Understanding judicial delay at the Income Tax Appellate Tribunal in India

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- ▶ Judicial delays cost India around 1.5% of GDP (Dey and Narasappa, 2016)
- ▶ Policy solutions need to be anchored in sound diagnosis of the problem
- ▶ In this paper we show how standard statistical techniques of hazard models can be used to understand questions relating to judicial delays

- Early research focused on aggregate data reported by state institutions.
- Mostly followed normative approach to studying judicial delays
- Researchers have started to scrape data sets from online sources and build structured datasets.
- This has led to new and interesting work
  - Causes of delays (Vidhi, 2017)
  - Studying orders to arrive at a definition of delay (Regy and Roy, 2017)
  - Economic effects of law (Zaveri et. al, 2017)
- Yet, the use of basic statistical tools remains limited.

- ▶ Do more benches matter?
- ▶ Do more judges matter?
- ▶ Do specialised courts do better?
- ▶ How are hearings scheduled? Is there a systematic pattern in how courts hear cases?
- ▶ How do similar cases fare?

- Source case-related data from the Income Tax Appellate Tribunal from January 2013 - March 2016.
- Source date of pronouncements from Indian Kanoon
- Use survival analysis to understand determinants of delay.

Part I

The setting

- Quasi judicial institution set up in January, 1941.
- Specialises in dealing with appeal under direct taxes statutes.
- The orders passed by the ITAT are final – appeal to the High Court only if a substantial question of law arises for determination.
- Separate from mainstream judicial bodies.
- Each bench comprises judicial and account members.
- Nine zones in total: Mumbai, Delhi, Chennai, Kolkatta, Ahmedabad, Bengaluru, Hyderabad, Chandigarh, Lucknow.
- 18 ITATS in total - each ITAT consists of a"bench".
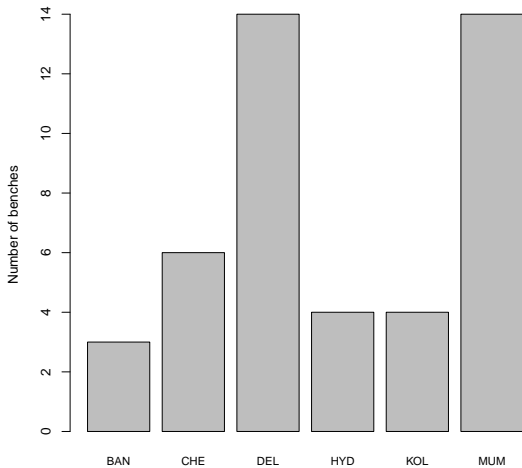
The top benches

- We define "Specialisation" as the maximum of one type of case heard by the bench.
- The only tax tribunal with some kind of specialisation is Mumbai.
- For example, all cases of transfer pricing go to Bench K. In our dataset, 47% of cases listed in Bench K are "transfer pricing".
- Thus, even though specialised, it is not "fully" specialised.

- ► The ITAT website puts up the cause list on each date.
- ► We source data between January 2013 - March 2016.
- ► Includes the details about the case number, name of the party, assessment year, date of hearing and the section number under which the appeal was filed.
- ► We cannot distinguish between a listing and a hearing.
- ► Match the ITAT data and the Indian Kanoon data using the case number field.
- ► About 2% of the judgments had multiple ITA numbers - we exclude these.
- ► Measure of performance
  - ► Percent cases pronounced
  - ► Time taken for a case from the start of the case for completion.

Part II

Data and summary stats

- Restrict our analysis to Mumbai and Delhi - constitute about 51% of total listing across all ITATs.
- Total of 244,144 listings.
- Of these 5% were pronounced in the time period of the study.

City wise listings and disposals

City	Average daily		Number Benches
	listings	disposals	
Mumbai	135.06	10.36	14
Delhi	165.65***	4.27***	14

*** significant at the 1% level

- Assessment after draft assessment order (transfer pricing) (Section 143(3) read with Section 144C)
- Assessment on searched person (Section 143(3) read with sections 153A & 153C)
- Re-opening by tax officer (Section 143(3) read with Sections 147 and 148)
- Penalty for non-compliance (Section 271 for imposing penalty for failure to comply)
- Assessment (Section 143(3))

Top five cases in the ITATs

Case	Delhi (%)	Mumbai (%)
IT-Assessment after draft assessment order	7.46	4.19
IT-Assessment on searched person	8.34	5.38
IT-Re-opening by tax officer	7.87	6.71
IT-Penalty for non-compliance	6.22	8.76
IT-Assessment	46.76	54.77

Part III

Survival analysis

1. Our dependent variable is the time until the occurrence of case completion;
2. Several of our observations are right censored, that is, for some entities the event of interest (case closure) has not occurred at the time of data analysis, and;
3. There are explanatory variables which may have a differential effect on the waiting time.

