CHAPTER - II

EVOLUTION OF CORPORATE TAXATION IN INDIA

2.1. INTRODUCTION:

The term 'Corporation' comes from the Latin word 'Corporare', ultimately based on Sanskrit meaning as 'to form into a body'. The Encyclopaedia of Social Sciences traced the early history of the growth of corporations and has defined the word 'corporation' as "a form of organisation which enables a group of individuals to act under a common name in carrying on one or more related enterprises, holding and managing property and distributing the profits or beneficial interests in such enterprises or property among the associates .... its shares are transferable; its life independent of the lives of the individuals; its debts do not usually create a liability for the latter."[1] Analysing the definition, we can say that it is almost a complete description of a company, which is nothing but a voluntary association of a number of people, who generally deposit self-resources into a common pool for the purpose of undertaking specified activities - generally trading or industrial - with the ultimate aim of making profits.

Dr. R. C. Majumder, a noted historian, observed that the earliest form of corporate enterprises was in the nature of

1. Ambirajan, S. - 'The taxation of corporate income in India', Asia Publishing House, Bombay, 1964, p.3.

guilds. He specifically mentioned that (i) the guild was recognised as a corporation in a law court; (ii) it possessed immovable property; (iii) the executive officer could contract loan on behalf of the guild and (iv) one might give up the membership on his own accord. The noted attributes are also found as common features of the modern concept of corporation.[2]

In the words of Mr. A. K. Roy, in his thesis, it is said that modern business corporations in India owe their existence to foreign influence and tradition. He pointed out the difficulties in coping with the fast expanding trade by individual efforts and mentioned that English East India Company was chartered in 1600; The Dutch East India Company was formally instituted in 1602 and the First French East India Company was formed in 1604. He asserted that, that was the consequent of opening of trade routes with India.

It is also admitted, that the growth of corporate form of business in India largely owes its origin to the corporations abroad. Indian merchants were attracted by the operational skill and abilities of the European Chartered Companies. Business houses in the form of companies were first established, in the early seventeenth century, in India.

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2. Ray, A. K. - 'The Historical Evolution of Corporation Tax in India'. (Unpublished Thesis submitted in C.U. in the year 19.76............)

However, the concept of 'limited liability' was realised and came into effect by legislation after a long period of trials and errors. It was in 1857 the Indian Legislature introduced the principle of 'limited liability'.

The principle of 'limited liability' and the accompanying privileges have led the corporate form of organisation most popular in the business world. Its growth has been so rapid that at present it covers a substantial area of the industrial and commercial field in the private sector of our economy.

Whether corporations should be taxed or not is not a matter of debate at present. Though numerous theories had been cited by different economists in the past, and most of the proponents were in favour of taxing Corporations as 'artificial juridical person', the objectives to be fulfilled and reasons for imposing tax differed from man to man. It was said that the corporations should be taxed as these were in the organised sector of the economy, the Government would have no difficulty in enforcing the tax on them. It would produce also large amount of revenue to the exchequer. It was said in the 'privilege theory' of Thomas Adams that corporations should be taxed as a 'price' for the privileges of being allowed to exist on 'corporate personality', granted by the Government. In the 'social costs' theory, it has been stated that there were many governmental services which were essential for the conduct of business and which would have been otherwise paid for by the individual business houses. As for example, the Government spends huge amount on academic and technical education, without which the private corporations had to train up the personnel on their own accord. Public nuisense, occasionally created by the corporations on their activities, is also to be tackled by the Government by ~~at a high costl~~y measures like, public health measures, slum learance, afforestation, depollution of rivers etc. Just like an external agencies supplying the services and being entitled to be replenished, the objective of the Government is to ask for fees in the form of taxation as a consideration for such service. In the 'functional finance' theory, the noted economist Abba P. Lerner feels that the tax is a vital tool of fiscal policy and aimed at keeping the economy stable at a high level of production, employment and national income.[3] According to Seligman in his theory 'ability to pay', "the measure of general obligation to the support of Government is, in the state as in the family, the capacity on the part of the individual to contribute to that support."[4] Corporations being affluent, they can contribute to that effect and therefore should be taxed. In 'socio-political' theory, Mr. Adolf Wagner is of opinion that to the removal of inequality of incomes and wealth among the citizens should be the main economic function of any Government and that should be the major objective with regard

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3. Lerner, Abba P. - 'The Economics of Control', Macmillan Co. New York, 1957, pp. 307-8.

4. Seligman, Edwin R.A. - 'Essays in Taxation', Macmillan Co. New York, 1923, p. 338.

to the taxation of corporations also.

All these theories have arguments, for ~~an~~ and against, and we can come to the conclusion that none of the theories can be established as a firm basis of corporate taxation. We are not here to discuss the theories in details but to show, whatever may be the objectives and rationale behind corporation tax, all the economists are unanimous in their opinion of imposing tax on corporate form of business. Now the taxation of corporations has become a regular, universal and an almost indispensable feature of the tax system.[5]

In this chapter we want to show how the mode and nature of corporation tax and its overall structure had changed from time to time, to keep pace with the change of economic, political and social environment, since the income tax legislation in India in 1860.

