BEYOND LITIGATION: STRUCTURING A MANDATORY MEDIATION FRAMEWORK FOR DIRECT TAX DISPUTES IN INDIA

SAMEER PANDA [1] & PRADIPTA ROY[2]

ABSTRACT

India's direct tax regime and its approach to cross-border disputes are notoriously adversarial, resulting in a staggering backlog of cases before appellate tribunals and stalled Mutual Agreement Procedure (MAP) negotiations. While ad-hoc domestic amnesty schemes, such as the recent Direct Tax Vivad Se Vishwas Scheme, 2024, temporarily alleviate docket congestion, they fail to address the systemic procedural inefficiencies inherent in tax assessments. This article advocates for a paradigm shift from traditional zero-sum litigation to a formalized, mandatory mediation framework. By analyzing the structural limitations of the current appellate hierarchy and the psychological barriers specifically the fear of vigilance inquiries among revenue officers, this paper argues that evaluative mediation can effectively bridge the trust deficit between taxpayers and the state. Drawing upon comparative successes in the United Kingdom and Australia, the article proposes a comprehensive, two-pronged structural model. Domestically, it recommends integrating a pre-assessment Independent Tax Evaluator (ITE) mechanism into the Income Tax Act 2025, safeguarded by a Supervisory Collegium to shield assessing officers. Internationally, the framework tackles the escalating complexities of treaty-based disputes by proposing the integration of mandatory 'Last Best Offer' (baseball) mediation into Double Taxation Avoidance Agreements (DTAAs) to resolve MAP deadlocks without diluting sovereign authority. Ultimately, institutionalizing Alternative Dispute Resolution (ADR) will not only recover locked revenue expeditiously but also foster a collaborative, robust, and economically progressive tax compliance culture.

Keywords: Alternative Dispute Resolution (ADR), Direct Tax Litigation, Mandatory Evaluative Mediation, Tax Dispute Settlement, Income Tax Act 2025

---

[1] Sameer Panda , 2nd Year Law Student, L.L.B (Hons), National Law University Odisha
[2] Pradipta Roy, 2nd Year Law Student, L.L.B (Hons), National Law University Odisha

I. INTRODUCTION

The intersection of sovereign taxation powers and Alternative Dispute Resolution (**ADR**) has historically been viewed with scepticism.[3] Taxation is inherently an exaction of wealth by statutory right,[4] leaving ostensibly little room for the mutual concessions that characterize traditional dispute resolution. Consequently, the Indian direct tax landscape has evolved into a highly adversarial arena. The prevailing paradigm assumes that the interests of the Revenue and the taxpayer are diametrically opposed, inevitably pushing disputes through a labyrinthine appellate hierarchy from the Commissioner of Income Tax (Appeals) [**CIT(A)**] to the Income Tax Appellate Tribunal (**ITAT**), and frequently onward to the High Courts and the Supreme Court of India.[5]

This relentless cycle of litigation has precipitated a severe crisis of docket explosion.[6] Billions of rupees of tax revenue remain locked in protracted legal battles, representing a profound economic deadweight loss.[7] The systemic delay not only deprives the exchequer of timely revenue realization but also inflicts immense compliance costs and prolonged uncertainty upon corporate and individual taxpayers. Traditional adjudicatory mechanisms have proven ill-equipped to handle the sheer volume and escalating complexity of modern commercial transactions, transfer pricing issues, and cross-border tax assessments.[8]

At the heart of this congestion lies a structural and psychological rigidity within the tax administration. Assessing Officers (**AOs**) often operate under aggressive revenue

[3] Supriyo De and others, *Direct Taxes Litigation Management and Alternate Dispute Resolution* (National Institute of Public Finance and Policy 2023) <https://www.nipfp.org.in/media/documents/Paper_LITIGATION_MANAGEMENT_and_ADR.pdf> accessed 11 February 2026.
[4] The Constitution of India 1950, art 265.
[5] Income-tax Act 2025, ss 356, 362, 365 and 367.
[6] Atri Prasad Rout, *Vital Stats: Direct Taxes in India* (PRS Legislative Research 2025) 3 <https://prsindia.org/files/policy/policy_vital_state/Vital_Stats-Direct_Taxes_in_India.pdf> accessed 20 February 2026.
[7] Ministry of Finance, *Economic Survey 2017-18 Volume 1* (Government of India 2018) 133 <https://www.indiabudget.gov.in/budget2018-2019/economicsurvey2017-2018/pdf/000_Preface_Ten_Facts_2017-18_Vol_1-18_pages.pdf> accessed 20 February 2026.
[8] Suranjali Tandon and Devendra Damle, 'An Analysis of Transfer Pricing Disputes in India' (Working Paper No 266, National Institute of Public Finance and Policy 2019) 2 <https://www.nipfp.org.in/media/medialibrary/2019/05/WP_266_2019.pdf> accessed 7 February 2026.

collection targets.[9] Furthermore, the persistent fear of subsequent vigilance inquiries or audits by the Comptroller and Auditor General (**CAG**) creates a 'revenue bias', compelling officers to make high-pitched, defensive assessments and mechanically file appeals even in legally tenuous cases.[10] In this environment, the nuanced evaluation of litigation risk, a cornerstone of commercial negotiation and dispute resolution, is entirely absent.[11] Instead of assessing the probability of success at the ITAT or higher forums, the default administrative posture is to litigate.[12]

Recognising the unsustainability of this model, the Government of India has periodically introduced dispute resolution and amnesty schemes, most notably the *Direct Tax Vivad Se Vishwas Scheme*, 2024.[13] While such schemes have been remarkably successful in clearing targeted tranches of legacy arrears, they remain episodic, ad-hoc interventions. They operate retrospectively to clear existing bottlenecks rather than prospectively re-engineering the dispute resolution architecture to prevent backlogs from forming.[14] Furthermore, the gradual dilution and eventual phasing out of the Income Tax Settlement Commission (**ITSC**),[15] has left an institutional vacuum for negotiated settlements in direct tax matters.[16]

There is, therefore, an urgent imperative to pivot from ad-hoc amnesty to institutionalised dispute resolution. Integrating formal mediation into the tax assessment and appellate process offers a viable, structured alternative to the current zero-sum litigation model.[17] Mediation, particularly when customised to accommodate the statutory bounds of tax law, introduces the essential elements of

