

CHAPTER - II

HISTORICAL REVIEW OF OCTROI

C H A P T E R - II

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MEANING OF OCTROI

The word "Octroi" comes from the word 'octroyer' which means "to grant" and in its original use meant 'an import' or "a toll" or 'a town duty' on goods brought into town. At first octroi were collected at ports but being highly productive, towns began to collect them by creating octroi limits. They came to be known as "Town Duties". These were collected not only on imports but also on exports. Grice⁽¹⁾ in his 'National and Local Finance' calls them "In gate tolls" as they were collected at toll gates or barriers. Normally, they were levied on goods meant for consumption but in Seligman's Encyclopedia of social sciences, octroi is described without any reference to consumption or use.⁽²⁾ This is how the editor describes octrois :

"As compared with the facilities of national government the possibilities of raising revenue by local bodies are quite limited. All forms of indirect taxation are practically closed to local authorities, although they may collect the so called octrois, that is duties levied on goods entering town."

In the Government of India Act, 1953, Octroi was named but not described. The constitutions of India avoids the word 'Octroi' as did the Government of India Act, 1935 and gives a description entry 52 of the state list which mentions, "Taxes on the entry of goods into local area for consumption, sale or use in production. The good so taxed is not expected to leave the local area at all or at least in its original form. The octroi is not a tax on the traffic of goods. The taxable event is the bringing of the goods within the local limits and that must be for the purpose of sale, use or consumption within the local limits. A person is not liable to pay octroi in respect of (a) goods received by rail and transport through the municipal limits to a destination outside it; or (b) goods received from outside the local limits conveyed through it and loaded by rail to destinations outside the municipal limits. A note of caution has to be added here careful and detailed meaning has to be given to the words and phrases such as "Brought within the limits", "Use", etc. as the traders and businessmen find such loop-holes and practice rampant evasion of octroi duties.

TERMINAL TAX AND OCTROI :

Terminal tax is on those goods which may be in transit through the municipal area. Terminal tax, does not admit of any remission or refund. In the case of octroi remission,

rebate and refund may be permitted. This gives much scope for abuses. The trading community, through false vouchers may claim a refund on octroi when it is not due. But having too strict a scrutiny on the refund of octroi may cause lot of hardship to the trading community. Another difference between octroi and terminal tax is that terminal tax can be levied on passengers alone while octroi is limited to goods only.

HISTORICAL REVIEW :

Eversince the days of the British administration in India, octroi has been the most disputed one in our tax-system. Every important person and committee had something to say about its relevance in the Indian fiscal structure.

Octroi and toll have been the oldest local taxes in India along with land revenue of provincial governments.

Both in India and Europe it was levied from very early times. In Europe, it dates back to the Roman times. The Arthashastra literature in India has many references to this levy. The "Chungi" of the Mughal period, the "Muhtrafa" of the Maratha towns and the "Dhart" of sikh period have a descendent in octroi. The Mughal impost was abolished in 1748. However, it was reintroduced in 1801. Throughout the

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19th century the octroi levy had an irregular course. The levy was introduced by the East India Company in 1805. But it proved a fertile ground for corruption and obstructed normal commerce. It was after the severe condemnation of it by Sir Charles Trevelyan and others that the octroi duty was gradually abolished in the presidencies of Bombay and Bengal but continued upto 1861 in Madras. But from 1860 onwards province after province reverted to the octroi levy. The Government of India issued various guide lines to municipalities regarding the rate schedules, refunds and the principles of octroi levy and trying to make it less obnoxious.

The thinking of the Indian Government was to substitute terminal taxes to octroi levy by the municipalities. But the provinces and their municipalities were always hesitant to accept the proposal fully. The situation is well summarised by Hugh Tinker "The History of Octroi in the 19th century is of a recurring contest between the Government of India and the provincial governments, the former constantly pressing for its abolition, and the latter steadily extending its operations. If a student were to calculate the extent of the correspondence covering the subject in the thick leather volumes of the old India, office records, devoted to the proceedings of the Government of India, Home Department (Municipalities) he would probably find that at least half of the volumes of letters,

orders, resolutions and despatches are taken up this one subject-octroi.⁽³⁾

The Government of India persisted their attempts to persuade the municipal bodies to observe the utmost restraints in octroi levy on essential goods. The U.P. Municipal Taxation Committee in 1908 was unanimous in proposing octroi abolition at any cost and introducing terminal tax. The government acted on these recommendations and restricted the octroi levy municipal towns in North India were levying either octroi or terminal taxes after 1917 but both attracted much criticism from the trading public under the Government of India Act, 1919, local bodies were a transferred subject and the municipalities could resort to octroi levy with the previous sanction of the state government. The terminal taxes were abandoned. This arrangement was continued in the 1935 Act.