The term 'Corporation Tax' has not been defined in Income-tax Act. But the convention itself shows that all types of direct taxes taken together, based on company profits may be termed as 'corporate-tax'. However, 'Corporation Tax' has been defined under Article 366 (6) of the Indian Constitution in the following words:[6]

" 'Corporation Tax' means any tax on income, so far as that tax is payable by companies and is a tax in the case of which the

5. Ambirajan, S. - 'The taxation of Corporate income in India', Asia Publishing House, Bombay, 1964, pp.19 & 20.
6. Govt. of India - 'The Constitution of India' (latest edn.) 1980.

following conditions are fulfilled:-

(a) that it is not chargeable in respect of agricultural income;

(b) that no deduction in respect of the tax paid by companies is, by any enactments which may apply to the tax, authorised to be made from dividends payable by the companies to individuals;

(c) that no provision exists for taking the tax so paid into account in computing for the purposes of Indian income tax the total income of individuals receiving such dividends, or in computing the Indian income-tax payable by, or refundable to, such individuals;"

The above features are common and attributed to the Super Tax Act, 1917 as amended in 1920. On the basis of Sim Committee's recommendations, the Income Tax Act 1918 and Super Tax Act, 1920 were merged into a single Income Tax Act, 1922. Before 1922, Super-tax was taken to mean as corporation tax. But for our study, we shall consider all direct taxes, based on Corporate profits on Revenue Accounts as Corporate tax.

2.2. THE BEGINNINGS:

The history of corporate income tax in India dates back to 1860 when first Income-tax Act came in force through the legislation.[7] To overcome the financial crisis followed by the Sepoy Mutiny of 1857, the British Parliament had to search different sources of revenue and a Bill was proposed in the Governor General's Executive Council in 1859 for imposing a tax on all types of income holders including company. The proposal was passed in the Council and became law, which came into operation in 1860. The first war of independence of 1857, which the British described as mutiny, imposed heavy financial burden on the alien government.[8] Consequently, under the income-tax act, incomes, including the agricultural income, were taxed at the rate of two percent, where incomes felt within the limit of "above Rs. 200 and below Rs. 500" p.a. All incomes of Rs. 500 or more per annum were taxable @ 4 percent. In 1863, by an amendment, the tax rate on higher slab was reduced from 4 percent to 3 per cent. The imposition of tax on commercial and industrial earnings first took place in 1864. But the machinery of the Government, used for assessment work was so weak that it provided ample scope of manipulation in submitting returns by the asse-

7. Niyogi, J. P. - 'The Evolution of the Indian Income - Tax,' King and Sons Ltd., Westminster, London, 1939, p. 15.

8. Lal, B.B. - 'Income - tax Law and Practice,' Vikas Publishing House Pvt. Ltd., New Delhi, 1981, pp. 1-2.

ssees. The efficacy of taxing commercial and industrial incomes was under suspicion and was turned almost into a mockery.[9] Ultimately the tax was dropped in 1865.

As the financial position of the Government worsened, the Exchequer had to think once again the imposition of taxes within a very short period. Income tax was reimposed with certain modifications in the name of 'license tax' in 1867. Apart from classification of assessees, tax was imposed on incomes exceeding Rs. 200 per annum and the amount of tax varied from Rs. 4 to Rs.200. For the first time, Joint-stock company was placed as a separate class of assessee and the maximum tax obligation of a company was fixed at Rs. 2,000 p.a. For providing higher exemption and sharper progression this tax again was replaced in the next year in 1868 in the name of 'certificate tax.' Between 1868 and 1886, a number of experiments were made.

In 1869 the Income-tax Act II was passed. The Act converted 'certificate tax' into general 'income tax'. This new Act did not actually affect the existing tax payers but it extended its coverage for collecting more revenue. A number of new assessees were brought into its purview. Under the Act, the companies were charged at the rate of one and a half per cent, Government Securities at two and a half per cent, while the rate of tax on income from all other sources was nearly doubled.[10] The

9. Ambirajan, S. - 'The taxation of corporate income in India', Asia Publishing House, Bombay, 1964, p. 120.

10. Ambirajan, S. - 'The taxation of corporate income in India', p. 121.

tax rates were further raised in 1870. The exemption limit was also liberalised and enhanced in the same year. Due to uncertainty of tax obligations of the tax payers and the amount of revenue to be collected by the Government, the tax was withdrawn in 1873. It has been pointed out by Mr. Ambirajan that the dishonesty on the part of tax officials, who freely indulged on fraud and manipulation on computation of tax obligations and submission of returns, was the main cause of withdrawal of such tax.

The centralised system of administration for the British India introduced by the Government of India Acts, was reversed to a certain extent in 1871. The Government of India transferred to the provinces, with effect from the financial year 1871-72, certain departments like education, police, maintenance of roads, etc., to be controlled and managed by the provinces. Over and above annual grant, the provincial governments were given power to impose taxes, if required, to make good the deficiency in revenue. Consequently, North-Western Provinces took a lead to impose 'licence tax' by enacting suitable acts to suit their local needs in 1877. Other provinces, like Bengal, Madras followed a similar pattern in the same year.[11]

This drama of 'imposition - withdrawal' continued upto 1886 when income tax was resorted to as one of the basic elements

11. Ray, A. K. - 'The Historical Evolution of Corporation Tax in India', (Unpublished Thesis, submitted in C.U. in the year 1976.........)

in Indian fiscal system. The Income - tax Act, 1886 settled the broad pattern of taxation in India.

2.3. PERIOD OF INTEGRATION:

The Income-tax Act, 1886 was an extension, enlargement and continuation of the existing 'licen~~s~~ce taxes'. It remained without major alteration for a long period of 30 years. The Act maintained many desirable features of 'licen~~s~~ce tax' and at the same time it avoided the undesirable features. Income was categorised by four classes, viz., (i) income from salaries; (ii) income from interest on securities; (iii) income from profits of joint-stock companies; and (iv) other incomes including income from house property.

