

CHAPTER - V

CONCLUSION & SUGGESTIONS

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CONCLUSION AND SUGGESTIONS

5.1 CONCLUSION :

It is observed that in the earlier chapter that the tax revenues are very significant for the purpose of meeting the expenditure of the Government. The taxes are collected in accordance with the provision contain under the constitution of India. The tax laws are framed to give effect to these provisions and these laws are passed by the Parliament of India. As the taxes of Income one levied by the Central Government, the tax laws also provided a mechanism for levy of tax, collection of tax and also the provision for appellate issues.

It must be noticed that a harmony and simplicity in administering the tax laws helps to build good and cordial relationship between the Government and the tax payers. If there is more scope for litigations and disputes, the revenue of the Government gates blocked and it also gives scope for various mal-Practises. Therefore there is a need to minimise tax litigations. In this excersise a review has been taken in respect of case laws during 1985 to 1992. These cases shows that there are various areas touching the litigations that is penalties, Registration of partnership

firm. deduction under each head of Income, interpretation of statutes, computations of capital gains. Deeming provisions, and so on. These litigations are also involved under Wealth Tax and Gift Tax, legislation and their number is on increase. The noted jurist and constitutional expert Mr.N.A.Pakhiwala observed.

"The cardinal error of our time is to mistake amendment for improvement and change for progress. The Finance Ministry has become almost pathological in its "change mania ". A stable fiscal policy is to a nation. what a stable family life is to an individual. But stability is athema to North Block. The obsessive attitude that exercise of power must take the form of churning out new laws and regulations is shared by the legislature and the rule making authority alike. It has become normal to have amendments to Income-Tax rules more than half-a-dozen times in a single year. Various forms are changed overnight. Can this country where crores of School children and adults have to go without writing papers, afford the luxury of throwing away millions of pages of printed forms which are consigned to the scrap heap so nonchalantly ?

Year after year the Finance Bill continues the fatuous tradition of introducing experimental provisions. Some of which are truly whimsical and most of which need amendment in a short

time. We legislate first, and think afterwards. Sections are introduced which never come into force, because they are repeated or substituted before the date they are scheduled to come into operation. In the event, complexity is heaped upon complexity and the confusion becomes worse confounded.

Legislative work expands so as to fill the time available for its completion. This is a branch of Parkinson's Law and its operation has caused Parkinson's Disease in the body of our fiscal code.

At a International Tax Conference held in Singapore few years ago, the experts pointed out that a tax-administration which disposes of appeals promptly and reaches a fair and final settlement. Speedily, is itself to be classed as a tax incentive. The deplorable record of India in this connection was cited as a warning. The avalanche of ill -conceived changes and complications which may be compendiously called "legal litter", is mainly responsible for poor quality of our tax administration.

In the United Kingdom there are 29 million Income Tax payers but the number of references filed in the High Court is only around thrity in a year. In India there are only seven million

income tax payers but the number of references filed in our High Court is over 6,000 a year in addition to more than 1000 writ petitions. These figures reflect the tremendous public dissatisfaction with the quality of the law and of fiscal administration. Our law Reports bear witness to the fact that generally a case reaches hearing in the High Court twenty years after the relevant assessment year. The situation is continuously aggravated by the deluge of new amendments the indigestible verbiage; and the flood of litigation is heavier today than ever before.

Two things strike the student of Indian Income Tax law with trepidation and amazement the precipitate and chronic tinkering with the law by bureaucrats who are the unacknowledged legislators of India and the anaesthetized patience of the Indian Public. Truly, we Indians are a "low arousal" people. We endure injustice and unfairness with feudalistic servility and fatalistic resignation. The poor of India endure inhuman conditions which would lead to a body revolution in any other country. The rich endure foolish laws and maddening amendments which benefit none except the legal and accountancy professions and instinctively prefer to circumvent the law than to fight for its repeal.

Taxes are the life blood of any government, but it can be overemphasized that the blood is taken from the arteries of the

tax payers and therefore transfusion has to be accomplished in accordance with the principles of justice and fair play".

A sound tax policy implies that there must be largest tax collection with lesser disputes. However the survey of case laws in the earlier chapter confirms the contrary view.

5.2 SUGGESTIONS :

Based on the review of case law and the conclusions drawn the following suggestions are made.

- i) The tax laws should be simple, easy to administer and understandable to the people concerned.
- ii) The areas of litigations should be minimised.
- iii) The machinery for appeals and revisions should be restructured with a view to minimise the period of disposal of appeals.
- iv) There should be one code for all tax laws.
- v) The harmony amongst different High Courts regarding tax litigations is necessary.

vi) The present mechanism of collection of taxes is complicated, hence it should be made more simple for smooth working.

vii) The present tax collection mechanism is complicated and posses harrashment to the tax payers. It has created ill feeling among the tax payers. So I suggest that the mechanism should be restructured in such a way that it will bring amicability between Government and tax payers.

viii) The present tax laws are ambigaous and they call for litigations and disputes. So the tax laws should be clearly defined.

ix) The present tax collection mechanism is complicated hence it gives more appoortunities for mal-practices.

x) The reseacher has studied the cases during the period from 1985 to 1992 also studies speciman cases and brought out the areas of disputes among the parties. The reserchar would like to bring the notice, the areas and needs of study of these areas.

xi) The present study shows that there are more everchanging nature of law which creats unnecessary burden on infrastructure.

It should be reduced.

xii) Fatuous traditions of introducing experimental provisions should be changed.

xiii) The laws made should be given more rational thinking before legislations.

xiv) The suggestion given by the International Tax Conference held at Singapore should be implemented and followed scrupulously.

xv) The tax laws should be satisfactory to the tax payers so that it will decrease the number of disputes and brings down cases of litigations.

xvi) The time required for settlement of disputes is lengthy which should be cutshort.

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