

CHAPTER-I

INTRODUCTION TO THE ENTERTAINMENT TAX

1.1 Purpose of the Study :

Entertainment in some form has been an important need of the mankind since the beginning of civilization. With progress of civilization the economic significance of entertainment seems to have gradually increased. Similarly the demand for entertainment, one can say, has undergone both quantitative and qualitative changes. Entertainment can take different forms like stage plays, cinema shows, exhibitions, fairs, circus, music programmes, dance programmes, radio and T.V., games etc. Catering to this need of the human society has now assumed the status of a distinct profession or even an industry. Just like most other transactions, sale or exhibition of entertainment is subject to taxation by the government in most of the countries. In India entertainment tax has become an important and convenient source of revenue for the State Governments. However, it is rather surprising that not even a formal study of this tax has so far been seriously conducted.¹ The major purpose of this dissertation is to make a beginning in the studies of entertainment tax in India. The specific objectives are mentioned in the last part of this Chapter.

1.2 What is Entertainment ?

The term entertainment carries different shades of meaning. Linguistically, words like amusement, cheer, delight diversion, enjoyment, frolic, fun, merriment, pastime, pleasure recreation and sport are supposed to be synonyms for the word entertainment. According to William Geddle² entertainment is the act of entertaining, reception of and provision for guests, hospitality at table a performance or show intended to give pleasure. For our purpose entertainment which will be subject to taxation will be mainly sale of any type of act or service which will give audio-visual and psychological pleasure to the purchaser. The Bombay Entertainment Duty Act 1923³ defines entertainment for tax purposes as any exhibition, performance, amusement, game or sport to which persons are admitted for payment.

1.3 Forms of Entertainment :

As mentioned earlier entertainment can take various forms. However, entertainment of a taxable nature, that is commercial entertainment, is mainly of the form of cinema show, stage plays, and occasionally certain games and exhibitions including betting and gambling. At such places the entry is subject to the purchase of a ticket of admission which generally is the base of entertainment tax. In this study we are interested in the examination of entertainment duty which

is collected from the cinemas because almost 90% of the revenue⁴ from entertainment taxes is realised from the cinemas and as such entertainment tax on cinema can be considered as typical of different types of entertainment taxes.

1.4 A Brief History of Entertainment tax :

A tax on entertainment or amusement was introduced for the first time in 1922 in Bengal under the Bengal Amusement Act, 1922. In 1926 in Madras an act was passed which empowered the local authorities to levy this tax for local purposes. In Bombay Province this tax was introduced by Bombay Entertainment Duty Act 1923. But it was only after the beginning of provincial autonomy consequent upon the enactment of the Government of India Act 1935 that this tax gradually became a regular item of the provincial tax system. In Punjab it was introduced in 1936 by the Punjab Entertainment Duty Act and later on in 1937 similar acts were passed in U.P., N.W.F.P. and Bihar and subsequently in 1939 in Assam and Madras.⁵

1.5 Constitutional Provisions Regarding Entertainment Tax :

According to the Government of India Act 1919 which was the outcome of Montagu Chelmsford reforms, the entertainment tax was included in the list of schedule taxes. According to the Schedule Taxes' rules, taxes on succession, betting and gambling, advertisements, amusements and specified luxuries,

could be levied by the provinces without previous sanction of the Governor General.⁶ In the Government of India Act 1935 a further and more distinct separation of financial powers between the Central and Provincial Governments was effected. This⁷ act gave three lists enumerating items in the Union Legislative List, Provincial Legislative List and concurrent areas. Item 50 of the Provincial Legislative List comprises taxes on luxuries including taxes on entertainment, amusement, betting and gambling. The taxes included in Provincial List were to be levied, collected and appropriated by the respective provinces. As is well known, the constitution of the independent India which was adopted finally by the Constituent Assembly in 1950 incorporated the basic frame-work of federal division of powers and functions given by the Government of India Act 1935. Under article 246 of Indian Constitution lists 1, 2 and 3 of the 7th Schedule are covered. Entry⁸ 62 of the State List (List II) covers taxes on luxuries including taxes on entertainment, amusement, betting and gambling. At present entertainment tax is being levied in all the States and Union Territories of the country.

1.6 Administration of the Entertainment Tax⁹:

In Maharashtra the Entertainment Duty is being administered under the Bombay Entertainments Duty Act 1923 in its amended form. The Revenue and Forest Department of Maharashtra has made rules for the administration of Bombay Entertainment

Duty Act. As stated earlier, the act defines entertainment as any exhibition, performance, amusement, game or sport to which persons are admitted for payment. The act applies to the whole of Maharashtra. The tax is collected from the proprietor of the place of entertainment, which means any person responsible for the management of the place of entertainment. The entertainment duty includes the amount of surcharge levied under Section 3 AA. The provision for levy of surcharge was made by The Bombay Entertainment Duty (Amendment) Act, 1974 whereby in case of payment for admission being less than one rupee, the rate of surcharge will be 5% and in all other cases, the rate of surcharge will be 10%. The net proceeds of surcharge are transferred to the Health and Nutrition Fund created under The Bombay Motor Vehicle Act 1958. At present it has two rate schedules, the higher one applicable to Greater Bombay, Poona, Solapur and Nagpur and the lower one applicable to all other places in Maharashtra. It is generally collected by the Collector of the District concerned. Similarly the payment of the duty is made in the form of the purchase of stamps. A cinema film which has been awarded a President's Gold Medal or which fulfills an educational, cultural or social purpose of high order (this is determined by an advisory committee appointed by the State Government) is generally exempted from the payment of entertainment tax. Similarly certain exemptions, regarding the payment of entertainment duty are made available to the employees of the defence forces when in uniform. The act

prohibits levy of entertainment duty by the local authorities excepting a tax at a flat rate per cinema-show or any other form of entertainment. The general pattern of the administration of this tax is more or less the same in other States covered in this study.