The shareholders of joint-stock companies were not required to pay further tax on their share of profits as the companies were required to pay tax on profits earned. Agricultural incomes, interest on stock notes were exempted from the tax base. The Act also exempted profits, for taxation purposes, of foreign shipping companies. The sources of income and the different rates of income tax on each head were incorporated in the Act itself. Computation of profits and the rule for allowable expenses for the purpose of taxation was the major feature of this income-tax act of 1886. No provision for depreciation and bad debts was made. Of course, in the 'licen~~s~~ce tax' of provincial governments, there was no scope of depreciation on fixed assets also, but various provincial governments used to provide such depreciation allowance through executive instructions at varying rates. That led to certain anomalies.[12] The anomalies were rectified, gradually, to some extent, specially in the Act of 1916.

The Act was of a permanent nature and computation of tax was based on annual assessment of incomes relating to the previous year. Profits of companies and the rates of income tax on the basis of such profits was given in Schedule II of the Act itself.

The unbroken operation of the Indian Income -tax Act, 1886 for a long period of 30 years led to the gradual acceptance of the tax - system as an integral part of Indian fiscal system. The 'period' helped the Government to unearth the defects of the tax system and showed the way how to reform. Though the Act was amended for a number of times but that did not effect, substantially, the tax pattern of joint - stock companies. As for example, in the Income - tax (Amendment) Act, 1903, all incomes below Rs. 1000 p.a. was exempted from taxation of all types of assessees, other than corporate bodies. Companies were continued to be taxed on their entire income.

Therefore, the period from 1886 to 1916, may be termed as a period of integration, which led to a firm structure of Indian income tax.

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12. Ray, A. K. - 'The Historical Evolution of Corporation Tax in India'.

2.4. PRE-INDEPENDENCE PERIOD:

The First World War broke out in 1914 resulting huge budget deficit in the next year. The Indian Income-tax Act, 1916 was designed to collect more revenue by introducing graduated scale of income tax for the first time. The company tax rate was raised from 5 pies in a rupee to 12 pies (6¼%) in a rupee. Corporate bodies were treated as separate taxable entities and therefore the shareholders were allowed some refund in the way of 'grossing up' of dividends for the tax already paid on such share of profits by the company. Another notable feature of the Act of 1916 was the exemption limit of Rs. 1000 p.a. in the income of companies. Thus, the Act indulged on splitting up of big companies in order to have the tax advantage by enjoying the exemption limit in income. The war situation worsened and the Imperial Government wanted to augment its revenue position by imposing 'super-tax' in the year 1917 on the undistributed profits of companies over and above the income tax already paid by the companies. For the purpose of computing the amount of super tax, an exemption limit of Rs. 50,000 p.a. was allowed and subsequently 10% of the profits chargeable to income-tax was also allowed as deduction for computing the profits chargeable for the purpose of super tax. The rates of super tax varied from 1 anna to 3[*1] annas per rupee on graduated slabs of income, computed for the purpose of super-tax.

*1 One anna was equivalent to 12 pies. Decimal coinage was introduced in 1956-57 where 100 paise was taken as equivalent to Re.1.

The Income-tax Act of 1916 was further replaced by the Income-tax Act, 1918. The Indian Income-tax (Amendment) Act, 1916 introduced the idea of 'exemption limit' in corporate income for the purpose of taxation and the Indian Income-tax Act, 1918 prescribed uniform rates of depreciation allowance as a percentage of original costs. Thus, the anomalies in tax administration, prevailing in different provinces in the past, regarding exempted income and the rates of depreciation on assets was removed for the time being. The main features of the Act may be stated as (i) year of income on which tax was to be paid was switched over to the 'assessment year', i.e. current year, from the so long prevailing 'previous year'; (ii) uniform rates of depreciation in the form of percentage limit, beyond which the companies were not allowed to charge in their revenue accounts and the aggregate amount of depreciation should not exceed the cost of the asset concerned; (iii) provision for carry forward of unabsorbed depreciation allowance to be adjusted in subsequent years in case of paucity or inadequate amount of profits before charging depreciation; (iv) foreign companies were subjected to tax; (v) differentiation in total income and taxable income.

Mr. A. K. Roy in his thesis [13] had shown how the assessment liability for the accounting year 1917-18 could have been avoided by the change over of the basis of income tax from 'previous year' to 'current year'. He showed that the assessment

13. Ray, A. K. - 'The Historical Evolution of Corporation Tax in India.'

for the year 1917-18 was based on profits for the accouting year 1916-17 under the Income tax Act, 1886 while under the Income - tax Act of 1918, the assessment for the year 1918-19 was ultimately based on the profits for the accounting year 1918-19. Thus, the profits earned in the accounting year 1917-18 might escape assessment altogether.

This new Act was far from satisfactory in the matter of its practical administration and called for immediate rectification. Accordingly, the All India Income Tax Committee, consisting of official and non-official members under the chairmanship of G. G. Sim was formed, to report on the working of prevailing income tax legislation, in 1921.

In the meantime, Super Tax Act of 1917 was amended in 1920. To avoid the disinclination on the part of companies to build up reserve fund from undistributed profits for future development of the companies, this Act replaced the graduated tax by charging flat rate of one anna in the rupee in excess of income of Rs. 50,000 p.a. In the next year the rate of super tax was again raised to 16 pies in a rupee from 12 pies in a rupee. Inter - corporate dividends were so long exempted from super tax but now that made liable to pay super-tax by the amending Act, 1920.