---

[9] *UTI Mutual Fund v Income Tax Officer* (2012) 345 ITR 71.
[10] Comptroller and Auditor General of India, *Report No. 14 of 2020: Performance Audit on Search and Seizure Assessments in Income Tax Department* (Government of India 2020) 11 <https://cag.gov.in/uploads/download_audit_report/2020/AR%20No.14%20of%202020_Union(E)-05f809cc743f894.65924216.pdf> accessed 9 February 2026.
[11] n 1.
[12] Comptroller and Auditor General of India, *'Performance Audit of The Appeal Process-Union Government-Direct Taxes'* (Report No 20 of 2009-10, 2010) <https://cag.gov.in/en/audit-report/details/1482> accessed 11 March 2026.
[13] *Direct Tax Vivad Se Vishwas Scheme* 2024 (India).
[14] n 1.
[15] *The Finance Act, 2021*, No. 13 of 2021, Acts of Parliament, 2021 (India).
[16] SR Wadhwa, 'Abolition of Settlement Commission and Constitution of Dispute Resolution Committee' (2021) 23 *AIFTP Journal* 29 <https://itatonline.org/digest/wp-content/uploads/2021/03/S-R-Wadhawa.pdf> accessed 20 March 2026.
[17] Parthasarathi Shome, *Tax Administration Reform in India: Spirit, Purpose and Empowerment* (LexisNexis 2014) 150 <https://nadt.gov.in/writereaddata/MenuContentImages/First_report_TARC635480254365343004.pdf> accessed 17 March 2026.

principled negotiation focusing on underlying interests (such as early certainty and revenue realisation) rather than rigid legal positions.[18] By employing neutral facilitators to guide the Revenue and the taxpayer through an objective evaluation of the dispute's merits,[19] mediation can filter out frivolous additions and unsustainable claims before they crystallise into formal appeals.[20]

II. THE CURRENT PARADIGM: A SYSTEM IN GRIDLOCK

In order to comprehend the need to integrate mediation into direct tax litigation, one needs to first take stock of the statistics and structure of the dispute resolution framework prevalent in India.[21] The present system suffers from an enormous backlog coupled with a multi-tiered appeal process that consistently holds up capital for decades on end.[22]

A. THE STATISTICAL REALITY OF TAX LITIGATION

Recent data presented to Parliament underscores the severity of the crisis. As of the 2024–2025 financial year, over 5.39 lakh income tax cases were pending before various appellate authorities, with disputed tax claims exceeding ₹16.75 lakh crore. The bottleneck is most severe at the first appellate stage the CIT(A) where the pendency consistently hovers around the half-million mark.[23] Even at higher judicial forums, the congestion remains critical, with thousands of appeals clogging the dockets of the ITAT, the High Courts, and the Supreme Court.[24]

---

[18] Roger Fisher, William Ury and Bruce Patton, *Getting to Yes: Negotiating Agreement Without Giving In* (3rd edn, Penguin Books 2011) 11.
[19] Law Reform Commission of Ireland, *Alternative Dispute Resolution: Mediation and Conciliation* (LRC 98-2010, 2010) 18 <https://www.lawreform.ie/_fileupload/reports/r98adr.pdf> accessed 17 March 2026.
[20] Duncan Bentley, Taxpayers' Rights: Theory, Origin and Implementation (Kluwer Law International 2007) 210.
[21] Atri Prasad Rout, Vital Stats: Direct Taxes in India (PRS Legislative Research 2025) 4 <https://prsindia.org/files/policy/policy_vital_state/Vital_Stats-Direct_Taxes_in_India.pdf> accessed 16 March 2026.
[22] Ministry of Finance, *Economic Survey 2023-24* (Government of India 2024) 142 <https://www.indiabudget.gov.in/budget2024-25/economicsurvey/doc/echapter.pdf> accessed 14 March 2026.
[23] Comptroller and Auditor General of India, *Report No. 13 of 2024: Compliance Audit on Direct Taxes* (Government of India 2024) 10 <https://cag.gov.in/en/audit-report/download/121131> accessed 18 March 2026.
[24] n 20.

To mitigate this, the Central Board of Direct Taxes (**CBDT**) periodically increases the monetary thresholds for filing appeals by the Revenue. For instance, recent revisions raised the limits to ₹60 lakh for the ITAT, ₹2 crore for High Courts, and ₹5 crore for the Supreme Court.[25] While these measures temporarily artificially reduce the docket by forcing the withdrawal of low-value appeals, they are purely cosmetic fixes. They do not address the fundamental question of *why* so many frivolous or high-pitched assessments are generated by Assessing Officers (AOs) in the first place, nor do they provide relief to taxpayers embroiled in high-value, complex commercial disputes.[26]

B. THE VACUUM LEFT BY THE SETTLEMENT COMMISSION

Historically, the ITSC, established in 1976 on the recommendations of the *Wanchoo Committee*,[27] served as a crucial quasi-judicial body for ADR. It allowed errant taxpayers to make a full and true disclosure of their income in exchange for immunity from prosecution and penalties.[28] However, the Finance Act, 2021 abruptly abolished the ITSC, replacing it with Interim Boards for pending cases.[29]

The legislative intent behind dismantling the ITSC was to pivot toward a stricter, zero-tolerance approach to tax evasion and to promote the Faceless Assessment Scheme. While the government subsequently introduced a Dispute Resolution Committee (**DRC**), its utility is severely restricted. The DRC is only available to small taxpayers where the returned income is up to ₹50 lakh and the disputed addition does not exceed ₹10 lakh.[30] For the vast majority of corporate taxpayers, medium enterprises, and high-net-worth individuals facing substantial tax demands, the door to negotiated settlement has been firmly shut.

C. THE LIMITATIONS OF THE DISPUTE RESOLUTION PANEL (DRP)

[25] Central Board of Direct Taxes, Circular No 9 of 2024 (17 September 2024) <https://itgoawbunit.org/pdf/9741-circular-09.2024.pdf> accessed 12 March 2026.
[26] Tax Administration Reform Commission, *First Report* (Government of India 2014) 215 <https://prsindia.org/policy/report-summaries/first-report-tax-administration-reforms-commission> accessed 8 March 2026.
[27] Direct Taxes Enquiry Committee, *Final Report* (Government of India 1971) ch 2 <https://www.thehinducentre.com/multimedia/archive/03091/direct-taxes-enqui_3091080a.pdf> accessed 19 March 2026.
[28] Income Tax Act, 1961, s 245C.
[29] *The Finance Act 2021*, No. 13 of 2021, Acts of Parliament, 2021 (India).
[30] Income-tax Act 2025, s 379 read with the Income-tax Rules 2026, r 196.

