CHAPTER - I

INTRODUCTION AND METHODOLOGY

CHAPTER I

INTRODUCTION

The importance of Income Tax has increased considerably in the present days because it has become a major source of revenue to the Government to tbe utilised for the social and economic development of the country. It is one of the effective instruments of reducing unequal distribution of wealth between the rich and the poor. It is also one of the means to solve the acute problem the above objectives can be achieved by introducing a progressive system of Taxation. Income Tax is a direct tax and has an immense impact on the tax payers creating hardships on them. Such hardships have to be reduced by rationalising the tax structure, on the whole this type of taxation is inevitable to our country.

1.1 Brief Background of the Subject :

The Income Tax Act, 1961, is a piece of legislation which occupies a significant place in the direct tax structure of the country. The Act has been substantially codified and amended in the year 1961 and became operative with effect from 1.1.1962. It is split up in around 298 sections and the entire legal literature concerns to the bare provisions of the Income Tax Act, 1961, supported by the Income Tax Rules, 1962, as well as various notifications, rules and schedules attached to the main legislation, i.e. the Income Tax Act, 1961.

The Act attempts to levy tax on income. The term 'income' is defined under Section of the Income Tax Act. The 'income' is divided under various categories which are known as taxable entities under the Act. Thus, the tax is levied on a person who is classified into various categories, i.e. an individual, a Hindu undivided family, a firm and a company, a local authority and an artifical juridical association. The term 'income' is also defined exclusively and it includes various receipts concerned with income from profits and gains, dividends, capital gains, certain types perquisites and profits in lieu of salary. Section 2 of the Act, which is known as 'the charging section' levies tax on income and it precisely states that the tax shall be income of a person received by him during the previous year at the rates in force in the assessment year. The term 'assessment year' which means a period of 12 months commencing from 1st day of April every year, is also defined under the law and the income of the previous year is subjected to the tax on income. Recently, the definition of the term 'previous year' has been substantially restructured and a harmonious period ending on 31st March each year becomes the period of previous year for the purpose of levying of tax on the income pertaining to such previous year.

Section 14 of the Income Tax Act, 1961, divides the aggregate income into various categories, which are separately discussed under the scheme of taxation, i.e. the income is divided into the following 5 categories :

1. Income from salaries,
2. Income from house property
3. Income from business and profession,
4. Income from capital gains and
5. Income from other sources.

The heading 'income from securities' has been merged with the 'income from other sources' vide an amending provision of the statute.

The tax on income under each heading as specified above is levided on an assessee. The various sections under each heading have been precisely defined, the scope of each head of income, deductions and the various limiting factors on the basis of each of such deductions as are available to the assessee are precisely discussed under the Statute. Therefore, the aggregate income of an assessee under each head of income has to be separately computed and ultimately the total income of the assessee has to be worked out taking into account the net income falling under each head as computed in the manner laid down under the law. Thus, the total income forms part of the subject matter for the purpose of imposition of tax under law. The Act takes into account one more aspect also, that is, from the total income, various deductions an account of the incentives have been provided & the scheme of incentives is primarily incorporated under law with a view to provide specific relief or a concession or a benefit in order to attain certain socio-economic objectives. For example,the nature of the incentives discussed under the following paragraphs take into account the factors such as savings, investments, capital formation, relief to the poor, etc. This nature of incentives assumes a character of a specific benefit awarded under each provision to attain these objectives.

DEFINATION

The word 'Income' in the context of Income-tax Act 1961, is an expression of art, but even the Act does not make any attempt to define it exhaustively. There is, of course, a definition given in clause (24) of section 2 of the Act, but it is by no means a comprehensive definition. It merely enumerates certain items some of which can not ordinarily be considered as income but are statuorily treated as such

" INCOME " (Sec.2(24)) -

The definition of the term "income" in section 2(24) is inclusive & not exclusive. Therefore, the term "income" not only includes those things which are included in section 2(24) but also includes such thing which the term signifies according to its general & natural meaning. As per definition in section 2(24), the term "income" includes -

a) Profit & gains,

b) dividend,

c) Voluntary contributions received by a trust created wholly or partly for chariatable or religious purposes or by an institution established wholly or partly for such purposes or by an institution/fund refferred to in section 10(21)/(23)/(23C) (iv)/(v);

d) the value of any perquisite or profit in lieu of salary;

e) any special allowance or benefit specifically granted to the assessee to meet his expenses wholly, necessarily and exclusively for the performance of his duties;

f) any allowance granted to the assessee either to meet his personal expenses at the place where he perfors his duties or compensate him for the increased cost of living;

