

## CHAPTER - I

- 1.1 INTRODUCTION
- 1.2 BRIEF HISTORY OF THE INCOME-TAX ACT 1961
- 1.3 BRIEF HISTORICAL BACKGROUND OF CORPORATE TAXATION
- 1.4 CORPORATE TAX TRENDS
- 1.5 STATEMENT OF THE PROBLEM
- 1.6 SCOPE OF THE STUDY
- 1.7 SIGNIFICANCE OF THE STUDY
- 1.8 OBJECTIVES OF THE STUDY
- 1.9 METHODS OF DATA COLLECTION
- 1.10 LIMITATIONS OF THE STUDY
- 1.11 REPORT WRITING

## CHAPTER ONE

### INTRODUCTION

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#### 1.1 INTRODUCTION:

The imperialist rulers of India were confronted with first 'Great Liberation Movement' in 1857, which was called by them 'Sepoy Mutiny'. Accordingly, the experiment, which the British imperialists had resorted to in their own country in 1879 to finance the war against France by introduction of tax on income and which came to stay in England in order to meet various governmental expenditure was conducted in India by introduction of income-tax for the first time in 1860. Initially, it was only a temporary measure of raising revenue on a permanent basis, but now it occupies an important place in the Indian tax system.<sup>1</sup>

The history of income-tax in India may be divided into three clearcut periods: (1) 1860-1885, (2) 1886-1914, and (3) from the First World War to date. The first period was a period of experiment. The tax was twice introduced in 1860 and 1869 and twice abandoned in 1865 and 1873. In the second period, the income-tax policy of the government overgrew its trial-and-error stage and came to acquire definiteness. The third period is the period of vital reforms in income-tax law. In the earlier part of this period, the enactments relating to the tax were so numerous that the necessity arose of repealing all the previous enactments and having one single

statute in their place. Thus came the Income-tax Act of 1922.<sup>2</sup>

The Indian Income-tax Act of 1922 had witnessed innumerable amendments which rendered the Act grossly divorced from its original identity. Accordingly, the political administrators of Free India felt the necessity of replacing the 1922 Act. Consequently, the Law Commission was required to consider the matter in 1956 and the Commission submitted on September 26, 1958, its Twelfth Report with a draft Bill of the new Act. In the meantime, the Direct Taxes Administration Enquiry Committee had also been appointed in 1958 under the chairmanship of Shri.Mahabir Tyagi to consider the matter. The committee made its recommendations in 1959. The result was the introduction of the new Income-tax Bill, 1961, in the Parliament, which received the assent of the Parliament on September 13th, 1961, and came into force from April, 1962, repealing the Indian Income-tax Act, 1922, which had been in operation for four decades and which was sought to be replaced by a more simplified code.<sup>3</sup>

## **1.2 BRIEF HISTORY OF THE INCOME-TAX ACT, 1961:**

The Income-tax Act, 1961, has 298 sections, numerous sub-sections and twelve schedules. For its 'governance', the Department has framed 124 rules under the title 'Income-tax Rules, 1962'. The Income-tax Rules are having many

supplementary laws that have been enacted and many rules framed, all with a view to simplifying the tax structure. But all these efforts have complicated the law further.<sup>4</sup>

The significant features of the law are as under:

- (a) The Income-tax Act of 1961, which extends to the whole of India, came into force on 1st April, 1962;
- (b) It has undergone more than 3,300 amendments in less than thirty years;
- (c) The Act retains the basic structure of the Act of 1922, but has its provisions re-arranged in a more logical manner. It has amplified several provisions, re-written some in more simple language and introduced the taxation process and prevention of avoidance and avoidance of tax.

### 1.3 BRIEF HISTORICAL BACKGROUND OF CORPORATE TAXATION:

'Company' is a distinct unit of assessment among all the assessable entities and occupies a very important and dominating position. A major share of the tax revenue of the country comes from the companies.<sup>5</sup>

The **corporate income-tax** was introduced in India for the first time under the Income-tax Act of 1860 and thereafter, it became a permanent feature of the Indian tax system with several amendments and enactments from time

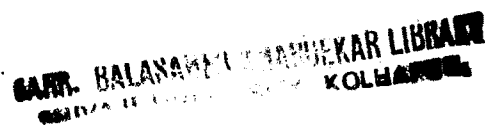
to time. It became a central subject with the passage of the Government of India Act, 1919, which was replaced by a new Income-tax Act, 1922, under which the Central Board of Revenue was established in 1924. This Act remained in force till the passage of Income-tax Act, 1961, which came into effect from April 1, 1962, with the Income-tax Rules framed thereunder. The Act has since undergone drastic changes by various amendments and by the provisions made by the Finance Acts passed every year in regard to the Central Government Budgets.<sup>6</sup> Table 1.1 below indicates tax on companies and taxes on income other than corporation tax for last few years.

Table 1.1

Tax receipts from corporation tax and taxes on income other than corporation tax

Financial	Corporation (Rs.in crores)	Taxes on income other than corporation tax (Rs.in crores)
1986-87	3,160	2,878
1987-88	3,433	3,187
1988-89	4,407	4,237
1989-90	4,755	5,000
1990-91	6,350	5,560
1991-92 (revised budget)	7,300	6,788
1992-93 (Budget)	7,800	7,300

Source: Phadke, S.S., in: Bombay Stock Exchange Official Directory, (undated)



#### 1.4 CORPORATE TAX TRENDS:

The basic tax philosophy in India has been that taxation is to be used as an economic tool so as to solve many socio-economic problems. There is no economics without politics; hence, it is always called 'Political Economy'.