The Income Tax Act does feature an existing ADR mechanism in the form of the Dispute Resolution Panel (**DRP**) under Section 275.[31] A collegium of three Commissioners of Income Tax, the DRP was designed to expedite resolutions and bypass the CIT(A) stage.[32] However, its jurisdiction is strictly ring-fenced. It is exclusively available to foreign companies and for variations arising out of Transfer Pricing orders.[33]

Domestic taxpayers dealing with complex domestic corporate tax issues, general anti-avoidance rules (**GAAR**) invocations, or intricate capital gains disputes have no access to the DRP. Consequently, the current framework is fragmented; small taxpayers have the DRC, foreign entities have the DRP, but the core domestic corporate base is left to navigate the gruelling, traditional appellate route.[34]

III. INJECTING ADR INTO TAX LAW: THEORETICAL AND PRACTICAL MECHANICS

Inclusion of formalized mediation into tax disputes involves a shift of paradigms on the part of the theory. Generally speaking, taxation can only be considered from the point of view of public law and sovereignty. Under this approach, the existence of the tax liability is merely an act prescribed by legislation and hence is not a contract and cannot be 'negotiated.'[35] But such an interpretation equates the law with success.

A. THE EVALUATIVE MEDIATION APPROACH

In the context of taxation, facilitative mediation (where the mediator merely helps parties communicate) is often insufficient. What is required is evaluative mediation.[36] An evaluative mediator, typically a retired ITAT member, former High Court judge, or senior tax practitioner, actively assesses the legal merits of the dispute.

---

[31] Income-tax Act 2025, s 275.
[32] Income-tax Act 2025, s 275(15)(a).
[33] Income-tax Act 2025, s 275(15)(b).
[34] n 24.
[35] *The Commissioner, Hindu Religious Endowments, Madras v Sri Lakshmindra Thirtha Swamiar of Sri Shirur Mutt* [1954] SCR 1005; The Constitution of India 1950, art 265.
[36] Nadja Alexander, 'The Mediation Meta-Model: Understanding Practice' (2008) 26 *Conflict Resolution Quarterly* 97 <https://ink.library.smu.edu.sg/cgi/viewcontent.cgi?article=3815&context=sol_research> accessed 20 March 2026.

Instead of negotiating the statutory tax rate (which is impossible),[37] the mediation focuses on the litigation risk. If the Revenue has made an addition based on a tenuous interpretation of a deduction under Section 138, the mediator evaluates the probability of the Revenue prevailing at the ITAT or High Court. If jurisprudence suggests the Revenue has only a 20% chance of success, the mediation centres on settling the dispute for a percentage of the disputed amount, saving the exchequer the cost and time of a 15-year appellate journey.

B. Overcoming the 'Revenue Bias' and Institutional Fear

The most significant barrier to tax mediation is not statutory, but psychological. Assessing Officers and CITs operate in a bureaucratic environment characterised by severe risk aversion.[38] A settlement or concession made by an officer during mediation puts them at risk of being looked into by the vigilance department or being audited by CAG.[39] In order to protect themselves from possible damage to their career, officers would always opt to see their case nullified by the ITAT or high court.

It is essential that in any form of ADR for Indian tax law, there needs to be an assurance that there would be a 'safe harbour' for the revenue officials involved. This will be achieved in the mediation framework if it clearly states that a settlement in good faith done through the help of an impartial mediator would not lead to an inquiry in the future.

C. Shifting from Positions to Interests

Standard tax litigation involves the two parties taking up rigid stances, the revenue department insists on the highest possible tax and penalties, while the taxpayer insists on no liability. Mediation compels the two parties to look at the interests beneath their postures.[40] The State's interest lies in the need for prompt realization of revenue to meet its budgeting needs instead of tying the funds up in escrow or depreciation of funds through a 20 year period of litigation. Conversely, the taxpayer's interest is the certainty of liability and freeing of funds from escrow.

---

[37] The Constitution of India, 1950, art 265.
[38] n 24.
[39] n 8.
[40] n 16.

VERDICT VOICES LAW. LEARN. LEAD.

By creating a confidential, without-prejudice forum where these interests can be aligned through risk-adjusted settlements, ADR transforms tax collection from a combative extraction into a collaborative compliance process.[41]

IV. RECONCILING STATUTORY MANDATES WITH NEGOTIATION DYNAMICS

The basic problem in reconciling ADR in direct taxation is that of an assumed inconsistency in theory. Taxation is the ultimate act of sovereignty as it is a statutory levy and not a contract entered into between two parties which may be waived by mutual consent.[42] In a case where an AO finds that there is an escapement of income, he/she is required to charge tax on the income in accordance with the provisions of the Income Tax Act, 2025.[43] The AO does not have the inherent jurisdiction to waive the income on behalf of the Government.

The solution to the problem can be found through reconceptualization of the nature of subject matter to be negotiated. In the case of tax mediation, the issue is neither the statutory tax rate nor the application of the statute; rather, what is being negotiated is the facts of the transaction, its characterization as income, and, most importantly, the litigation risk involved in winning on appeal.

A. RE-FRAMING THE DISPUTE: FROM POSITIONAL BARGAINING TO RISK ASSESSMENT

In the traditional method of making tax assessments, there is only a positional interaction between the Revenue and the taxpayer. The AO takes the extreme defensive position to safeguard the revenue interest, which leads to high pitched assessments whereas the taxpayer adopts the extreme opposite position of no liability at all. This rigid approach does not take into consideration the complexities involved in a business transaction like PE profit attribution or ALP where there are no definitive answers to the facts involved.[44]

---

41 Tax Administration Reform Commission, *Third Report* (Government of India 2014) ch 10 <https://taxindiaonline.com/RC2/pdfdocs/TARC3rdReport.pdf> accessed 3 March 2026.

42 *Mafatlal Industries Ltd v Union of India* (1997) 5 SCC 536; The Constitution of India 1950, art 265.

43 Income-tax Act 2025, s 279.

44 OECD, *Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations 2022* (OECD Publishing 2022) ch 1 <https://www.oecd.org/content/dam/oecd/en/publications/reports/2022/01/oecd-transfer-pricing-

The process of ADR demands changing this relationship to one of interest-based bargaining.[45] The interest of the State is not in the long drawn-out process of making maximalist claims but the efficient realization of its legitimate revenues. On the other hand, the interest of the corporate taxpayer is in reducing liability and unfreezing working capital.