On the basis of recommendations of the Sim Committee, mentioned earlier, submitted in 1921, the Income tax Act, 1918 and

Super-tax Act, 1920 were merged into a single Act, known as Income-tax Act, 1922. The principal recommendations of the committee, relating to taxation of companies, may be summarised as follows:

1) income tax should be charged 'in respect of property profits or gains of companies;

2) there should not be any exemption limit beyond which tax was to be imposed. Tax should be levied on the whole of the taxable income of the company;

3) losses under one head of income could be adjusted against income of another head, but the deficiency should not be allowed to be carried forward for future adjustment;

On the basis of All India Income Tax Committee's (Sim Committee) recommendations and in consultation with the Law Ministry, a new bill was framed and placed in the Legislative Assembly on September, 1921. This bill was after having been referred to Select Committee, passed by the Legislature in the name of The Indian Income Tax Act, 1922.[14]

The 1922 Act introduced many changes in the Indian tax-structure. The principal changes may be noted as under:

1) tax is to be assessed on the basis of the income of the previous year and not on the current year;

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14. Gaur, V.P. & Narang, D. B. - 'Income Tax Law and Practice', Kalyani Publishers, New Delhi ed. -8, 1980, p. 1/4.

2) the Act will be concerned with basis, methods, machinery and administration of assessment and the rates of tax to be determined by the Annual Finance Acts. That will help the annual budget requirements and the rate structure to be framed in such a way as to meet the needs of the Government. In otherwards, we can say that this 'system' is likely to bring elasticity in the fiscal system;

3) in computing the amount of profits and gains of business enterprises certain expenditures were specifically mentioned, as allowable;

4) adjustment of losses in one head of income against gain under another head of income in the same year.

Thus, we see that the Act of 1922 has really brought many important and far reaching changes in the prevailing tax - structure. Under this Act, administration of income - tax was vested in the Central Government and for the purpose of smooth tax - administration, the Central Board of Revenue was established in 1924.

The Income - tax Act, 1922 was materially altered in 1939. In the meantime, the Government of India appointed a Committee in the name of the Indian Taxation Enquiry Committee, headed by Sir Charles Todhunter in 1924 to examine the burden of taxation, equity in economic distribution and to show alternative form of taxation to collect more revenue. The Committee made a number of suggestions of which the principal recommendations were to change the name of 'super-tax' to 'corporation profit tax', as the tax was imposed on profits earned by them as a result of certain privileges attached with incorporation; the exemption limit of Rs. 50,000 should be abolished for the calculation of super - tax, as smallness or bigness of companies did not have any correlation with the income of their shareholders; to treat a registered private company, formed by an individual alone or in collaboration with near relatives, as a registered partnership for the purpose of taxation. As there was enough scope of legal avoidance of tax liability by not distributing profits as dividends but by giving loans at a nominal interest, the above practice would help in plugging the scope of tax avoidance.

The Select Committee, to which the bill was referred to incorporating the above recommendations, recommended that the provisions of the section should apply to a company which was not a subsidiary company or in which the public was not substantially interested, if the Income tax Officer was satisfied that a company was under the control of not more than five of its members and that its profits and gains were allowed to accumulate beyond reasonable needs, existing and contingent, of its business without being distributed to its members, and that the accumulation was made for the purpose of preventing the imposition of tax upon any of the members in respect of their shares in the profits and gains so accumulated.[15]

The above suggestions being of importance, was further referred to a Second Select Committee. That Second Select Committee suggested to include the cases where the contemplated company capitalised a portion or the whole amount of accumulated profits and distributed them among the shareholders in the form of bonus shares with the clear intention of avoiding tax liability. This suggestion was incorporated in the Indian Income - Tax (Amendment) Act, 1930, where the Income-tax Officer had been empowered, with the previous approval of the Assistant Commissioner, to charge a portion of profits, taken as a loan, as a share of income in the hands of the recipients.

The Select Committee further recommended, the basis of depreciation charge as 'written down-value' on the assets concerned and not the 'original cost'. It suggested that any shortfall of depreciation in a particular year due to paucity of profits, should be allowed to be carried forward for six years, to be adjusted against any source of income in future. The concept of 'terminal allowance' and 'balancing charge' was also highlighted in the Select Committee's recommendations.

To give effect to the recommendations of Income tax Enquiry Committee, appointed in 1936, which submitted the report

15. Roy, A. K. - 'The Historical Evolution of Corporation Tax in India'. (Unpublished Thesis, submitted in C.U. in the year 1976.........)

in 1936 and to investigate the incidence of tax and efficiency of its administrations a Bill was introduced in the Legislative Assembly in 1938. It was passed by the Legislature, as modified by the Select Committee, in 1939 as Income-tax (Amendment) Act, 1939. The principal feature of the Act may be summarised as follows:

1) the concept of 'deemed' dividend was brought into record. Whenever the shareholders received any share of profit in any form, in the form of loan or otherwise, if that entitled release of any asset, in case of closely-held companies, that may be treated as 'dividend' in the hands of the recipients for the purpose of income tax. This penal provision was applicable if at least sixty percent of the assessable income of the company was not distributed as dividend or where the accumulated profits had exceeded the amount of paid - up capital, the whole of the excess was not distributed as dividend;

2) the basis for calculation of depreciation allowance was switched over from straight line method to diminishing balance method;

3) unabsorbed depreciation and business losses might be carried forward for six assessment years for setting them off from future income;

4) balancing charge and terminal allowance in depreciation was allowed;

5) in a closely-held company*2, if at least sixty per cent of the assessable income was not distributed but the company distributed such amount as exceeded fifty five per cent, the company would be given an opportunity of revising its distribution, within three months, to make good the deficiency in distribution, in order to avoid the penal measure of 'dividend';

6) the rate of income-tax on companies was raised from 26 pies, already made, in a rupee to 30 pies in a rupee;

7) in case of super - tax, the exemption provision of Rs. 50,000 p.a. was withdrawn;

8) the classification of 'residential status' as resident, not-ordinarily resident and non-resident, was introduced.

