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B I B L I O G R A P H Y

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SUMMARY AND CONCLUSIONS

6.1 INTRODUCTION :

The topic for the dissertation was selected long before the admission to the M.Phil class was finalised. It was infact before the budget speech for the year 1985-86 in which the, then Finance Minister declared the discontinuation of estate duty from the statute books. However, we stuck to initial selection out of historical interest. Moreover, we had access to a time series data almost for a quarter century regarding the operation of estate duty in India.

6.2 JUSTIFICATION OF ESTATE DUTY :

The review of the theories of estate duty shows that there are various aspects to justification of estate duty. According to the legal justification state has a right to impose estate duty because without the protection of the state, individuals will not be in a position to amass any property or wealth with safety and security. In a way, state is a silent partner in the business of private aquisition of wealth and properties.

The economic justification of estate duty is based on the principle of ability to pay of the persons who are successors to the estate. Moreover, it is maintained that estate duty

satisfied other canons of taxation like certainty, economy and convenience also. According to cost of service theory, estate duty is like a fee to be paid by the inheritors of the property, for the services of the state in providing legal recognition of the rights of the inheritors of the property. Value of service theory of estate duty appears to be vague and logically untenable. The unearned income theory of estate duty maintains that the inheritor gets the property without real effort and as such he would not mind paying a tax. Going a step ahead, estate duty is looked upon as a deferred income tax on unearned income. According to privilege theory of estate duty, inheritance and bequests are looked from the angle of privileges that the beneficiaries enjoy under a government and therefore, the state has^a right to demand a duty from the beneficiaries for the privileges accorded to them. The back tax theory assumes that an estate holder might have evaded or avoided a number of property and income taxes during this life time which the imposition of estate duty can recover. However, the generally accepted principle justifying the taxation of transfer of property at the death of the owner is that of ability to pay coupled with social need of more equal redistribution of wealth.

6.3 BASE, COVERAGE AND RATE STRUCTURE OF ESTATE DUTY :

Money value of the aggregate estate, both movable and immovable which passes to the successors after the death of the

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owner, is the tax base of estate duty. Estate duty generally provides for an exemption limit. Apart from this, there are certain concessions in respect of quick deaths after succession; value of agricultural land, limited amount of household goods, insurance policies and amounts left for female dependents.

6.4 SHIFTING AND INCIDENCE OF ESTATE DUTY :

In this regard, the generally accepted view seems to be that dead men cannot bear tax burden. Similarly, there is no mechanism by which tax burden can be shifted beyond the successor. However, there may be some persons who in anticipation of estate duty may create a fund for tax payment so that the successor gets a certain pre determined amount of wealth. In conclusion, we can say that incidence of estate duty may be on testator, the successor or upon both.

6.5 THE HISTORY OF ESTATE DUTY IN INDIA :

Estate duty in India is traced back to Moghul period. There are references to estate duty being imposed by the Kings of Calicut, Zamorin. After independence, the Indian constitution provided for the levy of estate duty and collection there of by the Central Govt. under article No 269(2). However, the net proceeds of the estate duty are to be assigned to the states where this tax is levied in accordance with the recommendations of the Finance Commission. The Central Govt.

imposed the estate duty with effect from October 15, 1953.

The tax is levied on individuals, Hindu Undivided Families, and associations of persons on the basis of all property belonging to the deceased including cash, bullion, jewellery, household effects, motor cars and other vehicles etc. There are certain exemptions, concessions and deductions also. The valuation of the property is determined by the tax authorities and in case of disagreement two valuers are appointed, one by the government and other by the party concerned, and if the disagreement still remains, the third valuer is appointed by mutual agreement failing which the third valuer is appointed by the Central Govt. and the decision of the third valuer is final and binding. The rate structure adopted in India was based on slab system where successive higher slabs of estate were subject to higher rates of estate duty. There are different exemption limits for individuals, joint Hindu Families and associations of persons. In the year 1984 the exemption limits for individuals was Rs. 1.50 lakhs and the highest rate of estate duty was 85% in case of property whose value was more than Rs. 20 lakhs. The tax was avoided mainly by gifts or undervaluation of the estate. Of course, the Estate Duty Act provided for checking these tendencies by stringent legislative provisions. The total number of estates assessed for estate duty were 3670 in the year 1962-63 and 8968 in the year 1976-77.

However, as a % of total number of estates, there is a significant fall in the estates assessed for estate duty because in the year 1962-63 this % was 26.9 which decreased to 13.7 in the year 1976-77. It has been also found out that there is 6% erosion of the tax base because of various deductions allowed and rebates and allowances reduced the gross revenue from estate duty by about 40%. It is also seen that there has been^a continuous increase in the arrears of the estate duty in the past. Moreover, the progressivity of the estate duty is not very high and the equalisation coefficient of estate duty in India has been very low in all the years for which data is available.