In order to reconcile the parties' interests, the tax mediator needs to make an intensive assessment of alternatives, such as the determination of the best alternative to negotiation agreement (**BATNA**) and worst alternative to negotiation agreement (**WATNA**) of the parties.[46] For the Revenue, the BATNA could be that a favourable ruling will be delivered at the Supreme Court fifteen years later, while the WATNA will be the striking down of the addition by ITAT together with the expense incurred on the process of litigation. Preparation of the mediation session involves carrying out a similar intense analysis of the arguments made by the tax department, just like what would have been done when preparing for an ad hoc review of the case or for legal memorialization. In case there is tenuous jurisprudence in the argument of the deduction under Section 138,[47] it should be recognised first before any negotiation can start.

B. The Imperative of Evaluative Mediation

Tax dispute resolution is done under statutory requirements, hence facilitative mediation in which the mediator is simply a conduit for information and takes into consideration emotions and relations among the disputants cannot work.[48] A revenue officer cannot compromise simply because it preserves a harmonious relationship with the taxpayer.

The framework must utilise evaluative mediation, often termed 'early neutral evaluation'. In this model, the mediator must be a highly specialised domain expert such as a retired ITAT member, a former High Court judge, or a designated Senior

---

guidelines-for-multinational-enterprises-and-tax-administrations-2022_57104b3a/0e655865-en.pdf> accessed 21 March 2026.

[45] n 16.

[46] ibid 100.

[47] Income-tax Act 2025, s 138.

[48] Leonard L Riskin, 'Understanding Mediators' Orientations, Strategies, and Techniques: A Grid for the Perplexed' (1996) 1 *Harvard Negotiation Law Review* 7 <https://scholarship.law.ufl.edu/facultypub/668/> accessed 20 March 2026.

Advocate with extensive tax experience.[49] The mediator's role transcends facilitation; they are tasked with aggressively stress-testing the legal and factual arguments of both sides.

During confidential, without-prejudice joint and caucus sessions, the evaluative mediator breaks down the dispute issue by issue.[50] If the AO has characterized the purchase of off-the-shelf software as a 'royalty' rather than 'business income,' the mediator will evaluate the strength of this stance against prevailing Supreme Court precedents (e.g., *Engineering Analysis Centre of Excellence*).[51] By providing an objective, non-binding assessment of how an appellate tribunal is likely to rule, the mediator alters the perceived BATNAs of the parties.

If the mediator indicates that the Revenue's position has only a 30% probability of surviving appellate scrutiny, the AO is presented with a rational, defensible basis to accept a settlement for a proportion of the disputed amount. The negotiation, therefore, is not a dereliction of statutory duty, but a mathematically sound adjustment based on litigation risk.

C. NAVIGATING THE STATUTORY BOUNDS: FACT VS. LAW

What can be done for the AO to mediate without infringing on the provisions of the Income Tax Act? It is mainly in the resolution of factual issues, where flexibility is evident in taxation mediation.

However, many of the high-value tax disputes that arise do not hinge on whether a law exists, but rather on how the value of a transaction is measured. Consider the valuation of unquoted equity shares for computing capital gains under Section 79, or the receipt of property for inadequate consideration under Section 92(2)(m).[52] The dispute often centers on the acceptability of the Discounted Cash Flow (**DCF**) method versus the Net Asset Value (**NAV**) method, and the specific variables (such as growth rates and discount rates) assumed by the taxpayer's valuer. Within the adversarial process, the AO could simply ignore the DCF approach and substitute it with their own valuation,

[49] n 24.
[50] n 17.
[51] *Engineering Analysis Centre of Excellence Private Limited v Commissioner of Income Tax* (2021) 432 ITR 471 (SC).
[52] Income-tax Act 2025, s 92(2)(m) read with the Income-tax Rules 2026.

resulting in a lengthy court battle for several years. Within a mediation process, the parties will have room to discuss the parameters. Through collaboration, both parties may reach a consensus regarding the modification of the discount rate or future cash flows, arriving at a mutually acceptable valuation that falls within a reasonable scale. [53] The statutory provision is preserved, but its application is bargained for.

In a similar vein, in transfer pricing cases, principles of ADR can be used to reach an agreement in the selection of comparables.[54] Whether a certain firm is included or excluded from the list, which will then be used to compute the arithmetic average of the profit margin, is purely a factual exercise based on FAR analysis. Through mediation, there will be a practical solution to the final selection of comparables so that the statutory obligation of taxing based on an arm's length price is satisfied.

D. The Institutional Prerequisites: Safe Harbors and Structural Empowerment

It is impossible to use the art of negotiations with an AO if it is not provided for in the statute. As already stated in the analysis of the current model, the most restraining element in the Indian tax system is the fear of the post-factum scrutiny (CVC/CBI or CAG audit).[55] The AO will not indulge in interest-based negotiations if he or she stands to face the accusation of corruption or malfeasance in office.

Therefore, for mediation to practically apply, the legal framework must construct an impenetrable 'safe harbour' for participating officers. Statutory Sanction, the Income Tax Act must be amended to explicitly recognise mediation as a valid mechanism for determining tax liability; Good Faith Protection, the law must stipulate that any settlement reached through the formal mediation process, guided by a certified neutral mediator, is deemed to be an action taken in 'good faith' and Committee Approval, to prevent the unilateral abuse of power, the negotiated settlement should not be finalised by the AO alone. The outcome of the mediation should take the form of a 'Draft Settlement Agreement,' which is then submitted to a supervisory collegium (e.g.,

[53] *Vodafone India Services Pvt Ltd v Union of India* [2014] 368 ITR 1 (Bom).
[54] Income-tax Act 2025, ss 162–73.
[55] n 24.

a panel of three Principal Commissioners of Income Tax) for rapid administrative approval.[56]

Through the design of the negotiation process in such a way that the ultimate outcome is reached through the findings of a neutral expert and confirmed by the top administration, the specific AO is free from any liability. This empowerment through structure is the spark that will ignite the process and allow the conversion of the revenue department from legal bullies to realistic negotiators. Only if the tax authority is able to make a legal analysis of their situation and modify their approach depending on legal risks involved will ADR succeed.[57]

V. COMPARATIVE GLOBAL ANALYSIS: LESSONS FROM THE UNITED KINGDOM AND AUSTRALIA

In the process of modernizing the framework of tax dispute resolution in India, it would be useful to analyse how some jurisdictions that have managed to move away from the traditional system of adversarial litigation to a system of alternative dispute resolution have done so. The United Kingdom and Australia have shown that it is possible for tax authorities to conduct principled negotiations without undermining their obligations under the law.[58]