g) the value of any benefit or perquisite obtained from a company by a director or a person who has substantial interest in the company or by relative of a director or such person;

h) the value of any benefit or perquisite (whether convertible in to money or not) obtained by any representive assessee (Sec. 160(1) (iii), (iv)) or beneficiary, or any amount paid by the representative assessee for the benefit of the beneficiary (which the beneficiary would have ordinarily been required to pay.),

i) any sum chargeable under section ~~u/s~~. 28 (ii), (iii) 41 or 59;

j) the value of any benefit or perquisite, whether convertible into money or not, arising from business or the exercise of profession;

k) any capital gains;

l) insurance profit computed u/s.44;

m) any annuity u/s. 280 II;

n) winnings from lotteries, crossword puzzles, races including horse races, card games or other games of any sort;

o) any sum received by the assessee from his employees as contribution to any fund for the welfare of employees.

1.2 TAX INCENTIVES

Chapter VI A of the Income Tax Act 1961 was introduced by the Finance Act 1965 and the legislature for the first time provided for straight deductions instead of rebates and concesional rates which involved complicated and confusing calculations since 1965. The Amendments have been made in the year 1966 retrospectively from 1-4-1966 again in 1967 and by direct tax laws (Amendment) Act 1987 the Finance Act 1988. The Direct Tax Laws (Amendment) Bill 1988 with effect from 1-4-1989. The chapter regarding these incentives is headed as "deductions to be made in computing total income and is further sub-headed as :

A) General Provisions

B) Deduction in respect of certain payments

C) Deduction in respect of certain incomes

D) Other deductions

The overall limitation pointed is that the aggregate amount of deductions under this chapter shall not exceed the gross total income of the assessee.

A summary of these deductions is provided as under

TABLE 1.1

Sr. No.	Section	When inserted / Omitted / Submitted
1.	80 AA	Inserted by the Finance (No. 2) Act 1980. with retrospective effect from 1-4-1968.
2.	80 AB	Inserted by the Finance (No. 2)Act 1980 with effect from 1-4-1981.
3.	80 CC	Inserted by the Finance Act 1978 with effect from 1-4-1978.
4.	80 CCA	Inserted by the Finance Act 1987 with effect from 1988.
5.	80 D	Inserted by the Income Tax (Amendment) Act 1986 w.e.f. 1-4-87 original sec §80D as substituted by the Finance (No. 2) Act 1967 was omitted by the Finance Act 1984 w.e.f. 1-4-1985.
6.	80 F	Omitted by the Finance Act 1985 with effect from 1-4-1986. Original Section was inserted by the Finance (No. 2) Act 1967 w.e.f. 1-4-1968 in place of Section 87A.

Sr. No.	Section	When inserted / Omitted / Submitted
7.	80 FF	Omitted by the Finance (No. 2) Act 1980 w.e.f. 1-4-81 original Section was inserted by the Finance Act 1975 w.e.f. 1-4-76.
8.	80 GG	Inserted by the Taxation Laws (Amends) Act 1975 w.e.f. 1-4-1976.
9.	80 GGA	Inserted by the Finance Act 1979 w.e.f. 1-4-1980.
10.	80 H	Omitted by the Taxation Laws (Amends.) Act 1975 w.e.f. 1-4-1976 originally it was inserted by the Finance (No. 2) Act 1967 w.e.f. 1968.
11.	80 HH	Inserted by the Direct Taxes (Amends.) Act 1974 w.e.f. 1-4-1974.
12.	80 HHA	Inserted by the Finance (No. 2) Act 1977 w.e.f. 1978.
13.	80 HHB	Inserted by the Finance Act 1982 w.e.f. 1983.
14.	80 HHC	Substituted by the Finance Act 1985 w.e.f. 1-4-1986 original Section was inserted by the Finance Act 1983 w.e.f. 1983.

Sr. No.	Section	When inserted / Omitted / Submitted
15.	80 I	Inserted by the Finance (No. 2) Act 1980 w.e.f. 1-4-1981 original section inserted by the Finance (No. 2) Act 1967 w.e.f.68 was omitted by the Finance Act 1972 w.e.f. 1973.
16.	80 JJ	Omitted by the Finance Act 1985 w.e.f. 1986 Originally it was inserted by the Finance Act 1975 w.e.f. 1976.
17.	80 JJA	Omitted by the Finance Act 1983 w.e.f. 1984 Originally it was inserted by the Finance Act 1979 w.e.f. 1980.
18.	80 K	Omitted by the Finance Act 1986 w.e.f. 1-4-87 Originally it was inserted by the Finance (No. 2) Act 1967 w.e,f. 1-4-1968.
19.	80 L	Substituted by the Finance Act 1970 w.e.f. 1-4-1971 originally it was inserted by the Finance (No. 2) Act 1967 w.e.f. 1-4-68 substituted by the Finance Act 1968 w.e.f. 1969.
20.	80 M	Substituted by the Finance Act 1986 w.e.f. 1987 has undergone several amendments.
21.	80 MM	Omitted by the Finance Act 1983 w.e.f. 1-4-1984. Original Section was inserted by the Finance Act 1969 w.e.f. 1-4-1970.

