A Reference on Object of Constitutional Basis for Taxation

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INTRODUUCTION:

It is a compulsory extraction of money by the government from the people for the welfare and wellbeing of the society. A tax from the Latin taxo is a mandatory financial charge or some other type of levy imposed upon a taxpayer an individual or other legal entity by a governmental organization in order to fund various public expenditures.[1] A failure to pay, or evasion of or resistance to taxation, is punishable by law. Taxes consist of direct or indirect taxes and may be paid in money or as its labor equivalent. Most countries have a tax system in place to pay for public/common/agreed national needs and government functions: some levy a flat percentage rate of taxation on personal annual income, some on a scale based on annual income amounts, and some countries impose almost no taxation at all, or a very low tax rate for a certain area of taxation. Some countries charge a tax both on corporate income and dividends this is often referred to as double taxation as the individual shareholder(s) receiving this payment from the company will also be levied some tax on that personal income.

Taxation refers to the practice of collecting money utilized for public services. Example: hospital, construction, water, transport, roads, education. Without taxation there is no betterment.

Definition of taxation:

The accepted definition of tax in India as letdown by the supreme court in the judgment of commissioner Hindu religious endowments vs. laksh mindra,thritha swamiyar of shirur mutt. Before one can embark on a study of the law of income-tax, it is absolutely vital to understand some of the expressions found under the Income-tax Act, 1961. The purpose of this Chapter is to enable the students to comprehend basic expressions. Therefore, all such basic terms are explained and suitable illustrations are provided to define their meaning and scope.

OBJECTIVES:

- Prevention of concentration of wealth
- Redistribution of wealth for common purposes
- Maintenance of welfare state
- Equality between person subjective reasonable classification
- Importance and History of Income Tax in India
- Meaning of Person and Assessed
- Definitions of various Terms used in Income Tax
- What is regarded as 'Income' under the Income-tax Act
- What is 'Gross Total Income'
- Concept of Assessment Year and Previous Year
- How to charge tax on income
- Income-tax rates

CONCEPT OF TAXATION

Meaning of Taxation

Taxation is the inherent power of the state, acting through the legislature, to impose and collect revenues to support the government and its recognized objects. Simply stated, taxation is the power of the State to collect revenues for public purpose.

Purpose of Taxation

Primary Purpose **-** is to provide funds or property with which the government discharges its appropriate functions for the protection and general welfare of the its citizens.

Non Revenue Objectives

Aside from purely financing government operational expenditures, taxation is also utilized as a tool to carry out the national objective of social and economic development.

to strengthen anemic enterprises by granting them tax exemptions or other conditions or incentives for growth;

to protect local industries against foreign competition by increasing local import taxes;

as a bargaining tool in trade negotiations with other countries;

to counter the effects of inflation or depression;

to reduce inequalities in the distribution of wealth;

to promote science and invention, finance educational activities or maintain and improve the efficiency of local police forces;

to implement police power and promote general welfare.

Meaning of Taxes

Taxes are enforced proportional contributions from persons and property levied by the lawmaking body of the state by virtue of its sovereignty for the support of the government and all public needs. Tax in a general sense, is any contribution imposed by the government upon individuals for the use and service of the state, whether under the name of toll, tribute, impost, duty, custom, excise, subsidy, aid, supply or other name. Tax, in its essential characteristics, is not a debt.

Essential characteristics of tax.

1. It is an enforced contribution
2. It is generally payable in money.
3. It is proportionate in character, usually based on the ability to pay
4. It is levied on persons and property within the jurisdiction of the state
5. It is levied pursuant to legislative authority; the power to tax can only be exercised by the law making body or congress
6. It is levied for public purpose
7. It is commonly required to be paid regular intervals.

IMPORATANCE

The Taxation Structure of the country can play a very important role in the working of our economy. Some time back the emphasis was on higher rates of Tax and more incentives. But recently, the emphasis has shifted to Decrease in rates of taxes and withdrawal of incentives. While designing the Taxation structure it has to be seen that it is in conformity with our economic and social objectives. It should not impair the incentives to personal savings and investment flow and on the other hand it should not result into decrease in revenue for the State.

In our present day economy structure Income Tax plays a vital role as a source of Revenue and a measure of removal economic disparity. Our Taxation structure provides for Two types of Taxes DIRECT and INDIRECT; Income Tax , Wealth Tax and Gift Tax are Direct Taxes whereas SalesTaxand Excise Duties are Indirect Taxes.

HISTORY

The Income Tax was introduced in India for the first time in 1860 by British rulers following the mutiny of 1857. The period between 1860 and 1886 was a period of experiments in the context of Income Tax. This period ended in 1886 when first Income Tax Act came into existence. The pattern laid down in it for levying of Tax continues to operate even to-day though in some changed form. In 1918, another Act- Income Tax Act, 1918 was passed but it was short lived and was replaced by Income Tax Act, 1922 and it remained in existence and operation till 31st. March,1961.

PRESENT ACT

On the recommendation of Law Commission & Direct Taxes Enquiry Committee and in consultation with Law Ministry a Bill was framed. This Bill was referred to a select committee and finally passed in Sept. 1961. This Act came into force from 1st.April 1962 in whole of the country.