A. THE UNITED KINGDOM: HMRC'S INTERNAL MEDIATOR MODEL

One of the most sophisticated systems for mediating taxpayer disputes anywhere is His Majesty's Revenue and Customs (**HMRC**) in the United Kingdom. Realizing that continuing with litigations in the First-tier Tribunal (**FTT**) was becoming highly costly and impractical,[59] HMRC implemented its ADR system on a trial basis in 2011. It became a fully-fledged part of their regular operations by 2013.[60]

---

[56] Income-tax Act 2025, s 379.
[57] OECD, *Tax Administration 2023: Comparative Information on OECD and Other Advanced and Emerging Economies* (OECD Publishing 2023) 112 <https://www.oecd.org/content/dam/oecd/en/publications/reports/2023/09/tax-administration-2023_87655bc9/900b6382-en.pdf> accessed 29 March 2026.
[58] ibid.
[59] The Tribunal Procedure (First-tier Tribunal) (Tax Chamber) Rules 2009, SI 2009/273, r 2.
[60] HM Revenue and Customs, *Alternative Dispute Resolution Guidance* (HMRC Internal Manual, 1 February 2023) ADRG01000 <https://www.gov.uk/hmrc-internal-manuals/alternative-dispute-resolution-guidance> accessed 29 March 2026.

The key feature of the UK approach is that it makes use of ‘in-house’, yet structurally independent, mediators. Instead of enforcing mediation with an outsider’s assistance, HMRC resorts to using its own team of officers who were professionally trained and accredited by an outside organization, like the Centre for Effective Dispute Resolution (**CEDR**).[61]

The process of ADR at HMRC is completely voluntary and is normally used in cases in which communication between the taxpayer and case officer fails, or there are disputes based on facts (for example, in calculating the ‘nature of trade’ in R&D tax relief or complex VAT partial exemption procedures).[62] Significantly, HMRC excludes ADR in cases where the dispute involves tax evasion or fraud, or where the issue under dispute is only related to statutory interpretation issues with a HMRC red line position. The Process, a typical mediation process takes place quickly and normally in a 90 to 120-day period leading up to the one day mediation.[63] The mediator uses facilitative and evaluative mediation techniques.

The significant point here is that the HMRC mediator does not have any decision-making power; the decision-making lies with the original HMRC case officer and the taxpayer only.[64] This mediator will test the legal grounds and bring out the risk of the litigation. The transformation within the HMRC has been great. It has always been noted from external opinions as well as from official figures that HMRC’s ADR settles about 85%-90% of the cases that enter the process, saving the trouble of going through years of tribunal proceedings.[65] It has been shown by the UK system that it is possible

[61] Peter Nias and Nigel Popplewell, ‘The Use of Mediation in Tax Disputes – UK Position’ (2014) 18 *Nederlands-Vlaams tijdschrift voor Mediation en conflict management* 49 <https://www.pumptax.com/wp-content/uploads/old/documents/The%20Use%20of%20Mediation%20in%20Tax%20Disputes%20-%20UK%20Position%20Peter%20Nias%20%20Nigel%20P%20%20%20.pdf> accessed 15 March 2026.
[62] HM Revenue and Customs, *Approach to Research and Development Tax Reliefs 2023 to 2024* (GOV.UK, 30 October 2024) <https://www.gov.uk/government/publications/hmrcs-approach-to-research-and-development-tax-reliefs-2023-to-2024/approach-to-research-and-development-tax-reliefs-2023-to-2024> accessed 27 March 2026.
[63] ibid.
[64] ibid.
[65] HM Revenue and Customs, *Annual Report and Accounts 2024 to 2025* (HC 1039, 2025) 131 <https://assets.publishing.service.gov.uk/media/687e5d318adf4250705c96d8/HMRC_annual_report_and_accounts_2024_to_2025.pdf> accessed 30 March 2026; HMRC dealing with backlog of ADR cases’ *Tax Journal* (15 August 2025) <https://www.taxjournal.com/articles/hmrc-dealing-with-backlog-of-adr-cases> accessed 22 March 2026.

for a tax authority to have internal mediators who behave impartially, on the condition that an adequate ADR Guidance Manual is issued.[66]

B. AUSTRALIA: ATO'S INTEGRATED DISPUTE SYSTEM DESIGN

The Australian Taxation Office (**ATO**) addresses taxation disputes from a scholarly perspective of Dispute System Design (**DSD**) in understanding that conflict is an inescapable result of imposing complicated taxation laws in the business environment. The ATO is subject to the statutory requirements of being a 'model litigant' such that there are measures that must be taken in addressing the disputes before litigation in the Federal Court.[67]

Contrary to other systems where ADR is considered a standalone 'off-ramp' solution to litigation, the ATO considers dispute resolution as an integral component of the audit/assessment process. In-House Facilitation and Independent Review, the ATO utilizes a tiered system. First, there is the 'In-house facilitation', similar to the HMRC approach, whereby an unbiased facilitator within the ATO helps the audit team and the taxpayer to reduce the number of disputed facts.[68] The outstanding innovation by Australia however is the use of the 'Independent Review' procedure for both Large Market and Small Business taxpayers.[69] The Independent Review Mechanic, prior to issuing a final amended assessment (thus formalizing the litigation process), the taxpayer has an option to ask for an independent review. A different senior tax officer from the Objections and Review area who has never before taken part in the audit reviews afresh the case from a purely technical perspective.[70] The officer then holds a case conference and makes a written recommendation concerning the 'better view of the facts' and how the law should be applied.

---

[66] n 58.
[67] *Legal Services Directions 2017* (Cth) app B (Austl).
[68] Australian Taxation Office, 'In-house facilitation' (ATO Website, 12 July 2024) <https://www.ato.gov.au/individuals-and-families/your-tax-return/if-you-disagree-with-an-ato-decision/dispute-a-decision/in-house-facilitation> accessed 1 April 2026.
[69] Australian Taxation Office, 'Large market independent review' (2025) <https://www.ato.gov.au/individuals-and-families/your-tax-return/if-you-disagree-with-an-ato-decision/dispute-a-decision/large-market-independent-review> accessed 1 April 2026.
[70] Inspector-General of Taxation, *Review into the Australian Taxation Office's management of transfer pricing matters*(2013) <https://www.igt.gov.au/wp-content/uploads/2021/07/154_management-of-transfer-pricing-matters.pdf> accessed 2 April 2026.

