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CHAPTER FIVE

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5.1 Introduction:

The preceding Chapters firstly explained the theoretical aspects of taxation, significance and methodology adopted for the present study; secondly, meaning and objectives of penalties and prosecution and also recorded the statutory provisions under the direct tax laws for the penalties and prosecutions. In the third chapter, analysis and interpretation of these provisions was carried out and fourth chapter presented the recommendations of various tax reform committees as also some relevant case law pronounced by the Supreme Court and the High Courts of Judicature. In the present Chapter, an attempt is being made to draw conclusions and offer meaningful suggestions.

The penalties and prosecutions under the direct tax laws are highly complex; at the same time, since the inception of 1922 Act, there have been numerous attempts at simplifying these provisions, either through legislative amendments to the Acts or through the appointment of committees of enquiry into the administration of the direct taxes. The Direct Tax Laws Committee (commonly known as Wanchoo Committee) in its final report submitted in February 1972 suggested

certain radical measures for reframing the procedure pertaining to the penalties and prosecution.

The Government of India recently appointed a committee headed by Dr.Raja J.Chelliah, an eminent economist and public finance expert. The terms of reference of the committee included the widening of the tax-base, simplification of procedure as also induction of equity into the tax laws. The committee has since then submitted its report suggesting some measures to improve or to simplify the penalty and prosecution procedure.

5.2 Conclusions:

The present researcher, on his own, has come to the following conclusions in relation to the interpretation carried out in the preceding chapters. These conclusions are being categorically summarized as under.

As every successive government attempts to raise additional revenue through direct taxation, the direct tax statutes have become increasingly complicated and incomprehensible over the years. Prof.Nicholas Kaldor describes the Indian tax system as 'both inefficient and inequitable; its inefficiency can be judged from large scale evasion of taxes to the extent of Rs.5,400 crores in the year 1978-79 (estimated by Y.N.Kabra). The high rates of taxes are considered to be one of the major grounds for tax evasion.

The provision relating to penalties and prosecution

under direct tax laws have remained on paper and the fear of existence of these provisions has not made any perceptible impact on tax evasion. Apart from this, the provisions are being used arbitrarily and sparingly, giving scope for discretion and malpractices.

The Income-tax Act provides for prosecution of a person for a range of offences which include wilful attempt to evade tax as well as a number of other violations. Over the years, the number of prosecutions launched has increased substantially, while their disposal have remained at a very low level. Prosecution cases take unduly long time for their ultimate disposal.

5.3 Suggestions:

In order to set right some of the drawbacks in the procedural set up, the researcher ventures to put forward the following suggestions:

The rates of taxes in India are comparatively higher, providing incentive for tax evasion. The lower rates of taxes may yield better compliance and with the voluntary disclosure schemes and reduction in the tax rates, the tax revenues have increased.

The penalty and prosecution provisions are being used arbitrarily and sparingly giving scope for discretion and malpractices. Instead, a thorough review should be taken

of these provisions and a way out should be found to gather more resources rather than penalize or prosecute the errant assesseees. The offences should be compounded in a systematic manner.

Prosecution cases initiated under the Income-tax Act take unduly long time for their ultimate disposal. Hence, the department should concentrate on large cases and be selective in prosecution. Serious efforts should also be made to bring down the existing pendency of prosecution cases.

Over the years, various committees have discussed the significance of the common tax code, covering all direct taxes, with a view to simplify the procedural aspect issues. This idea, if implemented, will provide a harmonious and uniform penal procedure. It is suggested that the earlier recommendations of the committees should be acted upon at the earliest.

The existing penal provisions are burdened with discretion to the assessing officers. Discretion provides scope for corruption. Therefore, an attempt should be made to minimize or eliminate the same.

The tax structure should be simplified as also for tightening the tax administration for the purpose of stopping tax evasion, punitive measures should be taken against tax dodgers.

The collection machinery should be streamlined. The various sections dealing with penalties are difficult to be understood by an average assessee; hence, there is a need for simplifying the language of the statute.