

CHAPTER I

RESEARCH DESIGN

CHAPTER I

RESEARCH DESIGN

1.1 SELECTION OF THE PROBLEM

The selection of the problem, "An analytical study of the taxation of gifts in India", assumes vital significance as the proposed subject on taxation of gifts is undertaken with a view to primarily examine the various provisions of the Gift Tax Act, 1958, which is an Act enacted by the Government of India on the basis of the Report of Prof. Kaldor. Basically, the Act came into force so as to form an integrated code of the Direct Taxes along with the Income-tax Act as well as Wealth Tax Act. The attempt was made while introducing the Act to counteract the attempted evasion or understatement of the income as well as wealth arising as the consequence of the transfer of property through the gifts. The purpose of the legislation was reduction of income and/or wealth disparity, but at the same time, the primary thrust was on the prevention of legal evasion arising through the tax planning device. The study through this design is undertaken with a view to probe in detail the various legal provisions under different Sections as also to examine the scope of various exemptions contained therein and simultaneously to examine how far this enactment has succeeded in counteracting the tax avoidance

and/or evasion. The main purpose of the enactment is to arrest the possibilities of tax avoidance by transfer of property through gifts and as such the problem undertaken in this design solely and exclusively concerns with the overall examination of the statutory provisions of the Gift Tax Act, 1958.

1.2 THE SCOPE OF THE STUDY

As stated hereinabove, an attempt is made in the examination of the subject relating to Gift Tax provisions under the statute. The study primarily centres around and is confined to the analytical examination of the statutory provisions, explanation of such provisions on the basis of statutory historical background. The scope of the study relates to various exemptions, procedure for assessment under the Gift Tax Act, the Gift Tax authorities thereunder as also the overall examinations of certain important legal provisions. To sum up, the study precisely is based on the statutory provisions of the Gift Tax Act, 1958.

1.3 OBJECTIVES OF THE STUDY

The primary objective of the present study concerns with the examination of the integrated scheme of taxation also the examination of various exemptions under the Gift Tax Act and the legislative changes enacted from time to

time and also the examination of tax planning device for tax avoidance through gifts. However, it is necessary to emphasise here that the present study also simultaneously examines the various related statutory provisions under the Income-tax as well as Wealth Tax also.

1.4 RESEARCH METHODOLOGY

Since the entire subject is based on the statutory provisions falling under the Gift Tax Act, 1958, the overall examination of the statutes falling under the Direct Taxes as contemplated under the Constitution of India as well as the existing allocation of revenue resources, the provisions relating to the Gift Tax Act, 1958, the Income-tax Act, 1961 and Wealth Tax Act, 1957 have been thoroughly examined on the basis of the statutes standing as at the relevant assessment year. The various Rules under the Direct Taxes, Notifications, Circulars as well as the literature pertaining to the Direct Taxes published from time to time in various journals, magazines and books have been referred in the course of the study. The reference has also been made to the related topics concerning with Direct Taxes falling under the Chapter, "Public Finance". The relevant case law published in Income-tax Reports has also been examined.

Since the entire topic is based on library research,

the conventional utilisation of research tools like data collection, etc. has become obsolete as it is very difficult in the existing situation to interview the persons/assesseees or officers of the Income-tax Department, since the record pertaining to the assesseees is confidential. It has further become difficult to frame questionnaire and thereafter to collect the data with a view to utilise the same for the purpose of deriving certain deductions from the study. Therefore, the research methodology primarily utilised in this dissertation is wholly based on available literature.

1.5 LIMITATIONS OF THE STUDY

As stated hereinabove, the entire study having been based on the library research, the topic sustains various certain limitations such as positive findings based on conventional statistical tools. Similarly, the study is based on the overall examination of the Gift Tax Act. As such, the subject is basically limited to the examination of the provisions falling under the Gift Tax legislation. Apart from this, since the volume of examination of various Notifications, Circulars, being exhaustive, it is difficult to probe thoroughly the entire case law. At the same time, it is practically impossible to study in detail the individual Sections under the enactment. In addition, as the study is limited to Gift Tax provisions, it is not possible here in this limited area to exhaustively study the relevant

Income-tax and Wealth Tax provisions. Apart from this, the provisions of the statute wherever possible have been examined on the basis of bare provisions of the Gift Tax Act, 1958. To sum up, in view of the voluminous nature of the subject under the dissertation, an attempt is made primarily to examine the overall scope of Gift Tax Act, 1958 along with the relevant provisions concerning the aspects relating to tax avoidance and evasion.

--