The Code of Settlement and External Assurance, when mediation results in a proposed compromise, ATO officers are guided by a formalized *Code of Settlement*.[71] This Code legally obligates officers to weigh the relative strength of the parties' positions against the cost-benefit of continuing the dispute. Furthermore, to combat the fear of subsequent audits (a primary hurdle in India), the ATO instituted an external independent assurance process.[72] Retired Federal Court judges are engaged to retrospectively review high-value settlements to assure the public and parliament that the outcomes were 'fair and reasonable,' thereby insulating the individual ATO negotiating officer from political or vigilance backlash.[73]

C. DISTILLING LESSONS FOR THE INDIAN TAX ADMINISTRATION

The comparative analysis of the UK and Australia yields several critical lessons for integrating ADR into the Indian *Income Tax Act, 2025*.

Firstly, the success of ADR relies heavily on the codification of settlement parameters.[74] Both HMRC's ADR Manual and the ATO's Code of Settlement provide tax officers with the legal cover to negotiate based on litigation risk.[75] India lacks a comparable statutory directive; assessing officers are implicitly encouraged to maximise demand rather than optimise revenue realisation.

Second, structural independence is key. The present Dispute Resolution Panel (DRP) in India operates more like an offshoot of the audit team than an independent mediating body. For success, India needs to embrace the 'Independent Review' approach of the ATO or fully independent mediators who have nothing whatsoever to do with the assessing command.

---

[71] Australian Taxation Office, *Code of Settlement* (ATO Practice Statement Law Administration, PS LA 2015/1) <https://www.ato.gov.au/law/view/pdf?DocId=PSR%2FPS20151%2FNAT%2FATO%2F00001&filename=law%2Fview%2Fpdf%2Fpsr%2Fps2015-001.pdf&PiT=20260416000001> accessed 3 April 2026.

[72] Australian Taxation Office, *Annual Report 2023–24* (Commonwealth of Australia 2024) 84 <https://www.ato.gov.au/api/public/content/8a9681ac28ed48ab8f9f003202f4e333?v=5d48f157> accessed 2 April 2026.

[73] Australian Taxation Office, 'Independent assurance of settlements' (ATO Website, 4 October 2023) <https://www.ato.gov.au/individuals-and-families/your-tax-return/if-you-disagree-with-an-ato-decision/settlement/independent-assurance-of-settlements-program> accessed 28 March 2026.

[74] HM Revenue and Customs, *Litigation and Settlement Strategy* (HMRC Internal Manual, 6 February 2023) LSS10100 < https://www.gov.uk/hmrc-internal-manuals/litigation-and-settlement-strategy/lss10100> accessed 3 April 2026.

[75] n 69 para 6.

The time of intervention must also be reconsidered. In the Indian scenario, the process of dispute resolution (such as the Settlement Commission and the *Vivad se Vishwas* programs) is generally an intervention after the assessment process. The UK and Australian examples show that the process of mediation is infinitely more successful if it takes place during or right before the final assessment order.[76]

VI. CONCRETE STRUCTURAL SUGGESTIONS: A BESPOKE MEDIATION ARCHITECTURE FOR INDIA AND INTERNATIONAL TREATIES

It is impossible to integrate ADR into the taxation environment in a piecemeal fashion or via an occasional amnesty program.[77] What is needed is a complete statutory restructuring of the dispute resolution system. The first prong addresses domestic direct tax disputes through a pre-assessment mediation model, while the second prong tackles the escalating complexities of cross-border taxation by embedding mandatory mediation into international tax treaties.[78]

A. *THE DOMESTIC FRAMEWORK: PRE-ASSESSMENT EVALUATIVE MEDIATION*

The most critical flaw in India's current tax litigation lifecycle is that dispute resolution mechanisms are typically triggered after the final assessment order has been crystallised and the demand raised. Once the demand is formalised and the notice of demand under Section 289 is issued, institutional rigidity sets in.[79] By interceding before this formalisation, the framework prevents the artificial inflation of the dispute valuation and the subsequent mandatory pre-deposit requirements that severely cripple corporate cash flows.[80] Therefore, the proposed framework intervenes precisely at the draft assessment stage.

(i) THE 'INDEPENDENT TAX EVALUATOR' (ITE) MECHANISM

[76] PKF Bofidi, 'Tax Mediation: A Second Chance for Taxpayers and the Tax Authorities' (11 February 2025) <https://pkfbofidi.com/en/tax-mediation-a-second-chance-for-taxpayers-and-the-tax-authorities/> accessed 23 February 2026.
[77] *See also* n 21.
[78] OECD, *Statement on a Two-Pillar Solution to Address the Tax Challenges Arising from the Digitalisation of the Economy* (OECD Publishing 2021) 4 <https://www.oecd.org/content/dam/oecd/en/topics/policy-issues/beps/statement-on-a-two-pillar-solution-to-address-the-tax-challenges-arising-from-the-digitalisation-of-the-economy-october-2021.pdf> accessed 25 March 2026.
[79] Income-tax Act 2025, s 289.
[80] Income-tax Act 2025, s 358(6); *See also* CBDT Instruction No 1914 (1996).

The Income Tax Act, 2025, should be amended to introduce a mandatory pre-assessment mediation phase for disputes exceeding a specified monetary threshold (e.g., proposed additions exceeding ₹10 Crores).

Under this proposed model, once an AO frames a draft assessment order proposing substantial variations to the returned income, the taxpayer is given the statutory right to invoke the Independent Tax Evaluator (**ITE**) mechanism. The ITE would not be an active jurisdictional Commissioner subject to internal administrative pressures, but rather a strictly neutral party drawn from a newly created, independent directorate under the Ministry of Finance.[81] This cadre would comprise retired ITAT members, retired High Court judges, and empanelled Senior Advocates specializing in taxation.

The scope of mandate of the ITE is strictly evaluative. Within a strict timeframe of 90 days, ensuring that there is no indefinite delay in the assessment process, the ITE conducts confidential 'without prejudice' meetings between the AO and the taxpayer.[82] The ITE evaluates the risk involved in the litigation of the proposed addition, considering the factual matrix, available evidence, and judicial precedents. If the conclusion reached by the ITE is that the addition rests on weak legal or factual grounds, such as a mechanical disallowance of legitimate business expenditure under Section 34 without appreciating commercial expediency,[83] or an addition under Section 102 where the taxpayer has already discharged the primary onus of proving identity, creditworthiness, and genuineness, then the ITE makes a non-binding 'Risk Evaluation Report' recommending a negotiated settlement or the complete dropping of the addition.[84]

(ii) INSTITUTIONAL SAFEGUARDS: THE SUPERVISORY COLLEGIUM

To address the paralyzing 'revenue bias' and the chilling effect of vigilance inquiries that plague Indian tax officers and stifle their discretionary powers, the framework must provide a robust statutory safe harbour.[85] An individual AO should not be