1.7 The Objectives of the Study :

The objectives of this study are mainly formal in nature. In certain respects the data regarding entertainment tax in Maharashtra and in some other States will be compared from an analytical point of view. The specific objectives of this study are given below :

(1) TO PRESENT AN ANALYTICAL VIEW ABOUT THE ECONOMICS OF ENTERTAINMENT TAX : Under this, an attempt is made to explain the base of the tax, the scope of the tax as well as the nature of the tax in so far as the burden, impact and formal incidence of tax are concerned. The Chapter No. II covers all these aspects.

(2) TO STUDY THE DATA REGARDING ENTERTAINMENT TAX for Maharashtra, Gujarat, Karnatak, Tamilnadu and West Bengal in the light of comparison with the All-States data for the period 1961 to 1981. Following aspects of the tax will be examined comparatively :

- i) Growth of revenue from entertainment tax.
- ii) Revenue significance of entertainment tax.

- iii) Level of entertainment tax.
- iv) Buoyancy and income elasticity of entertainment tax.
- v) Rate structure of entertainment tax.
- vi) Cost of collection of entertainment tax.
- vii) Per capita burden of entertainment tax.
- viii) Developmental significance of entertainment tax.

This is the subject matter of Chapter No. III.

(3) TO ASSESS THE VIEWS OF CINEGOERS, CINEMA OWNERS, FILM DISTRIBUTORS REGARDING THE EFFECTS OF ENTERTAINMENT TAX on their behaviour. This is done on the basis of a sample survey selected in a purposive manner. This part is included in the dissertation as an Appendix to Chapter No. III.

(4) To make certain recommendations on the basis of the conclusions derived from the theoretical and empirical study regarding the entertainment tax.

1.8 The Method of Study :

The major part of this study relies on the analytical examination of the data available from the secondary sources like the budget issues of RBI Bulletin, Combined Finance and Revenue Accounts, Budget Documents of Governments concerned and other Government publications. However, the theoretical analysis of entertainment tax will be mainly deductive relying heavily on the theoretical analysis of indirect taxes in its

commonly accepted form in most of the text books on Public Finance. However, an exploratory survey is conducted to make a pragmatic assessment of the views of the parties directly concerned with entertainment tax, namely cinegoers, cinema owners and film distributors. This is basically a random sample survey where the elements of the population are selected in a purposive manner. The survey is restricted mainly to Sangli and Kolhapur cities but in the case of distributors most of the elements belong to Bombay, Poona, Kolhapur and Sangli.

R E F E R E N C E S

1. Apart from incidental studies made by different Taxation Enquiry Committees listed below :

- A) "Report of the Indian Taxation Enquiry Committee" 1924-25, Volume I, The Government of India, Central Publications, Branch Calcutta, 1926.
- B) Report of the Film Enquiry Committee, 1951, Government of India Press, New Delhi, 1961.
- C) Report of the Indian Cinematograph Committee, 1927-28, Madras, The Government of India, Central Publications Branch, Calcutta, 1928.
- D) Report of the Working Group on National Film Policy, Government of India, Ministry of Information and Broadcasting, May, 1980.

it seems that this tax has not been properly studied in the academic field. However, it must be mentioned that a beginning in that direction has been made by Dr. J.F.Fatil in his doctoral dissertation - "Level and Composition of Taxation in Maharashtra in the context of Planned Economic Development, 1961 to 1976", submitted to the Shivaji University, Kolhapur, 1979.

2. William Geddie, "Chamber's Twentieth Century Dictionary", New Mid-Centuary Version, Page No. 354.

3. Government of Maharashtra, Bombay Act No. 1 of 1923, The Bombay Entertainment Duty Act, 1923, Law and Judiciary Department, published by the Director, Government Printing and Stationary, Maharashtra State, Bombay-4, 1977, page No. 1438.
4. Report of the Taxation Enquiry Commission, 1954, Government of India, Page No. 112.
5. We haven't mentioned enactments of Entertainment Duty Act for Gujarat and Karnatak because major areas of these States belong to the princely States before 1947 and some areas from these States were parts of the Bombay Province where naturally the provisions of The Bombay Entertainment Duty Act 1923 were in force.
6. A.C. Kapoor, "Constitutional History of India", S. Chand and Company, New Delhi, Second Edition, 1976, Page No. 220.
7. D.D. Basu, "Government of India Acts", Sarkar and Sons Private Limited, 1-C, College Square, Calcutta-12, Second Edition, 1974, page No. 366.
8. Government of India, The Constitution of India (as modified upto the 1st June, 1977), Ministry of Law, Justice and Company Affairs, Page No. 270-71
9. Government of Maharashtra, Law and Judiciary Department, The Bombay Entertainment Duty Act, 1923, op.cit.