

The obscure we see eventually, the
completely apparent takes longer!

When all is said and done, there
is more said than done!

- *John Peers, CEO, LOMAC Inc.*

CHAPTER FOUR

CONCLUSIONS AND SUGGESTIONS

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4.1 INTRODUCTION:

The preceding Chapters, firstly, explain the theoretical aspects of taxation and the necessity of expeditious and effective collection/recovery of tax revenue; secondly, record the statutory provisions under the Income-tax Act, 1961, for the collection and recovery of tax revenue; and lastly, analyse, evaluate and critically appraise these provisions. In the present Chapter, an attempt is made to draw appropriate conclusions at the end of this endeavour in analysis and offer such meaningful suggestions as may be appropriate.

4.2 CONCLUSIONS:

Tax collection and recovery procedures under the Income-tax Act have been modelled on the British system of taxation. But in an effort to indigenize the basically simple procedure, the Indian experiment has both gone wayward and retarded its momentum in the quagmire of officialdom (consider the number of forms a taxpayer has to fill in) and judicial hair-splitting (consider the nature of the cases fought right upto the Supreme Court over mundane issues). The honest taxpayer has thus become wary of the tax-gatherer.

The following comparison made by N.A.Palkhivala brings this out emphatically,

"In Great Britain, there are 29 million income-tax payers and the number of references filed in the High Court is around 30 every year. In India, we have had only between 5 to 7 million income-tax payers in the recent past, but 6500 references are filed in the High Courts plus 1500 writ petitions. It is not as if the Indian public is more litigious than the British. It is only because of the enormous public dissatisfaction with the quality of our income-tax administration".¹

To continue Palkhivala's another observation (in 1.2 ante), where he has pointed out that 96 per cent tax collections are through voluntary compliance,

"It is only the balance of 4 per cent tax for which litigation goes on and on in our country - for 20 years when the matter is decided by the High Court, and 30 years, if it is taken to the Supreme Court".²

The observation made by an International Law Conference on Fiscal Policies at Singapore is even more grave,

"...speedy and final settlement or disposal of disputes itself deserved to rank as a tax incentive. India was ... the worst example of what happens

to a country where such an incentive is wholly non-existent".³

N.A.Palkhivala is also furious at the wanton wastage of talent, energy and time that goes on in tax administration, "...we stubbornly refuse to learn that the acid test to be applied to every fiscal amendment ... is - how far will it bend the talent, energy and time of our people to productive ends and how far will it dissipate them in coping with legal inanities and quarter-baked changes? ... Income-tax rules (are changed) 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 paper, afford the luxury of throwing away millions of pages of printed forms which are consigned to the scrap heap so nonchalantly?".⁴

P.M.Narielvala, another expert on direct taxation, while imploring for liberalization, simplification and equity in India's tax administration, finally, could not resist quoting John M.Keynes, an English economist,

"It is amazing that practical men, including politicians, who aggressively assert their mental independence are still content to be ruled by the beliefs of defunct economists".⁵

The above comments are just a sample of the overall public dissatisfaction with the present state of affairs in the country's tax administration. Collection and recovery of tax revenues is as much important as formulating a buoyant and progressive tax policy. World fiscal organizations like The World Bank, International Monetary Fund, Asian Development Bank, etc.; internationally reputed public finance authorities like Prof. Nicholas Kaldor; and various Commissions and Committees appointed by the Government itself, all have repeatedly urged for imparting dynamism to the country's direct tax code. So far, the peace-meal, short-sighted and dithering attempts at framing and reframing the tax policy has imparted a patchwork-quilt look to the tax administration. Especially, the law and procedure relating to the collection and recovery of taxes presents both hazy and kaleidoscopic picture. Some provisions are just blanket provisions (sections 190 and 191); some have started on sketchy assumptions (section 194C), some are no more valid (section 206B), some border on unconstitutionality (sections 44AC and 206C) and some are overbearing (those about collection through Tax Recovery Officers). This is about the substantive provisions. Some of the machinery provisions could rightly be part of the Income-tax Rules and conversely, some Rules ought to come in as machinery provisions of the statute proper. The collective effect of the pot-pourri is to jeopardize the basic taxing principles of 'Certainty' and 'Convenience' so diligently propounded by Adam Smith. The researcher has come to the

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conclusion that the outcomes of this heady mixture are: generation of unaccounted incomes, growing tax delinquency, heightened litigiousness among taxpayers, and above everything, diminishing tax revenue realizations.

But all is not lost yet. Having become aware of the discontent, the Government of India has recently appointed a Committee headed by Dr.Raja J.Cheliah, an eminent economist and public finance expert. The terms of reference of the Committee include the widening of the tax base, simplification of procedure as also induction of equity in the tax laws. In this behalf, the statement given out by Mr.A.K.Ghosh, Chairman of the Central Board of Direct Taxes (CBDT), bears a heartening note:

"The Government will soon initiate measures to restructure direct ... taxes with a view to rationalize the system and simplify the procedure. As a first step in this direction, income-tax, wealth-tax and gift-tax (would be merged) into a single direct taxes code".⁶

4.3 SUGGESTIONS:

Even within the existing framework, there are three areas vitally affecting the tax collections. More precisely, these are: (1) provisions relating to advance-tax, (2) provisions relating to deduction of tax at-source, and (3) provisions relating to tax collections on regular assessments. The procedure under these provisions are already contained in the Income-tax

Act and the Income-tax Rules. Therefore, the existing provisions are adequate enough to mobilize the taxes out of voluntary compliances. Now, in order to ensure better compliance and effective enforcement, other measures are also needed, including improved tax system design and more trained officials, particularly those able to audit company and personal accounts and computer procedures. A greater capacity to gather and process data would enable administrators to identify assessment and collection problems more easily.

The revenue yield of tax system cannot readily be increased unless ways are found to improve collection. Some of the ways that could help in this behalf are as follows:

- (1) **Tax Amnesties** : It serves no purpose to have a tax assessed but not paid. Partial tax amnesties and rescheduling of tax payments may make it easier to collect delinquent taxes. Care, however, should be taken not to use these frequently as it would undermine voluntary compliance.
- (2) **Withholding** : A system to withhold money from current income is one of the most efficient techniques for preventing delinquency and evasion. Withholding can be easily applied to wage income as also to interest and dividend incomes. An effective withholding requires a relatively small number of easily identifiable payers of income.
- (3) **Information Exchange** : The exchange of information between the revenue departments is highly advisable

because gross sales figures are important in determining income-tax liabilities, and valuation of sales for income-tax purposes makes it easier to implement ad valorem excises and duties.

- (4) **Self-enforcement and Cross-checking** : The availability of personal and minicomputers makes the use of self-enforcing taxes, based on matching information from different sources, more feasible now than it was a decade ago. It is possible for the information furnished by one taxpayer to reveal the receipts and gains of the other taxpayers.
- (5) **Computerization** : Automated data processing can improve the administration of taxes. Despite technical problems, automation may eventually offer the most effective way to deal with expanded workloads. Experience suggests that computerization can increase the efficiency of well-run operations, but it can exacerbate problems if superimposed on badly organized administrations.

Better collection and recovery procedures can vastly improve the implementation of the country's tax policy. With fiscal deficits high and access to new borrowings limited in a developing country like India, following suggestions tendered by The World Bank⁷ may prove to be of immense help:

- † **Simplify the design** of tax instruments, with fewer taxes and fewer adjustments to the base;

- † Strengthen tax administration to improve collection and facilitate the shift in the tax structure from reliance on higher tax rates to reliance on broader tax base;
- † Avoid taxing the poor.

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