[81] n 24.
[82] *The Arbitration and Conciliation Act 1996*, s 75.
[83] Income-tax Act 2025, s 34.
[84] Income-tax Act 2025, s 102.
[85] n 24.

empowered to unilaterally accept the ITE's recommendation to reduce a tax demand, as this opacity could invite allegations of rent-seeking or corruption.[86]

Instead, if the taxpayer and the AO, guided by the ITE, reach a tentative consensus on the factual characterization or valuation (e.g., agreeing on a specific discount rate in a DCF valuation for unquoted shares), this consensus is formulated as a transparent 'Draft Settlement Term Sheet.' This term sheet is then escalated to a Supervisory Collegium a panel of three Principal Chief Commissioners of Income Tax (**Pr. CCIT**).[87]

The Collegium's role is solely to review the settlement for gross administrative unreasonableness or procedural irregularities, not to re-adjudicate the law or substitute the ITE's risk assessment with its own positional bias. Once ratified by the Collegium, the settlement becomes legally binding, and the AO is statutorily shielded from any subsequent scrutiny by the CAG or the Central Vigilance Commission (**CVC**) regarding that specific assessment.[88] This structural insulation, creating a verifiable paper trail of institutional consensus, is the *sine qua non* for genuine negotiation by revenue officers.

(iii) DEMOCRATIZING THE DISPUTE RESOLUTION PANEL (DRP)

To prevent jurisdictional overlap and procedural confusion, the existing DRP mechanism under Section 275 must be fundamentally overhauled and subsumed into the new ITE framework. Currently restricted primarily to eligible foreign companies and transfer pricing disputes, the DRP operates largely as an adjunct to the auditing system. Because it is composed of active Commissioners of Income Tax, it possesses an inherent 'revenue-first' institutional bias and is notorious for merely affirming the AO's draft orders. Maintaining the DRP alongside the ITE would create parallel, conflicting pre-assessment pathways. Therefore, the DRP should be phased out and replaced entirely by the ITE Directorate.[89] This democratizes dispute resolution, allowing domestic corporate taxpayers facing complex General Anti-Avoidance Rule

---

[86] Central Vigilance Commission, *Vigilance Manual* (8th edn, 2021) ch 10.
[87] Income-tax Act 2025, s 379.
[88] Income-tax Act 2025, s 526; Constitution of India, art 149.
[89] *Business Standard*, 'Restore judicial impartiality: scrap DRP' (18 October 2010) <https://www.business-standard.com/article/economy-policy/restore-judicial-impartiality-scrap-drp-110101800018_1.html> accessed 23 February 2026.

(**GAAR**) invocations or massive corporate restructuring disputes to access the same independent pre-assessment mediation as foreign entities.[90] By ensuring the mediating body is completely decoupled from the active assessing command, the framework breaks the institutional bias and transforms the draft assessment stage into a robust, quasi-arbitral forum.[91]

B. THE INTERNATIONAL FRAMEWORK: MEDIATION IN TREATY-BASED TAX DISPUTES

However, apart from the importance of domestic restructuring, the future of tax dispute resolution is in the international context. The increasing digitalization of the world economy, the emergence of complex intangible assets, and the adoption of the OECD/G20 Inclusive Framework BEPS including the allocation of taxing rights under Pillar One (Amount A) and the GloBE minimum tax regime under Pillar Two have dramatically increased the risk of double taxation in multiple jurisdictions.

Nowadays, cross-border tax disputes are mainly resolved under the Mutual Agreement Procedure (**MAP**) found under Article 25 of normal *Double Taxation Avoidance Agreements* (**DTAAs**).[92] The MAP process is simply a negotiation between the Competent Authorities (**CAs**) of the two sovereign nations, which is more diplomatic than legal in nature. However, MAP faces one basic deficiency because the statutory mandate of CAs to resolve the dispute is just that of 'endeavouring,' without any binding responsibility on the CA's part to conclude an agreement.[93] As a result, MAP proceedings often drag on for many years, causing the multinational taxpayer to be trapped in double taxation and huge uncertainties.[94]

---

[90] *The Finance Act 2012*, s 95; Income-tax Act 2025, s 77.
[91] Shome Committee, *Expert Committee on General Anti-Avoidance Rules (GAAR) Second Report* (Government of India 2012) 68 <https://www.pwc.com/mu/en/services/tax/assets/gaar_commitee_report.pdf> accessed 25 March 2026.
[92] OECD, *Model Tax Convention on Income and on Capital* (Condensed Version, OECD Publishing 2017) art 25.
[93] UN, *United Nations Model Double Taxation Convention between Developed and Developing Countries* (United Nations 2021) art 25; *See also Guide to the Mutual Agreement Procedure under Tax Treaties* (United Nations 2014) 12 <https://www.un.org/esa/ffd/wp-content/uploads/2014/10/ta-Guide_MAP.pdf> accessed 20 March 2026.
[94] OECD, *Making Dispute Resolution Mechanisms More Effective – Action 14: 2015 Final Report* (OECD/G20 Base Erosion and Profit Shifting Project, OECD Publishing 2015) 15 <https://www.oecd.org/content/dam/oecd/en/publications/reports/2015/10/making-dispute-resolution-mechanisms-more-effective-action-14-2015-final-report_g1g58cf2/9789264241633-en.pdf> accessed 1 April 2026.

(i) TRANSITIONING TO MANDATORY BINDING MEDIATION IN DTAAS

In order to solve the built-in inefficiencies in MAP, international tax treaties need to change to include Mandatory Binding Mediation. Although the OECD has come up with the Multilateral Convention to implement Tax Treaty Related Measures to Prevent BEPS, which has included provisions for MBA through Part VI of the MLI, most of the developing countries, such as India, have opted out.[95] The major reason behind opting out is that of constitutional sovereignty, since the developing countries find it hard to give taxing powers of activities in their territory to a private foreign arbitrator panel.[96]

However, mediation neatly dodges this trap of sovereignty. Unlike in arbitration, wherein an independent tribunal makes a binding ruling on the sovereign countries, mediation maintains the locus of decision-making squarely within the ambit of the respective Competent Authorities.