Eventhough , the terms octroi is not found in the constitution it is covered under the state head "Taxes on the entry of goods into a local area for consumption use or sale therein (entry No. 52, List II, Schedule VII) Entry No.89 of the union list also refers to terminal taxes leviable by different authorities. The constitutional position may be indicated as follows.

I) TAXES ON GOODS

a) LEVIABLE BY THE STATES (ARTICLE NO. 277) :

i) Taxes on the entry of goods into a local area for consumption use or sale therein (octroi if levied by local bodies and cess if levied by state).

b) LEVIABLE BY THE UNION GOVERNMENT (ARTICLE NO. 169)

i) Taxes on goods carried by railway.

ii) Taxes on railway freights (entry No. 68 of List 1).

II) TAXES ON PASSENGERS :

a) LEVIABLE BY THE STATE AND LOCAL BODIES :

i) Taxes on passengers carried by road or → inland water ways (entry No. 56 List II).

b) LEVIABLE BY THE UNION GOVERNMENT :

i) Terminal taxes on passengers carried by railway, sea or air.

ii) Taxes on railway fares.

Octroi in itself is not an independent form of taxation but a particular variety of tax leviable on goods and passengers carried by road or sea or air under the provisions of the constitution by both the union and state government.

TIME TESTED LOCAL TAX :

Almost all official enquiry committees and commissions have acknowledged that octroi is an old, traditional local

tax, as would appear from the ex-tracts quoted below.

1. ZAKARIA COMMITTEE, 1962

"This tax (Octroi is one of the oldest in India and is considered as a traditional source of revenue⁽⁴⁾

ii) INDIRECT TAXATION ENQUIRY COMMITTEE, 1978

Though this was a very ancient mode of collecting tax in India and was supposed to have been in existence even during the period of Mughals, the octroi in its present form is traceable to 1805 Regulations of the East India Company.⁽⁵⁾

iii) RURAL URBAN RELATIONSHIP COMMITTEE, 1966

Octroi duties date back to the Mughal period when it formed part of the revenue of the state and was known as 'chungli'. The East India Company by the regulations of 1805 provided for the levy of octroi on articles imported for consumption or use within a town.⁽⁶⁾

iv) MUNICIPAL FINANCE COMMISSION GOVERNMENT OF KERALA :

"Octroi used to be levied in India and European countries from very early times. The Mughal Emperor used to levy 'chungli' which had the essential characteristics of octroi. Later the East India Company by the regulation of

1805 provided for the levy of octroi on articles imported
(7)
for consumption or use within town.

As observed by Hugh Tinker 'The chunggi' of Mughal Rulers, 'Dharat' of Shikh', the 'Muhtrafa' of Maratha towns have a descendent in today's octroi.

Thus, octroi was introduced in its modern form in 1905. The Government of India Act, 1919 (scheduled Taxes Rules) included octroi in the list taxes that were be exclusively utilised for local bodies.

The octroi duties from the time of their introduction have been main-stay of municipal income in the country. This is not only in India but even in the countries of the West. France has had it till 1948, when it was completely abolished other European countries persisted with it and it was in 1970 that the last octroi out post in Belgium was removed.

In India the levy of octroi was a common feature of municipal government in all states, even in 1950. Only in recent years, the levy is being with drawn in some states, with out any tax substitution. In this respect the country's local fiscal system presents a confused picture of some states abolishing the levy, some retaining it and still some others partially imposing it. The present position of octroi in the different states is summarily dealt with below. :

POSITION OF OCTROI IN DIFFERENT STATES OF INDIA :

Kerala and Tamil Nadu were the first to remove the ageold octroi levy in their municipalities even before the states Reorganisation in 1956. Andhra Pradesh followed suit in 1965. But no alternative was made for the loss of local revenue expect compensation payment for a period of ten years before which they were to develop their own tax sources. The other States where octroi is not levied are West Bengal, Bihar, Assam, Karnataka, Madhya Pradesh, Nagland, Tripura, Manipur, Sikkim and Goa. In Karnataka only in 1979 the levy was abolished. In West Bengal, the tax is confined to the metropolitan district of Calcutta since 1970 71.

Some states like Gujarat have accepted the octroi removal in principle. States on the octroi system at present are Maharashtra, U.P. Himachal Pradesh, Punjab, Madhya Pradesh and Rajasthan. In Gujarat and Punjab all the Municipalities levy the tax, while in the state of Rajasthan 91% in U.P. 44% in Maharashtra 65% and in M.P. 80% of Municipalities impose octroi.