Therefore, we can say that much of the present tax-structure owes to origin to the Income-tax (Amendment) Act, 1939.

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*2. A company in which public were substantially interested if at least twenty-five per cent of its voting power were beneficially held by the public and the shares were enlisted in a recognised Stock Exchange and freely transferable, was termed as widely-held company and the companies which did not fulfil such conditions, termed as closely held companies.

In the meantime The Second World War broke out in 1939, resulting huge requirements of resources. Accordingly, a Bill was prepared and placed in the Legislative Assembly, to mop up additional profits accruing to the business houses, resulting from war - environment. In 1940, the Bill was passed and became Act in the name of The Excess Profits Tax Act, 1940. The Act, came into operation from Sept. 1939. The Act imposed 50% tax on the excess profits, made by the business houses in any accounting year, over the 'standard profit'.*3 The Government also accepted the suggestions of the Select Committee and allowed to carry 'forward' for 'backward' of any deficiency in 'standard profit' and made it deductable in computing assessable income for the purpose of income-tax and super-tax of the assessee. Over and above the excess profits tax, the provision of sur-charge @ 1/12th on all taxes on corporate profits (income-tax 30 pies + 1/12 S.C., and super-tax @ 12 pies + 1/12 S.C.) was introduced in the Finance Act, 1940. Actually sur-charges had been levied earlier in 1936-37 but was discontinued promptly from the next year. The Finance Act 1941 further increased the rate of excess profits tax to 66 per cent from 50 per cent and surcharge on income tax and super-tax (popularly known as Corporation tax) to 1/3 rd from 1/12th.

*3 for an existing business :-

*average of actual profits over the last few years and for a new business 10% or 8% of capital employed in the business on the basis of controlling interests of the directors or not, subject to minimum amount of Rs. 36,000 p.a.

Apart from income-tax, super-tax, excess-profit tax; excess dividend tax 1946, business profits tax 1947 and capital gains tax 1947 were levied on companies in a spate of amendments to the Indian income-tax Act after 1940. Introduction of liberal provisions encouraging savings, investment and overall economic development was also observed during the same period.[16] The scheme of advance payment of tax and provisional assessment was introduced in 1944 and 1948 respectively.

2.5. POST-INDEPENDENCE PERIOD:

In the year of independence, Mr. Liaquat Ali Khan, Indian Finance Member of the then Coalition Ministry, introduced a Bill in the Legislative Assembly in 1947, giving a proposal for a special tax as 'business profits tax', on companies. After being considered by the Select Committee, the Bill was passed by the Legislature and became Act in the name of Business Profits Tax Act, 1947. Tax @ $16\frac{2}{3}$ % p.a. on income, computed according to the Indian Income Tax Act, 1922, arising out of business activities and in excess of 6% on the capital (computed according to the methods mentioned in the Second Schedule) or Rs. 1,00,000 which ever would be greater, was taken as 'business profits tax'. Another Bill was introduced for inclusion of capital gains tax on assessees in respect of any profits or gains arising out of 'transfer', which included sale or exchange of a capital asset exceeding a certain limit. It was further provided that a loss

16. Ambirajan, S. - 'The taxation of corporate income in India', Asia Publishing House, Bombay, 1964, pp. 126-7.

on one head of capital asset could be adjusted against gain in another head of capital asset and the deficiency, if any, could have been carried forward for six years for adjustment against future capital gains. The Bill was passed with certain modifications, suggested by the Select Committee, and hence 'Capital gains tax' became a part of total income-tax from the income year 1946-47.

The rate of super-tax on corporate profits raised from one anna in the rupee to the two annas per rupee, indicating income-tax and super-tax aggregating 7 annas in a rupee (income tax rate was raised to 5 annas in 1946). 'Excess dividend tax', introduced in 1946, was also tightened up and given effect to in the Finance Act, 1947.

The first full fledged budget of post-independence era was introduced by the first Finance Minister of independent India, Mr. Shanmukhan Chetty on February 1948. Basic rates of income-tax and super-tax remained the same as 5 annas and 2 annas in a rupee. But, in order to give impetus to smaller companies, the Finance Minister reduced the income tax rate to 2½ annas for income of companies, which did not exceed a certain limit. The rate of super-tax was raised to 3 annas in a rupee for such companies, which did not declare and paid any dividend within India. In connection with Business Profits Tax, rate was reduced from $16\frac{2}{3}$ % to 10% on income, in excess of 6% on the capital employed in the business or Rs. 2,00,000, whichever would be greater.

Finance Act, 1948, presented by the then Finance Minister, Dr. John Mathai, abolished the provision of Capital gains tax, introduced in 1947, and made a certain minor changes in corporate assessment. Companies were classified into four categories for super-tax purposes and the rates varied from one anna in a rupee to four annas in a rupee.

The main theme of the Finance Act 1949 was the provision of additional depreciation allowance, in respect of buildings, erected after 31st March, 1948 and on new plant and machinery installed after 31st March 1948. Multiple shift allowances were also allowed by the Finance Act. 'Tax holiday' concept was introduced in a new section 15C to the Indian Income Tax Act, 1948, where profits upto a certain percentage on Capital employed in a new industrial undertaking, beginning production after 31st March 1948, were exempted for three years.

