recovered from employee for such benefit shall be reduced and the balance shall be the value of benefits. Where the employer has obtained corporate membership of the club and facilities is enjoyed of employee or any member of this household. The value of benefits shall be included the initial fee paid to acquire such corporate membership.

Exceptions: In following cases value of benefits shall be taken as NIL

- A. Where such expenditure incurred wholly and exclusive for business purpose.
- B. Where the employer provided the facility of health club, sports, and similar facilities uniformly to all employee.

### **07. Use of Movable Assets**

Where the employer provided any movable assets for the use of employees or any member of his household the value of benefits shall be:

- A. Assets belonging to Employer – 10% of total actual cost of such assets
- B. Assets hired by Employer-Rent or charge paid or payable by employer

### **08. Transfer of Movable Assets**

Where the employer transfers any movable assets belonging to him directly or indirectly to these employees or any member of his household, the value of benefits shall be determined as under.

	Computer Electronics Items	Motor Car	Other Movable Assets
Cost of assets : Depreciation on WDV method for each completed year during which the assets is put to use of employer	√  (@50%)	√  (@20%)	√  (@10%)
Less: Amount Recovered from Employee	√  √	√  √	√  √
Value of Benefits	***	***	***

### 09. *Any other Benefits or Amenity*

The value of any other benefits or amenity or services or right or privilege provided by the employer shall be determined on the basis of cost to the employer under the arms length transactions as recorded by employee's contribution if any

Exception: Expenses on telephone including mobile phone actually incurred on behalf of employee by the employer shall not be treated as taxable perquisites.

## VI. TAXATION OF FRINGE BENEFITS

Taxation of Fringe Benefits raises some problem primarily because:

- [1] All benefits cannot be individually attributed to employee, particularly in case where the benefits are collectively enjoyed.

[ii] of the present widespread practices of providing perquisites where in many perquisites are disguised as reimbursement or other miscellaneous expenses so as to enable the employees to escape/reduce their tax liability

[iii] of the difficulty of valuation of benefits

In India prior to assessment year 1998-99 some benefits were included in salary in term of section-15 of the Income Tax Act in the band of employee and a large number of fringes were taxed by the employer based disallowances method where the quantum of the disallowances was estimated on a presumptive basis.

In Practice, taxation of fringe benefits by the employer based disallowance methods results in large scale litigation on account of ambiguity in defining the tax base. Therefore the taxation of fringe benefits by employer based disallowances method was withdrawn by Finance Act-1997. Now, again the Finance Act-2005 has imposed a new tax- Fringe Benefit Tax on the employer.

But just after four year through the Finance Act-2009 due to several reasons Fringe Benefits Tax abolished with affect from assessment year 2010-11. Then after Fringe Benefits provided by employer to his employees are taxable in the hand of employer and become part of taxable salary.

## VII. CONCLUSION

Fringe Benefits are ordinarily understood as side non-wages benefits which an employee gets in additions to regular salary and wages. If employee receives his entire income in cash then bear a high tax burden comparison to another employee who receives his income partly in cash and partly in kind. But with corporation turning more and more toward fringe benefits is become difficulty to

quantity taxable income of employee and a real problem arise here and also a chance of tax evasion occurs.

In India prior to assessment year 1998-99 fringe benefits are taxable by the employer based disallowances method which results large scale of Litigation on account of ambiguity in defining the tax base and it withdrawn by the Finance Act-1997.

There after by the Finance Act 2005 introduced Fringe Benefits Tax which levied on employer for those fringe benefits which collectively enjoyed by employees and cannot attributable individually among them, neither employer and nor employee paid any tax on such benefits, now taxable in the hand of employer. But due to several reason Fringe Benefit Tax become matter of debate, promote paper works, increase collective expenses, become burden over employer and finally the Finance Act-2009 abolished. Now, with effect from Assessment year 2010-11 some prescribed fringe benefits are taxable in the hand of employee and become part of taxable salary in term of section 17 (2) (VIII) and some are treated as tax free.

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