Tax law has been many times used for generating "more tax collection" than merely as an 'economic tool'. This is understandable if it lies within limits. For example, it is difficult to imagine the rationale to make every company to compulsorily pay a minimum tax under section 115J of the Income-tax Act. Abolition of 'Zero-tax Companies' can be the best example to show better trends in corporate income-tax. In spite of a promise later in the Long-Term Fiscal Policy (LTFP), section 80VVA of the Income-tax Act is very much present on the statute book even after the Finance Act, 1986; and after having been dropped by the Finance Act, 1987, the concept of minimum tax is a live-wire in the latest tax propositions.

Other interesting trends are levy of wealth-tax on the companies, abolition of interest capitalization, continuation of the deduction of inter-corporate dividends, eligibility for deductions only on the actual payment in certain cases, change in the corporate tax rates and grouping of companies, abolition of investment allowance, reforming depreciation

schedule, definition of widely-held company, rationalizing the deductions for personal remuneration, amendment of transfer under section 2(47), removal of disadvantages existing in the corporate fixed deposits, abolition or removal of weighted deduction on scientific expenditure and abolition of a compulsory dividend by closely-held companies. Another interesting trend is the proposal to withdraw surcharge and surtax.<sup>7</sup>

#### **1.5 STATEMENT OF PROBLEM:**

The statement of the problem, therefore, is "CORPORATE TAX STRUCTURE UNDER DIRECT TAX LAWS - A CRITICAL EVALUATION.

#### **1.6 SCOPE OF THE STUDY:**

The scope of the study thus includes an analysis of corporation tax rates with selected corporate variables. The present research work devotes itself to generally appraise the provisions under the Income-tax Act, 1961, as they pertain to the corporate taxation.

#### **1.6 SIGNIFICANCE OF THE STUDY:**

The overall resource generation under the direct tax laws have assumed a great significance in the development of the country. In the contribution of the total tax revenue, the trend in the recent years indicates that the direct tax

contributions have been declining. At the same time, the contributions from the corporate sector have been showing an upward trend. Since tax contributions from the corporate sector constitute a major source of tax revenue, the proposed research work will study the corporate tax structure, the overall impact of the fiscal policies on the corporate sector.

#### **1.8 OBJECTIVES OF THE STUDY:**

The present research work has been undertaken to conduct a critical evaluation of the corporate sector taxation under direct tax laws; and also -

- (1) To review the fiscal measures of the government with regard to corporate taxation;
- (2) To ascertain whether the corporate sector in India is overtaxed as compared with its counterparts in the advanced countries like the USA and the UK;
- (3) To arrive at definite conclusions and offer meaningful suggestions.

#### **1.9 METHODS OF DATA COLLECTION:**

The data required for the research work are usually collected from two sources; first, the primary sources, and the second, the secondary sources. The primary sources provide the data gathered at first-hand. The secondary sources provide the data that have been compiled from original



sources and the data-using authority is different from that which controlled the collection of data at first-hand. In other words, the secondary data are usually collected by someone else and made available to others in the form of published statistics, reports, etc.

For the present research work, the entire data has been collected from the secondary sources. Mostly, the research work is based on the legislative provisions contained in the Income-tax Act, 1961, the Income-tax Rules, 1962, various circulars issued by the Central Board of Direct Taxes and also the contributions made by eminent persons in various journals, books, newspapers, etc.

#### **1.10 LIMITATIONS OF THE STUDY:**

The present research work has been exclusively devoted to the investigation of corporate taxation. No comparison is made between the corporate tax collection and the tax collection from other taxable entities. The data, as is available from the published sources, is used and the figures relating to taxes on corporate bodies have been adopted from journals only. The major portions of the interpretations have been taken from the commentators like Kanga and Palkhivala as also Acharya Shuklendra while the latest provisions of the Act have been taken on the basis of the law pending as on 31st March, 1992.

### 1.11 REPORT WRITING:

Report writing is an important and concluding stage of the research work. In the present work, arrangement of Chapters is made according to the following order.

CHAPTER ONE deals with the introduction of the Income-tax and the legislative history of the corporate taxation as also with the framework aspects of the research such as statement of problem, significance, objectives, methodology, scope and limitations. CHAPTER TWO describes various taxable entities like individual, HUF, Firms, Cooperative Society and Company so far as the income-tax is concerned. CHAPTER THREE describes the procedure adopted for the assessment of companies for the payment of income-tax. CHAPTER FOUR contains the relevant provisions of the Income-tax Act, 1961, as also offers analysis and interpretation of the statutory provisions relating to the corporate taxation. CHAPTER FIVE contains some recent reports and comments on corporate taxation as also conclusions and suggestions of the present work. A comprehensive BIBLIOGRAPHY concludes the Dissertation.

### REFERENCES

1. Acharya Shuklendra (1988), "Law of Income Tax", Vol.I, Allahabad: Modern Law Publications, pp.5-6.
2. Quoted in: Sampath Iyengar, A.C., "The Three New Taxes", Fourth Edition, Central Law Agency, Allahabad, 1976, p.8.

3. Quoted in: Acharya Shuklendra, "The Law of Income-tax", Vol.1, Allahabad: Modern Law Publications.
4. Palkhivala, N.A. and B.A.Palkhivala, "The Law and Practice of Income-tax", Eighth Edition, Vol.I, Bombay: N.M.Tripathi Pvt.Ltd., 1990, p.9.
5. Phadke, S.S., "Bombay Stock Exchange Official Directory", (undated)
6. Reserve Bank of India, "Impact of Fiscal Policy on the Private Corporate Sector - 1970-71 to 1987-88", in: 'Occasional Papers', Vol.3, September 1988, p.167.
7. Srinivas, E.A., "Handbook of Corporate Planning", Second Edition, Delhi: Tata McGraw-Hill Publishing Co.Ltd., 1989.