West Bengal and Goa may be said to be partially on the octroi levy list.

The octroi position in the country may be shown as under.:

1. OCTROI STATES IN INDIA :

Following are the states which levy octroi.

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|------------------|----------------------|
| 1. Harayana | 5. Orissa |
| 2. Punjab | 6. Jammu and Kashmir |
| 3. Uttar Pradesh | 7. Rajasthan |
| 4. Maharashtra | 8. Manipur |
| | 9. Meghalaya. |

2. NON OCTROI STATES IN INDIA :

- | | |
|-------------------|----------------|
| 1. Assam | 6. West Bengal |
| 2. Andhra Pradesh | 7. Tripura |
| 3. Bihar | 8. Sikkim |
| 4. Tamil Nadu | 9. Nagaland. |
| 5. Kerala | |

3. STATES WHICH HAVE RECENTLY ABOLISHED OCTROI

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|---------------------|-------------|
| 1. Himachal Pradesh | 4. Gujarath |
| 2. Karnataka | |
| 3. Madhya Pradesh | |

These states are now as non octroi states.

4. STATES WHICH HAVE LEVIED TERMINAL TAX

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|----------|-----------------|
| 1. Delhi | 2. West Bengal. |
|----------|-----------------|

All the southern states have totally abolished octroi and the bigger states of north and west are still on it.

OCTROI REVENUE :

BACKBONE OF MUNICIPAL FINANCE :

Octroi has always been substantial source of revenue of municipal bodies in India. In 1805, octroi gave 52% of total local tax revenue in Bombay and 93% in Punjab.

According to Zakaria Committee Report (1962) the income from octroi was as follows :

TABLE NO.2.1

OCTROI INCOME OF DIFFERENT CORPORATIONS AND STATES

Sr. No.	Name of the Corporation	% to total revenue.
1.	Gwalior Corporation	76.2%
2.	Jabalpore "	73.2%
3.	Indore "	71.6%
4.	Varanasi "	62.7%
5.	Rajasthan State	82.1%
6.	Punjab State	79.6%
7.	Gujarath State	77.1%
8.	Madhya Pradesh	70.0%

Source : Report of Zakaria Committee 1962 quoted by Hiralal Mathur, secretary A.I.C. of Mayors in article octroi and delivery of goods.

According to Rural Urban Relationship committee the income from octroi was as below.

TABLE No. 2.2

STATE AND OCTROI REVENUE

Sr.No.	State	% to total Revenue
1.	Gujarath	60.2%
2.	Jammu and Kashmir	78.8%
3.	Madhya Pradesh	72.2%
4.	Maysore	46.4%
5.	Funjab	80.8%
6.	Rajasthan	82.2%

Source Report of R.U.Relationship committee 1966, quoted by Hiralal Mathur Secretary, All India Council of Mayors in articles "Octroi and delivery of goods"

Total income from octroi from 10 states, where it was being levied, came to Rs. 2277 crores. More recent figures of income from octroi for some of the corporations are as follows.

TABLE NO. 2.3

RECENT POSITION OF OCTROI INCOME OF DIFFERENT CORPORATIONS IN INDIA

Sr. No.	Name of the Corporation	Income from octroi in crores Rs.	Percentage to total income.
1.	Bombay	240.00	-
2.	Amritsar	7.75	62.85%
3.	Baroda	11.90	43.00%
4.	Bhav Nagar	3.20	30.5%
5.	Jallunder	6.40	63.47%
6.	Ludhiana	10.50	62.42%
7.	Kolhapur	6.03	50.83%
8.	Nagpur	13.25	40.47%
9.	Pune	24.16	64.89%
10.	Rajkot	6.25	57.76%
11.	Solapur	6.00	48.0%
12.	Surat	12.28	49.78%
13.	Thane	18.53	60.83%

Source : The Atticle Published by Hira Lall Mathur,
Secretary, All India Council of Mayors .

Name of Article : "Octroi and delivery of goods"

Thus, it is clear that income from octroi is from 30% to 70% of the total income of corpprations which it is being levied and it thus, constitute the backbone of the finance of these corporations.

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(Tinker H. The foundations Local self Government
in India, Pakistan and Burma, P. 15.)
4. Zakaria Committee, 1962, Report, Page 48.
5. Indirect Taxation Enquiry Committee, 1978, Report P. 236
6. Rural Urban Relationship Committee, 1966, Report, P. 90.
7. Municipal Finance Commission Government of Kerala ^{Report,} P. 87.