

C H A P T E R I V

CONCLUSIONS AND SUGGESTIONS

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CHAPTER - IV

CONCLUSIONS AND SUGGESTIONS

4.1 INTRODUCTION

In the earlier Chapter, discussion has been made on the statutory provisions relating to the exemptions in the Wealth-tax Act, 1957. The three direct taxes, namely, the Income-tax Act, 1961; the Wealth-tax Act, 1957 and the Gift-tax Act, 1958, include several provisions which are aimed at encouraging the activities relating to the charitable purposes. The primary intention behind the encouragement of these activities concerns with the conferrment of certain benefits on the public at large. Therefore, the very definition of the term 'charitable purpose' exhaustively includes certain activities, which are intended to serve the community at large. This definition aims at providing certain advancement in the fields of education, relief to the poor, medical relief, etc. In a country like India, which has undergone foreign alienation, acute necessity for public charities requires certain extra consideration, which is being achieved through the mechanism of fiscal operations which have been incorporated in the direct tax laws.

4.2 CONCLUSIONS AND SUGGESTIONS

Having discussed the statutory provisions, the conclusions which emerge therefrom are summarized as under:

1. The recent tendencies reveal that in granting exemptions, there has been an ad hoc or arbitrary approach on behalf

of the framers of the law, so far as the charitable institutions are concerned. Attention is invited to the observations made by Mr.N.A.Palkhivala in his speech while addressing the ASSOCHAM Seminar on Fiscal Policy for Growth held at New Delhi on 13.4.1990:

May I draw the Hon'ble Finance Minister's pointed attention to section 10(23C) of the Income-tax Act which grants exemption from tax in respect of the income of any charitable fund or institution "which may be notified by the Central Government in the Official Gazette, having regard to the objects of the fund or institution and its importance throughout India or throughout any State or States". Hence, exemption under this section is not automatic but entirely dependent upon approval of the Central Government.

A number of institutions which have been enjoying exemption in the past years under section 10(23C)(iv) are suddenly hit by the proviso which was inserted by the Direct Tax Laws (Amendment) Act, 1989, which virtually requires the charity fund or institution to disinvest before 31st March 1990.

Some of the finest and best administered charities in India - including the Bharatiya Vidya Bhava to whom a number of rich people gift or bequeath shares - are adversely affected by the aforesaid provision inserted in 1989. If shares are held or deposits made for any ulterior purpose, the government can undoubtedly deny approval under section 10(23C)(iv) and has rightly exercised this power in the past years. But why have a blanket denial of the right to hold investments honestly and legitimately in the interest of charity? What was the point of changing the

law last year when the pre-existing law was incapable of being abused, since the final word rests with the government which has the right to approve or not to approve a charity for the purpose of section 10(23C) (iv)? May I request you, Sir, to delete the provision inserted last year?¹

This observation points out that there is a need for a still better outlook while granting the exemptions.

2. The exemptions contained under section 5 of the Wealth-tax Act taken into account various objectives which are of social and economic nature. There is a need to analyse and examine the impact of these exemptions on the overall tax collections from the Wealth-tax Act. As is evident from the following statistics, the contribution of the wealth tax collections to the national exchequer is very meagre:

(Rs.in crores)			
<u>Year</u>	<u>Total Direct Tax Revenue</u>	<u>Wealth-tax Contribution</u>	<u>Percentage</u>
1983-84	4,513.14	93.31	2.06
1984-85	4,632.64	107.58	2.32
1985-86	5,562.00	153.00	2.75
1986-87(RE)	6,243.00	125.00	2.00
1987-88(BE)	6,438.00	120.00	1.86

RE: Revised Estimate, BE: Budget Estimate.

Source: Explanatory Memoranda to the Union Budgets for respective years

The exemptions under the Wealth-tax Act tend to further erode the tax collections. Therefore, while granting exemptions, there is a need to set out clearly the objectives because any mixture of various objectives

ultimately leads to a confusion, e.g. resource mobilization or benefits for enhancement of foreign exchange reserves would not be adequately achieved through the wealth-tax provisions unless the rate of return offered for investment in the areas defined under section % are simultaneously made adequate. Therefore, there is a need to examine the rate of return on these investments, without which the resource mobilization would not be sufficient.

3. Various schemes introduced under the Wealth-tax Act eligible for exemption under section 5 ultimately lead to confusion. Instead, a single source for investment exclusively operating within the provisions of the Wealth-tax Act would yield better results and it would be also possible to examine separately the impact of these provisions on resource mobilization.
4. Various conditions in respect of each exemption provide discretionary use of powers and it is necessary to minimize these discretions, as to make the provision for exemption more meaningful.
5. There are frequent changes as regards exemptions which affect the stability of the tax laws. As such, there is a need for a certain stability as regards these exemptions.
6. The monetary ceilings as regards these exemptions have to be reviewed every five years as the ceilings themselves become ineffective in the context of mounting inflationary pressures.

7. Some of the provisions of section 5 create artificial barriers between various types of taxable entities as these exemptions have been conferred upon each different type of entities. There is a need to have definite approach as regards these exemptions.

REFERENCES

1. Proceedings of 'Seminar on Fiscal Policy for Growth'
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