In the budget speech for the year 1985-86, the Finance Minister declared the removal of the estate duty from the statute books because the estate duty had failed to achieve the expected objectives during three decades of its operation.

6.6 REVENUE SIGNIFICANCE OF THE ESTATE DUTY:

It is seen that the growth of revenue from estate duty has been at a low rate. In case of Maharashtra the rate of growth of revenue for estate duty during 1960-61 to 1984-85 was only 9.2% which is slightly greater than the respective growth rates for All States model. The relative position of Maharashtra measured by amount of estate duty remained unchanged during

the period under study. In case of Maharashtra, Gujarat, West Bengal, the relative share in All States revenue from estate duty shows increase whereas in case of Karnataka and Tamilnadu it shows decrease.

The Revenue Significance of estate duty measured by its % ratio to total revenue, total tax revenue, own tax revenue; own direct tax revenue and shared direct tax revenue shows that it is an insignificant source revenue for the states. Moreover, there is a gradual decrease in the revenue significance of estate duty except in case of West Bengal. The revenue from estate duty shows a significantly lower growth rate compared with the growth rate of total revenue. Maharashtra shows the lowest significance of estate duty. The own direct tax revenue significance of estate duty shows fluctuations in case of Maharashtra but on the whole it shows a gradually declining trend. Similarly, the shared direct tax revenue significance of estate duty is gradually declining.

6.7 LEVEL OF ESTATE DUTY :

We have measured level of estate duty by two methods :

- A) Percentage ratio of revenue from estate duty to National income.
- B) Per capita burden of estate duty.

It is seen that the level of estate duty is gradually declining case of Tamilnadu, Karnataka and West Bengal but in case of Maharashtra and Gujarat the macro level of estate duty seems to be fluctuating upwards. Except in case of Gujarat, the growth rate of revenue from estate duty is smaller than respective growth rate of state income. On the whole, it is seen that the Macro level of estate duty is only 0.02% which means that out of the state income of Rs. 100 only 2 paise are collected as estate duty per year.

So far as per capita burden of estate duty is concerned (which can be called Micro level of Estate Duty) it is seen that it shows an increasing trend in case of All-states model, and the same trend is observed in case of Maharashtra. In case of Maharashtra, the per capita burden of estate duty was 7 paise in the year 1960-61 which became 104 paise in the year 1981-82 and then decreased ^{to} 33 paise in the year 1984-85. Compared with the year 1960-61, the interstate differences in the per capita burden of estate duty have widened in the year 1984-85.

6.8 DEVELOPMENTAL SIGNIFICANCE OF ESTATE DUTY :

We have measured developmental significance of estate duty in the following way ;

- A) Revenue from estate duty as % of developmental expenditure on revenue account.

- B) Revenue from estate duty as % of developmental expenditure on capital account.

It is seen that revenue account developmental significance of estate duty shows a decreasing trend. Similarly, the rate of growth of developmental expenditure on revenue account is far greater than the rate of growth of revenue from estate duty. It is interesting to note that the year 1967-68 shows the highest revenue account developmental significance of estate duty in respect of every state under consideration.

In case of capital account developmental significance of estate duty, it is seen that except in case of West Bengal there is gradual declining trend. Relatively speaking, West Bengal shows a higher level of capital account developmental significances of estate duty throughout the period. Compared with revenue account developmental significance of estate duty the capital account developmental significance of estate duty is higher and shows greater fluctuations.

6.9 OTHER ASPECTS OF ESTATE DUTY :

As per the provisions of the Indian constitution the net revenue from estate duty has been transferred to the State Governments on the recommendations of the Finance Commissions. Beginning from the 3rd plan to the 5th plan, the total amount of

estate duty transferred to the states shows a gradual increase. However, in case of Maharashtra and West Bengal the amount of revenue from estate duty transferred during the sixth plan period shows a large increase over the fifth plan transfer.

The average effective rate of estate duty shows a gradual increase as the slab of assessed estate value increases. However, even at the highest level of estate value slab, the average effective rate of estate duty has not been more than 0.6%. Similarly, the marginal effective rate of estate duty, which theory expects to be highly progressive, has in fact been regressive for certain slab increases. It is no surprise that the estate duty has not been a successful instrument of redistributive objective.

So far as inter State distribution of net proceeds from estate duty is concerned the generally accepted principles of distribution seem to be location of property in case of immovable property and population in case of movable property. However, before the discontinuation of estate duty, the Eighth Finance Commission recommended that the revenue from estate duty should be distributed only on the basis of the location.