

CHAPTER - 1

INTRODUCTION

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1.1 HISTORY OF THE INCOME-TAX ACT, 1961:

The financial difficulties encountered by the then Government of India following the Sepoy Mutiny of 1857 brought the law of taxation on income to India. After few experiments, in the year 1886, the income-tax law became a permanent resident of this country. During the First World War period, the Government ran into even bigger financial difficulties that made it to replace the Income-tax Act of 1886 with a more rigorous 53-section Act of 1918. Side by side, the Government had also imposed the Super-tax Act of 1917 (which was replaced by the Super-tax Act of 1920).

The two Acts, levying income-tax and super-tax, were replaced by a consolidated Act, the Indian Income-tax Act, 1922.

With the advent of the political independence in 1947, the Government felt the ever-increasing need for money for implementing its development programmes. It was also felt that too many amendments and changes had made the 1922 Act an oddly compact piece of legislation which needed replacement. The matter was referred to the Law Commission in 1956 and after about two years, the Law Commission

submitted its 12th Report, incorporating the Bill of a new income-tax Act. The Direct Taxes Administration Enquiry Committee also considered the matter and submitted its independent report to the Government. Ultimately, the Income-tax Bill, 1961, successfully came out of the legislative anvil and **the Income-tax Act, 1961**, received the assent of the President of India on 13th September to come into force from April 1, 1962, replacing the 1922 Act.¹

1.2 DEFINITION OF INCOME:

The Indian Income-tax Act, 1922, and the related Acts, deal with the taxation of income without exhaustively defining "income" or "capital". For some period, the income-tax law taxed 'capital gains' also as a species of income. In the Income-tax Act of 1961 also, the word "income" is given an inclusive definition. This definition, being not exhaustive, is incapable of supplying proper criteria for judging whether a particular item of receipt falls within its ambit. But the judicial decisions show that the word "income" is of a very elastic ambit. Anything which comes in from an outside source is treated as "income".²

An authoritative pronouncement of quite an early date is of the Privy Council, where Sir George Lowndes defined "income" as under,

*Income connotes a periodical monetary return coming in with some sort of regularity or expected regularity from definite sources. The source is not necessarily one which is expected to be continuously productive, but it must be one whose object is the production of a definite return, excluding anything in the nature of a windfall. ... It is essentially the produce of something which is often loosely spoken of as "capital".*³

This definition was further enhanced by the Privy Council in 1943, when Lord Wright observed,

*... Income is not necessarily recurrent return from a definite source, though it is generally of that character. Income again may consist of a series of separate receipts, as it generally does in the case of professional earnings.*⁴

The Supreme Court of India elaborated on the concept of "income" for the purpose of the Income-tax Act, in the following words,

*The word 'income' has not been defined in the Income-tax Act. In the definition which is enacted, certain receipts are said to be included in the concept of income; but it does not say what "income" itself means. In business, it was also pointed out that income was the produce of something "loosely spoken of as capital". ... The Income-tax Act does not restrict the meaning of the word "income" by implication, and that the whole expression is "income" writ large.*⁵

The above definition of 'income' has now been, more or less, accepted for the purpose of the Income-tax Act, 1961.

Section 2(24) of the Income-tax Act, 1961, prima-facie identifies atleast seventeen different types of incomes that fall within the purview of the Act and hence, liable to taxation.

1.3 STATEMENT OF THE PROBLEM:

The Income-tax Act, 1961, classifies all incomes under various heads in an attempt to deal separately with the incomes arising from different sources. Nevertheless, it has been found again and again that definition of 'income' under the Act is full of conceptual confusion and has been, many a time, root cause of controversy and litigation. In addition, Section 2(24), which defines the term 'income' for the purpose of the Income-tax Act, 1961, undergoes periodic changes depending on the exigencies of the exchequer. A singular interpretation of all the legislative endeavour only means that the basic concept of 'income' remains as yet undefined. The present research, therefore, aims at critically examining the conceptual basis of 'income' vis-a-vis the Income-tax Act, 1961. The statement of the problem, therefore, could be accurately expressed as: "The Significance of Income under the Income-tax Act, 1961 - A Critical Study".

1.4 SCOPE OF THE STUDY:

An attempt is being made in the present study to examine the provisions relating to the "income", especially in Sections 2(24), 4, 5, 14, 60, 61, 62, 63, 64 and 65 of the Income-tax Act, 1961. Consequently, the emphasis is on the practical aspects, though theoretical discussions have also been offered in this design. Overall, the emphasis is on illustrating and, if possible, modifying the concept of "income" within the statutory framework.

1.5 OBJECTIVES OF THE STUDY:

Accordingly, the following have been framed as the broad objectives of the study:

1. To critically examine the conceptual basis of the "income" for the purpose of the Income-tax Act, 1961;
2. To arrive at definitive conclusions and offer meaningful suggestions.

1.6 METHODOLOGY ADOPTED FOR THE STUDY:

The present study relies exclusively on the **secondary data**, that is, published sources, particularly on the analysis of the statutory provisions governing the "income". The study has also drawn extensively from the interpretation and analyses offered by tax experts, legal luminaries and also from the case-law as delivered by the

High Courts and the Supreme Court of India.

1.7 SIGNIFICANCE OF THE STUDY:

The whole purpose of the tax on income is to generate revenue for the State. Hence, if the basic concept of income, for practical and juridical purposes, is hazy, mystifying and shrouded in legalistic jargon, and if the taxpayer is not aware as to what precisely constitutes an income for the purpose of the tax, the already fine dividing line between tax avoidance and tax evasion becomes all the more blurred. As a result, the conceptual confusion over such a basic issue gives rise to innumerable litigations because of opposing interpretations. The present study focusses on the critical examination of the "income" from both practical and legal viewpoints, so as to give the term a broader and conceptually-clearer understanding.

1.8 LIMITATIONS OF THE STUDY:

The topic of income has been exhaustively covered under the Statute and it is practically difficult to examine each of these provisions within the scope of this Dissertation. The case law, only is as absolutely relevant for the purpose of the present study has been discussed since it would be beyond the scope of this Dissertation to deal exhaustively with the entire case law as pronounced by the Supreme Court.

1.9 CHAPTER SCHEME:

The Dissertation consists of four Chapters. **Chapter-I** presents the legislative history of the Income-tax Act, 1961, and also deals with the framework aspects such as statement of problem, objectives, methodology, scope and significance and limitations of the study. **Chapter-II** records Sections 2(24), 4, 5, 14, 60, 61, 62, 63, 64 and 65 verbatim being the Sections of the Income-tax Act, 1961, that deal exclusively with various types of income together with their respective legislative histories. **Chapter-III** concentrates on the analytical interpretation and evaluation of the Sections taken up for study. **Chapter-IV** presents the conclusions arrived at at the end of the study and offers certain suggestions. A comprehensive **Bibliography** concludes the Dissertation.

REFERENCES

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3. CIT vs. Shaw Wallace & Co., AIR 1932 PC 133.
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5. Karanpura Development Co. Ltd. v. CIT (1962) 44 ITR 362, 368.