The first Bill in the Republic of India was introduced by the Finance Minister, Dr. John Mathai, in 1950-51 which was much appreciated by the business community. The business community, was hailed because the 'Business Profits Tax,' introduced in 1947, after severe criticism, had been withdrawn in the Finance Act 1950. Basic rates of income tax, which was raised to five annas in a rupee in 1946, had also been reduced to four annas in a rupee by the same Act. The rebate in respect of profits retained in the business was continued. Though the effective rate of super-tax was raised by half an anna in a rupee, withdrawal of business profits tax and reduction of basic rates of income tax resulted some marginal relief to the corporate sector.

The third Finance Minister after independence, Mr. C.D. Desmukh (the two other being M/S. Shannukhan Chetty and John Mathai) presented his Finance Bill in 1951 which was nothing but traditional and the only feature was the raising of marginal rates on income-tax and super-tax on corporate profits.

The Finance Act, 1952 did not reveal any new feature for the year 1952-53, which was incidentally the year of first general election. The Finance Act, 1953 contemplated certain benefits to the industry and did not offer any change in the basic rates of income-tax and super-tax.

Pending the receipt of the recommendations of the Taxation Enquiry Commission, set up in 1953 under the Chairmanship of Dr. John Mathai, the Finance Bill 1954 allowed the concessions to the industry to continue upto 31st March, 1956.[17]

The report of the Taxation Enquiry Commission was submitted at the end of 1954 and its principal recommendations relating to corporate assessees may be stated briefly as follows:[18]

17. Lal, B.B. - 'Income - Tax Law and Practice', Vikas Publishing House Pvt. Ltd., New Delhi, 1981, p.2.

18. Ray, A. K. - 'The Historical Evolution of Corporation Tax in India'. (Unpublished Thesis, submitted in C.U. in the year 1976............)

1) a company to be treated as closely-held company if the controlling interests vest on less than six persons. For calculation of the number of persons for such purpose, the 'benami shareholder's' attached to a person should be treated as single person;

2) to be a widely-held company the percentage of holding must be at least 50 on total paid up capital, regarding voting power by the members of the public;

3) Unabsorbed losses to be allowed to be carried forward only if the same business continues on which such loss arose;

4) for the purpose of penal provision of 'deemed dividend', capitalised reserve should not form a part of 'paid-up capital';

5) closely-held investment companies should be required to distribute 100% of their profits left after tax imposition;

6) the company should pay additional income tax on the undistributed portion of its 'distributable profits';

7) opportunity should be given to the closely-held company for fulfilling its statutory obligations regarding distribution of profits as dividends within a certain period in order to avoid the penal provisions of additional income-tax, in certain cases;

8) in computation of 'distributable profits', any kind of tax levied by central, state and local authority should be allowed to be deducted, for the purpose of additional income-tax;

9) excess distribution of dividend over the statutory obligation may be allowed to be carried forward for the three successive years, which may be adjusted against shortfall of distribution in future in the perspective of penal tax.

The Commission further recommended the introduction of 'Development Rebate' on all new plant and machinery in a manufacturing enterprise, over and above the normal depreciation allowance allowed in such assets, to act as incentive for industrial development; extension of the benefits of section 15C, mentioned earlier, to a more selected industries and amortization of preliminary expenses for acquiring intangible assets.

On the basis of such recommendations, the Finance Bill for 1955-56 was introduced and became operative as a Law. The main features of that Finance Act, 1955 were:

1) 'initial depreciation' on plant and machinery, introduced in 1946 was withdrawn;

2) 'Development Rebate' on new plant and machinery, installed after 31st March, 1954 @ 25% on actual cost, over and above normal depreciation allowance, was introduced;

3) any sum contributed for scientific research was treated as allowable expenditure for the computation of business profits;

4) 'Carry forward' of business losses for an indefinite period, provided the same business on which such loss was incurred continued at the time of set off;

5) the scope of inter-company dividends regarding super-tax, was enlarged;

6) the definition of closely-held and widely-held company was specifically mentioned with modified restrictions;

7) the definition of 'dividend' was further widened for the tax purposes in connection with penal measures on closely-held companies;

8) to avoid penal additional super-tax @ 4 annas in a rupee for inadequate distribution, the closely-held company must distribute at least 60% of its distributable income, to be determined in a particular manner, within twelve months from the end of the previous year. A company whose reserve exceeds the value of paid-up capital, including loan, or the actual cost of fixed assets, must distribute the whole of the distributable income (taxable income less all types of taxes) as dividend in order to avoid penal super-tax;

9) excess dividend over 'statutory limit' could be

carried forward for next three years to adjust against deficiency.

Basic rates of taxes remain unchanged. In order to find out how to minimise the inconveniences to the assessees, the Direct Taxes Administration Enquiry Committee was set up in 1958 under the Chairmanship of Mahabir Tyagi. In the meantime, Prof. Nikolas Kaldor, an international tax expert, was invited in India in 1956, to recommend the tax system to enrich the government's revenue requirements. Several changes had been made on the basis of Kaldor's recommendations, given effect to in Annual Finance Acts from 1956 to 1958. But the actual frame work of Indian Tax - structure is now based on Direct Taxes Administration Enquiry Committee's report, submitted in 1959.

The subject of reference to that committee was to advise Government about the implementation of the integrated scheme of direct taxation and the administrative machinery required as such.

The Enquiry Committee observed .. "A feature which attracted our attention was that changes were being effected in the tax laws rather too frequently. In recent years, there have been numerous changes in the tax base, the rates of tax as well as methods of assessment. .... if such frequent changes were not effected in the tax laws, it would add to the efficiency of the administration."[19]

The Committee advised to avoid frequent changes and suggested not to effect changes in tax laws through Annual Finance Acts, but, if required, through amending the Act itself.

