

## CHAPTER - I

### INTRODUCTION.

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## CHAPTER - 1

## INTRODUCTION

## 1.1 INTRODUCTION OF SUBJECT :

The revenue of the Central Govt is derived from the direct and indirect taxes, which are major resource generating areas. The composition of the Government of India finances will reveal that the tax revenue occupies a significant place. The revenue receipts of the Govt of India have been explained by the statement extracted from " Report on Currency & Finance" volume 2, 1992/93. (page 128 (see page No.) 17

The direct taxes consists of tax on income, tax on wealth, tax on gift, tax on expenditure. The indirect taxes are comprised of custom duties from import and exports, union excise duties and sales tax etc. The total tax revenue both direct and indirect for the year 1993/94, was estimated at 88,685 crores.

There is a systematic and efficient scheme of taxation under which various enactments have been framed i.e. Income Tax Act, Gift Tax Act, Wealth Tax Act and Expenditure Tax Act. There is

also statutory body called Central Board Of Direct Taxes that administers the tax laws, the finance ministry finally heads the overall tax machinery.

## 1.2 SIGNIFICANCE OF STUDY.

The study laws provide various areas where a conflict may arise between the taxpayer and the department. This conflict is settled through appellate provisions. The appeal under the laws goes to the Supreme Court of India, which is the highest place for deciding the disputes. The provisions at the Income Tax Act 1961 regarding reference of the Act.

### APPEALS TO SUPREME COURT.

sec.261.

An appeal shall lie to Supreme Court from any judgement of the Supreme Court delivered on a reference made under sec. 256 in any case which the High Court certifies to be a fit one for appeal to the Supreme Court.

### HEARING BEFORE THE SUPREME COURT.

sec.262 (I)

The provision of the code of civil of procedure 1908 (5 of 1908) relation to appeals to the Supreme Court shall so far as may be apply in the case of appeals from decrees of a High Court.

Provided that nothing in this section shall be deemed to

affect the provisions of sub sections :

(1) of sec.260 or sec.265.

(2) The cost of appeal shall be at the discretion of the Supreme Court.

(3) Where the Judgement of High Court is various or reserved in the appeal effect shall be given the order of the Supreme Court in the manner provided in section 260 in the case of a judgement of High Court. The present study seeks to examine the significant decisions of Supreme Court of India.

#### 1.3 OBJECTIVE OF THE STUDY.

As discussed above the Direct tax laws provided a legal frame work on the basis of which the tax revenues are collected. There are some times differences as regards the interpretation of these laws. issues are settled by the Supreme Court of India which is the highest forum under the legal provisions. The researcher desires to examine various cases decided by the Supreme court of India during the period 1985, to 1992.

#### 1.4 STATEMENT OF PROBLEM.

The Administration of tax laws is done by Central Board of Direct Taxes. The Act is passed by the Parliament of India and any conflict arising in the interpretation of law is resolved by Supreme Court of India. This researcher conducts this study and

examines the various issues that revolved around case law settled by Supreme Court of India during the period 1985 to 1992.

#### 1.5 SCOPE & LIMITATIONS OF STUDY

The present study is titled as " An examination of Supreme Court Cases on Direct Tax Laws during the period 1985.to 1992. An Evaluation" reveals the broad nature of various issues that ultimately are settled by supreme Court of India. The study also discusses the nature of the proceeedure formalities for filing an appeal before the Supreme Court of India. It also highlights the causes that create a friction between the assessee and the de partment. However the subject being very vast,the period is limited to 7 years from 1985 to 1992. There is no specific reason for selection of this period, but this is a period where some structural changes have been made due to change in economic policies.

#### 1.6 METHODS OF DATA COLLECTION.

Sources used : -

The researcher has utilised the following references.

- i) The text of annual Budget.
- ii) Finance Ministars Speeches
- iii) R.B.I.Bulletin.
- iv) Theoretical books on Public Finance.

## 1.7 CHAPTER SCHEME.

The Broad chapter scheme is as under.

### Chapter One.

As discussed above highlights historical backgrounds, defines objectives and explains methodology etc.

### Chapter two

It deals with.

- i) Historical review.
- ii) Need for an appellate forum
- iii) The provisions regarding appeal.
- iv) Significance of appeal before Supreme Court of India.

### Chapter Three.

It deals with.

- i) A review of case laws during 1925 to 1992.
- ii) A broad examination of the case Law

### Chapter Four

It's deals with.

- i) Significance of the Supreme Court as an appellate forum.
- ii) An examination of possibilities regarding the tax litigations.

Chapter Five.

It deals with,

i) Conclusion.

ii) Suggestions.