- Kaplan-Meier statistics: non-parametric depiction of survival curves.
- Cox-proportional hazard model:
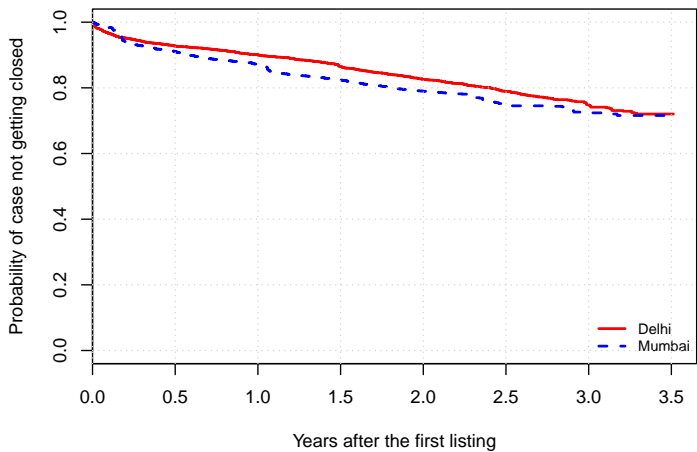 - The hazard at time t for an individual with covariates x (not including a constant) is assumed to be:

  $$h_i(t|x_i) = h_0(t)exp(\beta_k x_{ik})$$

  - $h_0(t)$ is called the "baseline hazard"
  - Any covariate x_i affects the relative (to the baseline) risk.

- 55%, pertain to cases that "began" before 2013.
- We do not know when they were first listed - we drop these observations.
- Total of 23,858 cases that pertain to 2013 or after.
- 4,492 or 17% of the cases were closed
- For the cases that got completed, the average time to completion was 8 months.

- One could argue that what matters is the type of case that goes to a court, and not the number of benches, or number of judges.
- If more complex cases are seen in one city and less complex in another, then the number of benches or judges shouldn't matter, because complex cases should take longer in any case.
- We test this by first seeing if there is a differential time to completion between cases
- We differentiate cases by the section they pertain to.

Time taken to complete cases by Section

X-axis: Years after the first listing

Y-axis: Probability of case not getting closed

Legend:
- Assessment
- Assessment after draft assessment order
- Re−opening by tax officer
- Assessment on searched person
- Penalty for non−compliance

Assessment after draft assessment order

Re–opening by tax officer
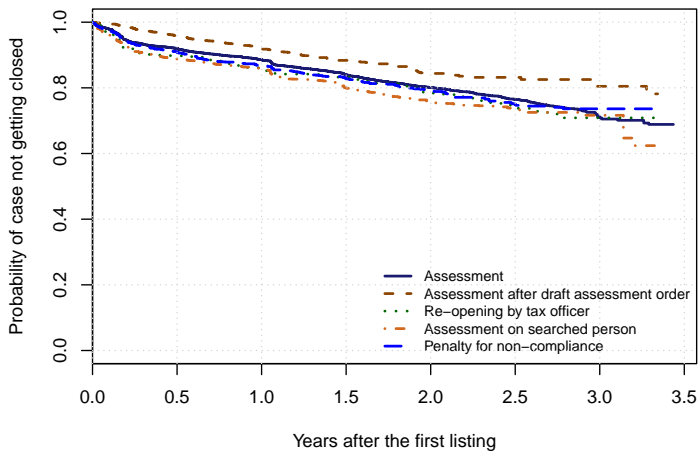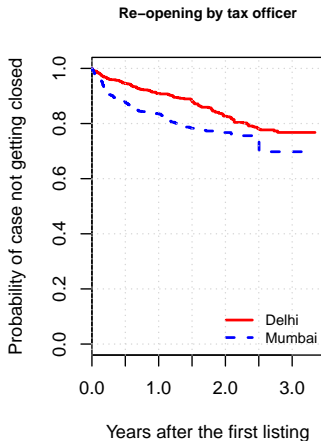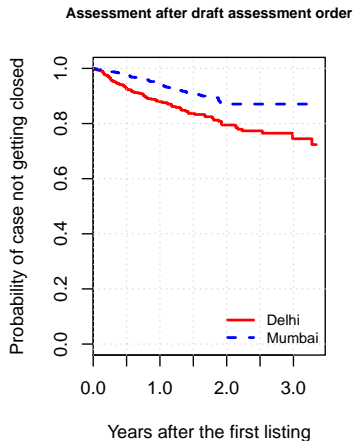
Regression: Probability of case completion

	Coefficient
Case: Assessment after draft assessment order	-0.856^{***}
	(0.078)
Case: Assessment on searched person	0.114^{*}
	(0.064)
Case: Penalty for non-compliance	0.192^{***}
	(0.046)
Case: Re-opening by tax officer	-0.008
	(0.059)
Case: Other	-0.321^{***}
	(0.038)
Firm	-0.249^{***}
	(0.042)
Mumbai	0.174^{***}
	(0.032)
Observations	25,828
Log Likelihood	$-43,371.000$

- A higher hazard or a higher probability (almost 17% higher) of a case being closed in Mumbai compared to Delhi
- disparity could be due to various factors: differences in complexities of the matters, judicial administration etc.
- Negative coefficient on firm indicator shows a lower probability of a case for a firm being closed relative to an individual case.
- Different types of cases have different trajectories.

- We create a de novo dataset using publicly available data.
- Apply statistical techniques of hazard models (or survival analysis) to address questions around case duration at the ITAT.
- Leaves open a wide array of possibilities for future researchers to pursue.

Thank you