Sr. No.	Section	When inserted / Omitted / Submitted
22.	80 N	Omitted by the Finance Act 1985 w.e.f. 86 Originally inserted by the Finance (No. 2) Act 1967 w.e.f. 1-4-1968.
23.	80.0	Substituted by the Finance (No. 2) Act 1971 w.e.f. 1-4-72 and originally inserted by the Finance (No. 2) Act 1967 w.e.f. 1-4-1968.
24.	80 Q	Omitted by the Finance Act 1972 w.e.f. 1-4-1973 and originally inserted by the Finance (No. 2) Act 1967 w.e.f. 1968.
25.	80 QQ	Inserted by the Taxation Laws (Amends) Act 1970 w.e.f. 1-4-1971.
26.	80 QQA	Inserted by the Finance Act 1979 w.e.f. 1-4-1970.
27.	80 RR	Inserted by the Finance Act 1969 w.e.f. 1-4-1970.
28.	80 RRA	Substituted by the Finance (No. 2) Act 1977 w.e.f. 1-4-1978 and was inserted by the Finance Act 1975 w.e.f. 1-4-75.
29.	80 S	Omitted by the Finance Act 1986 w.e.f. 1-4-1987 and was inserted by the Finance (No. 2) Act 1967. w.e.f. 1-4-1968

Sr. No.	Section	When inserted / Omitted / Submitted
30.	80 T	Inserted by the Finance (No. 2) Act 1967 w.e.f. 1-4-1968 and omitted by the Finance Act 1987 w.e.f. 1988.
31.	80 TT	Omitted by the Finance Act 1986 w.e.f. 1-4-87 and was inserted by the Finance Act 1972 w.e.f. 1972.
32.	80 U	Inserted by the Finance Act 1968 w.e.f. 1-4-1969.
33.	80 V	Omitted by the Finance Act 1985 w.e.f. 1-4-1986 and was inserted by the Taxation Laws (Amendment) Act 1975, w.e.f. 1-4-76.
34.	80 VV	Omitted by the Finance Act, 1985 w.e.f. 1-4-1986 and was inserted by the Taxation Laws (Amendment) Act 1975 w.e.f. 1976.

(The above summary of deductions is reproduced from page 1803 of Law of Income Tax by Acharya Shuklendra 1990 Edition).

A	-	General	80A, 80AA, 80AB, 80B
B	-	Deductions in payment	80C, 80CC, 80CCA, 80D, 80E, 80G, 80GG, 80 GGA.
C	-	Deduction in respect	80 HH, 80 HHA, 80 HHB, 80 HHC, 80 HHD, 80 I. 80J, 80L, 80M, 80 0, 80 P, 80 QQ (Omit) 80 QQA, 80R, 80RR, 80 RRA,
D	-	Other Deduction.	80 U

1.3 Objectives of the Study :

The fiscal incentives are provided with a view to confer certain concessions as regards levy of tax. These incentives are supposed to attain particular objectives. There are various incentives under the scheme of taxation under Chapter VI.A of the Income Tax Act. Each provision under the Act is intended to provide certain benefits to the assessee while discharging his tax liability. The study is intended to analyse in detail the various statutory provisions under the Income Tax Act, 1961, and also to throw light on the various main provisions and the legislative history thereof.

1.4 Methodology and Limitations :

Since the study is confined to the statutory provisions of the Income Tax Act, 1961, particularly relating to the specific provisions under Chapter VI.A of the Act, the entire statutory provisions affect in these incentives which are known as 'the deductions to be made in computing total income, the methodology used for the study is exclusively confined to the study of the statutory provisions only. No effort is made in discussing the other provisions of the Income Tax Act, except the provisions affecting directly with the incentives. Since the subject concerned has its own limitations in obtaining data or personal information on account of the secrecy prevailing in the income tax matters, an exclusive reliance is placed on the statutory provisions in the form of library research & references. Necessary information has also been extracted from a variety of literature on the topic.