REVENUE OF RECEIPTS OF GOVT. OF INDIA ( Rs. in crores )

SR No.	ITEM	1980/81	1985/86	1989/90	1990/91	1991/92	1992/93	1993/94
I.	Taxes on Income (1 to 4)	1,905	3,584	5,890	6,666	9,923	12,380	13,914
	1) Taxes on income other than corporation tax (net)(a-b)	504	663	1,082	1,250	1,620	2,240	2,364
	a) Total receipts	1,504	2,509	5,004	5,371	6,724	8,300	9,500
	b) State share	1,002	1,846	3,922	4,121	5,104	6,060	7,136
	2) Corporation Tax	1,311	2,865	4,729	5,335	7,853	9,200	10,500
	3) Interest Tax.	90	58	4	-1	305	800	900
	4) Expenditure Tax.	-	-	75	82	145	140	150
II	Taxes on property and capital transactions (1 to 5)	88	163	191	237	318	437	211
	i) Estate duty (net)(a-b)	4	3	4	3	3	2	1
	a) Total receipts	16	23	4	3	3	2	1
	b) State share.	12	20	-	-	-	-	-
	ii) Taxes on Wealth.	67	153	179	231	307	425	200

	7	12	8	3	8	10	10
iii) Gift Tax.							
iv) Stamps & Registration(a)	10	(c)	(c)	(c)	(c)	(c)	(c)
v) Land Revenue(b)	@	(c)	(c)	-	-	-	-
<b>III Taxes on commodities &amp; services</b>	<b>7,395</b>	<b>16,894</b>	<b>31,348</b>	<b>35,020</b>	<b>35,631</b>	<b>43,796</b>	<b>46,826</b>
(1 to 7)							(50,807)
i) Custom (net) (a+b+c+d)	3,410	9,526	18,036	20,644	22,257	25,500	27,727
a) Imports (gross)	3,413	9,601	18,416	20,896	21,993	25,927	27,523
b) Exports (gross)	121	83	38	36	77	60	64
c) Refund & Drawbacks	171	275	636	636	747	972	1,257
d) Other Revenue (gross)	47	147	218	348	1,000	419	1,397
ii) Union excises duties (net)	3,723	7,330	13,096	14,100	16,017	18,035	18,838
(a-b)							(19,546)
a) Total receipts of which:	6,500	12,956	22,406	24,514	28,110	32,500	33,751
Additional excise duties	395	928	1,475	1,490	1,868	2,265	2,427
in lieu of sales tax(net)							

b) State share.	2,777	5,626	9,310	10,414	12,093	14,465	14,913
iii) Sales Tax (b)	165	(C)	(C)	(C)	(C)	(C)	(C)
iv) State excises (b)	46	(C)	(C)	(C)	(C)	(C)	(C)
v) Taxes on vehicles (b)	6	(C)	(C)	(C)	(C)	(C)	(C)
vi) Taxes on goods & passengers (b)	18	(C)	(C)	(C)	(C)	(C)	(C)
vii) Other taxes & duties on commodities & services (b)	27	38	216	276	357	261	261
IV. Taxes on Union Territories (a)	\$	532	920	1,055	1,197	1,566	1,788
V. Total Tax revenue (1 to 5)	9,388	21,180	38,349	42,978	50,069	58,179	62,739
							(66,720)
VI. Interest Receipts (1 to 4)	1,794	4,586	8,466	8,730	10,922	12,436	14,532
i) State & Union territories	889	1,872	4,424	5,174	6,565	7,749	9,676
ii) Railways	110	559	783	938	1,080	1,488	1,253
iii) Post & Telecommunication (e)	39	170	180	220	247	256	261
iv) Other interest Receipts	756	1,985	3,079	2,398	3,030	2,943	3,251
VII. Dividend & profits (1 to 3)	292	415	715	774	1,055	2,549	2,691

i) Railways.	-	-	-	-	-	-	-	-	-
ii) Post & Telecommunications	-	-	-	-	-	-	-	-	-
iii) Other (f)	292	415	715	774	1,055	2,549	2,691		
Of which :profit of RBI	210	210	210	210	350	1,500	1,500		
VIII. Fiscal services ( 1 + 2)	143	513	841	569	518	1,438	1,249		
i) Currency, coinage & mint	67	95	266	253	265	339	426		
ii) Other Fiscal services.	76	418	575	316	253	1,099	823		
IX Genreal Services	329	645	1,099	1,325	1,556	2,109	2,055		
X. Social community services	180	149	301	316	429	501	569		
XI. Economic Services	330	842	3,958	2,179	3,438	3,734	3,285		
XII. Cash grants from foreign countries & international organisation.	373	413	665	529	913	1,056	1,277		
XIII. Aid material & equipment.	+	72	89	56	35	48	87		

XIV.	Non tax receipts of union	*	69	131	149	182	194	203
XV.	Total Non Tax Revenue (vitoxiv)	3,441	7,704	16,265	14,672	19,048	24,065	25,946
XVI.	Total revenue (v+xv)	12,829	28,934	54,614	57,650	69,117	82,244	88,685
								(92,666)

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## NOTE

Data on revenue receipts and expenditure in this statement are inclusive of commercial departments.

a) Including effects of budget proposals. Post-budget tax concessions are not adjusted. Figures in brackets exclude the effects of budget proposals.

b) Receipts relate to Union Territories, without legislatures.

c) Included under taxes of Union Territories.

d) Includes foreign travel tax, foreign exchange conservation (travel) tax, water (Prevention and Control of Pollution) cess, entertainment tax, betting taxes and duties on electricity etc.

The trust is on the tax revenue of which again significant position is occupied by direct taxes.