The principal recommendations concerning corporate bodies may be enumerated briefly as under:

1) depreciation on assets, used in the business, to be calculated on written down value basis as at present but the amount of depreciation should vary on "months of user"[20] [*4] basis;

2) terminal allowance should be granted in respect of furniture also, over and above in plant and machinery which was allowed earlier;

3) retention period of plant and machinery in the business concerned for getting the privilege of 'development rebate' should be reduced to 8 years from 10 years, as stipulated earlier. Sale of the asset to the Government, Government companies, statutory corporations and public utility concerns or compulsorily acquisition made by Government or local

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19. Government of India : Report of the Direct Taxes Administration Enquiry Committee, 1959.
20. Ibid.
*4. depreciation at full rate for assets used for at least 6 months, half of the prescribed rate if used at least one month but less than six months, no depreciation for assets used less than a month; in the previous year.

authority, should not be treated as transfer or sale for the purpose of getting the benefit of such allowance;

4) benefit of charging bad debts allowance, disallowed earlier as of prematured in nature, may be allowed in subsequent period at the discretion of the Income-tax Officer;

5) a number of changes regarding closely-held companies had also been recommended.

The subsequent Finance Acts and the Income-Tax Act of 1961 had accommodated many of the suggestions made by the Enquiry Committee of 1959 and of Law Commission's Report of 1958.

Provision of 'grossing up' of dividends by the shareholders, on which tax had already been paid by the Company was abolished in the Finance Act, 1960. The same Finance Act, also changed the provision of 100% statutory distribution of 'distributable profits', by closely held investment companies to 90%; amount of expenditure on scientific research was treated as allowable expenses; rate of income tax was reduced from 30% to 20% and the effective rate of super-tax was fixed at 20 per cent for widely-held Indian Companies, having income not exceeding Rs. 25,000 p.a. and 25 per cent for widely-held companies having income exceeding the limit and for all types of closely-held companies. Bonus issues also came into the purview of taxation. In case of foreign companies, which did not declare dividend in India, the rates of income-tax and super-tax were raised to 20% and 43% respectively.

Provision for 'Development Rebate', in respect of office appliances and road transport vehicles, was withdrawn from the assessment year 1960-61.

The Finance Bill for 1961-62, was introduced in the Parliament, by the then Finance Minister, Mr. Morarji Desai on February 1961. The Bill contained a few notable changes in connection with corporate assessees, which may be stated as follows:

1) granting of initial depreciation in respect of residential building of low-paid employees, employed in the business, constructed by the employer-company @ 20%; 2) entertainment allowable expenditure would be subjected to a ceiling, calculated on the basis of profits earned; 3) tax holiday provision in respect of industrial undertakings was extended to the case of newly constructed approved hotels; 4) where at least 75% of the investment, in share capital of a company, was made by charitable institution, the company will not be treated as closely-held company for tax purposes; 5) certain marginal tax concessions in favour of foreign companies were made.

A comprehensive Bill was introduced in the Parliament in 1961 to enact a new Income-tax Act in the perspective of

Law Commission's Report, submitted in 1958 and the Direct Taxes Administration Enquiry Committee's Report, submitted in 1959. The suggested amendments in the Bill may be summarised as follows:

1) 'terminal allowance' for furniture also;

2) no depreciation for an asset purchased and sold in the same year;

3) condition for retention of asset for the purpose of development rebate, limited to eight years;

4) bad debts, disallowed earlier on the ground of prematured-claim, may be allowed in the subsequent years;

5) any expenditure, in connection with business income, which was "wholly, necessarily and exclusively" may be treated as qualified allowable expenditure;

6) the definition of closely-held, i.e. company in which the public were not substantially interested, was further tightened; 7) a closely-held company would be given an opportunity to make good the shortfall of 'distribution' if that fell short of the 'statutory percentage' by 10% only;

8) 'carry forward of business loss' was denied to closely-held companies under certain conditions;

The Bill was amended, by the Select Committee, to a certain extent, and it was passed into law at the end of 1961 and came into force on and from 1st April 1962.

This Act was amended for a number of times to keep pace with changing socio-economic conditions. The difference of short-term and long-term capital assets, carry forward of losses on account of 'transfer' of such asset and tax treatment thereon, lowering of 'statutory percentage' of distribution of profits in case of closely-held companies, revision of tax rates, were some of the provisions effecting corporate assessees, introduced in the Finance Act, 1962. In the Finance Act, 1963, the then Finance Minister Mr. Morarji Desai, did not suggest any gross change in the effective rates of income-tax and super-tax in relation to corporate assessees but he proposed to introduce 'super profit tax' as a means to create disincentive to excessive profits. Accordingly a Bill was introduced in the Parliament in 1963. The tax was imposed at graduated rates on 'chargeable profits', exceeding 6% on capital base,*5 @ 5% and exceeding 10% of the capital base, @ 6%. It was opined that such tax would be anti-inflationary character also. The Chinese aggression of India might have induced the Finance Minister to introduce the Bill to cope with the increasing requirements of revenue of the Government. The Bill was duly passed into law and became The Super Profits Tax Act, 1963.

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*5 sum of paid up capital and reserves.

In view of the uneven incidence of the super profits tax on the companies, and the apprehended psychological resistance of industries, resulting in retardation in industrial growth, it was replaced by 'Sur-Tax' on profit in 1964,[21] in the name of The Companies (Profits) Sur-tax Act, 1964. The Act provided for the levy of 'surtax' on 'chargeable profits'[*6] in excess of the 'statutory deduction'[*7] at a particular rate, the rate being 40%.