Income Tax Act, 1961 is a comprehensive Act and consists of 298 Sections. Sub-Sections running into thousands Schedules, Rules, Sub-Rules, etc. and is supported by other Acts and Rules. This Act has been amended by several amending Acts since 1961. The Annual Finance Bills presented to Parliament along with Budget make far-reaching amendments in this Act every year.

TYPES OF TAXATION

Direct Taxes:-

These types of taxes are directly imposed & paid to Government of India. There has been a steady rise in the net Direct Tax collections in India over the years, which is healthy signal. Direct taxes, which are imposed by the Government of India, are:

(1) Income Tax:-

Income tax, this tax is mostly known to everyone. Every individual whose total income exceeds taxable limit has to pay income tax based on prevailing rates applicable time to time.

(2) Capital Gains Tax:-

Capital Gain tax as name suggests it is tax on gain in capital. If you sale property, shares, bonds & precious material etc. and earn profit on it within predefined time frame you are supposed to pay capital gain tax. The capital gain is the difference between the money received from selling the asset and the price paid for it.

Capital gain tax is categorized into short-term gains and long-term gains. The Long-term Capital Gains Tax is charged if the capital assets are kept for more than certain period 1 year in case of share and 3 years in case of property. Short-term Capital Gains Tax is applicable if these assets are held for less than the above-mentioned period.

(3) Securities Transaction Tax:-

A lot of people do not declare their profit and avoid paying capital gain tax, as government can only tax those profits, which have been declared by people. To fight with this situation Government has introduced STT (Securities Transaction Tax) which is applicable on every transaction done at stock exchange. That means if you buy or sell equity shares, derivative instruments, equity oriented Mutual Funds this tax is applicable.

This tax is added to the price of security during the transaction itself, hence you cannot avoid (save) it. As this tax amount is very low people do not notice it much.

(4) Perquisite Tax:-

Earlier to Perquisite Tax we had tax called FBT (Fringe Benefit Tax) which was abolished in

2009, this tax is on benefit given by employer to employee. E.g If your company provides you non-monetary benefits like car with driver, club membership, ESOP etc. All this benefit is taxable under perquisite Tax.

In case of ESOP the employee will have to pay tax on the difference between the Fair Market Value (FMV) of the shares on the date of exercise and the price paid by him/her.

(5) Corporate Tax:-

Corporate Taxes are annual taxes payable on the income of a corporate operating in India. For the purpose of taxation companies in India are broadly classified into domestic companies and foreign companies.

Indirect Taxes:-

(6) Sales Tax :-

Sales tax charged on the sales of movable goods. Sale tax on Inter State sale is charged by Union Government, while sales tax on intra-State sale (sale within State) (now termed as VAT) is charged by State Government.

Sales can be broadly classified in three categories. (a) Inter-State Sale (b) Sale during import/export (c) Intra-State (i.e. within the State) sale. State Government can impose sales tax only on sale within the State.

CST is payable on inter-State sales is @ 2%, if C form is obtained. Even if CST is charged by Union Government, the revenue goes to State Government. State from which movement of goods commences gets revenue. CST Act is administered by State Government.

(7) Service Tax:-

Most of the paid services you take you have to pay service tax on those services. This tax is called service tax. Over the past few years, service tax been expanded to cover new services.

Few of the major service which comes under vicinity of service tax are telephone, tour operator, architect, interior decorator, advertising, beauty parlor, health center, banking and financial service, event management, maintenance service, consultancy service

Current rate of interest on service tax is 14.5%. This tax is passed on to us by service provider.

(8) Value Added Tax:-

The Sales Tax is the most important source of revenue of the state governments; every state has their respective Sales Tax Act. The tax rates are also different for respective states.

Tax imposed by Central government on sale of goods is called as Sales tax same is called as Value added tax by state government.VAT is additional to the price of goods and passed on to us as buyer (end user). Around 220+ Items are covered with VAT.VAT rates vary based on nature of item and state.

CONCLUSION:

The predominant view of the Commission is that any reform of local tax has to continue to include recurrent tax on domestic property, and we recognize that, as with all available options, there are difficulties that must be addressed if any system is to be seen as fair and accepted by the public. We have modeled two approaches – a reformed, proportionate Council Tax and a progressive tax on capital values – but we repeat these are both simply illustrations. At the very least, any such system needs to be more progressive than the Council Tax. This should occur through making the initial household liabilities more progressive and by creating an extensive income based relief that also takes account of need, and is better for households on low and precarious incomes than the existing Council Tax Reduction scheme. The substantial political challenge of linking liabilities to up-to-date property values must also be overcome. We believe that a system of land value tax is promising, but that, while the work done for the Commission has been of unprecedented scale, gaining a full understanding of its impact would require further analysis. Any system of administering property based taxation should provide sufficient flexibility in time that site values could form a tax base for a system of land value taxation. Further work should be done over the next parliamentary term to assess both general and targeted land value taxes, and their introduction should be given consideration as part of a broadened system of local taxation. A new system will also mean the distribution of central government funds to local authorities will need to be reviewed and adjusted. We believe that local authorities with lower tax bases should not lose out as a result of any such shift in system, whilst retaining meaningful local flexibility in levels of local taxation. Local authorities will also need to have sufficient means under the new system to mitigate risks by managing fluctuations in revenues across the economic cycle, in-year and during gaps between liability arising and receipt of payment.

References

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