A modernised DTAA framework should stipulate that if CAs cannot resolve a MAP case within a definitive 24-month window, the dispute automatically triggers a mandatory mediation phase. To ensure neutrality and technical competence, a neutral mediator would be jointly appointed from a pre-agreed roster of international tax and trade experts. This institutional roster could be maintained by the UN Tax Committee or modelled after the World Trade Organisation's (**WTO**) Dispute Settlement Body panellists drawing on established, transparent international economic dispute frameworks that developing nations like India already trust and actively navigate.[97]

(ii) THE 'LAST BEST OFFER' (BASEBALL) MEDIATION HYBRID

---

[95] *Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting* (opened for signature 24 November 2016) (MLI) Part VI; *See also* Department of Revenue, 'India's Position on the Multilateral Instrument' (Ministry of Finance, 2017) <https://www.indianembassyusa.gov.in/pdf/taxcorner/RatificationofMultilateral.pdf> accessed 2 April 2026.

[96] Michael Lang and others (eds), *The OECD Multilateral Instrument for Tax Treaties: Analysis and Effects* (Kluwer Law International 2018).

[97] WTO, *Understanding on Rules and Procedures Governing the Settlement of Disputes* (15 April 1994) (DSU) art 8 (Panel Composition); *See also* UN ECOSOC, 'Committee of Experts on International Cooperation in Tax Matters' (2025-2029 Term) <https://financing.desa.un.org/what-we-do/ECOSOC/tax-committee/> accessed 23 January 2026.

To prevent the mandatory mediation phase from devolving into another endless, non-committal talking shop, treaties can employ a highly structured mechanism known as 'Last Best Offer' or 'Baseball' mediation.

According to this approach, in case no voluntary agreement is reached through the evaluation process, both Competent Authorities have to present their last best offer accompanied by a succinct and evidence-based legal memorandum to the mediator. It is important to emphasize that the mediator does not have the right to develop a middle ground position.[98] On the contrary, he/she has to decide which of the two offers is better substantiated in light of the text of the DTAA in question, FAR analysis, and the existing OECD/UN Transfer Pricing Guidelines.[99]

Given that the CAs know for certain that the mediator will only select the most legally and economically viable offer, the two states are therefore structurally motivated, through game theory, to move away from their extreme, high-flying offers.[100] They have no option but to engage in a 'race to the middle,' putting forth very pragmatic, moderate offers in order to attract the choice of the mediator.[101] This dynamic inherently narrows the gap between the states, often facilitating a negotiated settlement even before the mediator is required to make a final selection.

(iii) ENHANCING TAXPAYER PARTICIPATION

In the present-day orthodox model of MAP, the taxpayer who holds the money at risk ends up being an 'object' to the whole process and is not even allowed into the room where states negotiate.[102] A contemporary model of international tax mediation needs to resolve the information imbalance by giving some participation rights to the taxpayer.

---

[98] Joost Pauwelyn, 'Baseball Arbitration to Resolve International Law Disputes: Hit or Miss?' (2019) 22 Florida Tax Review 69 <https://scholarship.law.ufl.edu/ftr/vol22/iss1/2/> accessed 24 February 2026.

[99] n 42; *See also* n 90.

[100] n 94.

[101] Samira Varanasi and Sriram Govind, 'Homerun in India: Baseball Arbitration' (The Arbitration Workshop, 8 March 2022) <https://www.thearbitrationworkshop.com/post/homerun-in-india-baseball-arbitration> accessed 23 January 2026.

[102] Melbourne School of Government, 'Dispute Resolution: Mutual Agreement Procedure' (Policy Brief 11, December 2021) 2 <https://government.unimelb.edu.au/__data/assets/pdf_file/0005/3965756/Policy-Brief-11-Dispute-Resolution-Mutual-Agreement-Procedure.pdf> accessed 20 January 2026.

While the multinational enterprise cannot dictate terms to sovereign states or act as an equal party to the treaty, granting them a quasi-observer status is vital. Allowing taxpayers to submit formal factual briefs, clarify complex corporate supply chains, and participate in the initial information-gathering joint sessions of the mediation ensures that the mediator and the CAs are operating on an accurate, commercially realistic understanding of the disputed cross-border transaction, rather than relying on abstract administrative assumptions.[103]

Ultimately, as it relates to both domestic transfer pricing adjustments and the complexities of profit attribution internationally under multilateral agreements, the long-standing adversarial model has failed. By structurally integrating an evaluative mediation process, which is supported by robust statutory and compulsory international framework-based safe-harbours for tax authorities; they can release billions that are currently being held. The most significant outcome of this action will be to reduce congestion on appeals dockets, creating a macro-economic environment of certainty of taxation, foreign direct investment, and regulatory compliance.

VII. Conclusion

The structure of direct tax dispute resolution, be it in India or in the global digital economy, is collapsing under the strain of its adversarial rigidity. As is clear from the analysis of this paper, it is an expensive legal fiction to believe that sovereign taxation and cooperative dispute resolution cannot go hand in hand. The constant aim at maximum possible revenue through litigation has strangely led to huge revenue losses for the exchequer along with decades of financial insecurity for the taxpayer.

The ad hoc amnesties implemented by the Indian government in the past have been good fiscal stop-gap solutions but do not resolve the fundamental malaise of the system. Real change requires a change in paradigm, from a mindset of defensive and aggressive appraisals to one where risks are assessed and revenues are realized.

The incorporation of ADR into the provisions of the Income Tax Act, 2025, and international DTAAs represents the exact mechanical solution needed to make this

[103] Observatory on the Protection of Taxpayers' Rights, *2015-2017 General Report on the Protection of Taxpayers' Rights*(IBFD 2018) <https://www.ibfd.org/sites/default/files/2022-05/OPTR%202017%20General%20Report.pdf> accessed 1 March 2026.

change happen. Nevertheless, it is clear from the comparison between the United Kingdom and Australia that it is not enough to just stick the word 'mediation' in the statute. ADR can only be relevant in the tax context if it is evaluative by its very nature.

It is crucial to note that the success of this integration process lies solely on institutional empowerment. Revenue officers will act in good faith and engage in interest-based negotiations only in cases where they are legislatively immune from the debilitating anxiety of facing future vigilance inquiries. The solution to these obstacles lies in the two-fold institutional structure which has been suggested. Domestically, an ITE, with a supporting supervisory collegium, is the domestic safe-haven for rational compromise. Internationally, moving away from the dead-weight of the MAP process and toward binding mediation processes such as the Last Best Offer, ensure state-sovereignty and provide finality in decision-making.

In reality, the act of utilizing mediation as a means for resolving tax disputes is not about relinquishing power; it is about advancing it. Through the utilization of ADR, the State recognizes that collecting taxes in a timely, efficient and definitive manner will be a far greater indicator of successful administration than being burdened with many outstanding cases before the courts. The increased complexity of modern commercial transactions now exceeds by far the evolution of the tax code, and therefore, mediation is the most practical method through which a stable tax system can be maintained.