Super-tax was merged with income-tax in the Finance Act, 1965.

In the Finance Act, 1964 many tax relief measures were introduced, but 7.5%, extra levy was imposed on dividends in excess of 10% of paid up equity capital, in order to allow companies to build up larger base of self-financing. It was subsequently withdrawn in 1968 following recommendations of the Bhoothalingam Committee (Rationalisation and Simplification of the Tax Structure, headed by S. Bhoothalingam) in 1967-68. Mr. Bhoothalingam observed that "the rate of dividend is no true index either of the capability or of the need of the company to retain profits. The rate depends mainly on the capital

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21. Chakrabarty, B. - A Study of Corporate Income Taxation in India, (Unpublished Thesis, submitted in the Viswa Bharati University in 1980).

*6 broadly comprised the profits as computed for the purpose of income-tax, reduced by the tax payable thereon.

*7 It was Rs. 2 lakhs or 10% of the capital base, whichever was higher and capital for that purpose was taken as paid-up share capital, reserves and long-term borrowings including debentures.

structure. ..... it is very doubtful whether the dividend tax does in fact contribute to greater retention of profit for development.[22]"

In 1966 Finance Act, the income tax rate was increased by 5 per cent with effect from the assessment year 1966-67. In the case of widely-held domestic companies, the basic rates of income-tax was 45% for income not exceeding Rs. 25,000 and 55% for others as against 42.5% and 50% in the previous assessment year 1965-66. In the case of foreign companies also the general rate was increased from 65% to 70%. The rate of sur-tax was however reduced from 40% to 35% on 'chargeable profits.' In case of closely-held companies, for the first time there was difference of rates of income-tax on the basis of 'industrial' and 'non-industrial' classification. The tax on bonus shares was abolished with effect from the year 1966-67. Regarding depreciation allowance, depreciation upto full value of plant and machinery was allowed in a single year, if the cost did not exceed Rs. 750. The definition of 'Low-paid' employees for the purpose of 'initial depreciation' was enlarged of having income upto Rs. 7,500 p.a. against Rs. 2,400 p.a. earlier. A new section 35A regarding amortisation of patents and trade marks was included in this Finance Act, 1966.

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22. Government of India - Report on Rationalisation and simplification of the Tax-Structure, (Final) 1967, pp. 19-20.

The Finance Act 1967 brought a very minor change to the definition of widely-held small companies as the companies to be treated as 'small' if the income does not exceed Rs.50,000 p.a. in place of Rs. 25,000 p.a. The Act also introduced certain rebates and reliefs to the corporate sector like 'rehabilitation allowance' U/S 33B and extended the existing benefits to a considerable extent. It introduced the expression 'amalgamation' under section 2 for the purpose of getting tax benefits by the companies.

In the meantime Mr. Bhoothalingam, the former Secretary in the Ministry of Finance, who was appointed as an one-man Committee for recommeding measures on rationalisation and simplification of the tax structure, submitted his Final Report on 26th December, 1967.[23] His important recommendations

1) Uniform rate for all domestic companies;

2) 'Dividend Tax' should be abolished;

3) 'Sur-tax' in its present form or in any minor variant of it should be abolished as it penalyses the more effective use of capital;

4) tax base should remain stable for as long a period as possible, the rates may have to be varied in response to the needs of the situation;

5) certain expenditures[*8] which were in the genera-

23. Bhoothalingam Committee's Report, 1967.
*8 Ibid., pp. 23-24.

lity of cases necessary and legitimate should be allowed as deductable expenditures in computing profits;

6) adoption of a few rates of depreciation for all assets and giving the deduction after increasing the original cost;

7) as a general measure of encouragement to industry it would be desirable to allow somewhat more depreciation in earlier years than the latter, it is inherent in the methods of calculating depreciation on written-down-value basis;

8) the provision of 'Development Rebate' should be abolished;

9) export-incentive scheme should also be abolished;

10) imposition of low rate of tax of one per cent on all capital mobilised in the business, owned and borrowed, and simultaneous reduction in rate of tax on profits of domestic companies, which should never exceed 45 percent;

11) he questioned the efficacy of additional income tax;

12) regarding inter-corporate dividend to avoid double taxation, he suggested to exclude from the tax base dividends from subsidiaries which are effectively controlled by the company receiving the dividends;

13) no need of classification of companies as 'industrial' and 'non-industrial' for tax purposes.

The Finance Act 1968 contained a series of measures for corporate growth, productivity and export promotion. The Act of 1969 introduced certain changes in depreciation allowance, sur-tax, amortisation of preliminary expenses, etc. Regarding 'amortization' the ceiling limit of 2½ per cent on 'project cost' on the last day of the previous year was introduced from the assessment year 1971-72. The provision for allowing depreciation for extra-shift working of plant and machinery, was introduced in the Finance Act 1970, effective from the assessment year 1970-71. The Finance Act, 1971 contained a series of structural changes affecting the corporate assessees. The then Finance Minister, Mr. Y. B. Chavan, served a notice disallowing 'development rebate' after 31st May, 1974. Tax relief measures to the specified priority industries were substantially curtailed. The rate of sur-tax on chargeable profits was reduced and made it progressive by introducing two rates, 25% upto 5% of capital base and 30% for the balance. Sur-charge @ 2.6% on computed income tax on companies was introduced, perhaps in the light of Bangla Desh War, which came into operation from the assessment year 1972-73.

In the meantime, the Government of India appointed a Committee, viz., Direct Taxes Enquiry Committee, under the Chairmanship of former Chief Justice of the Supreme Court of India, Mr. K. N. Wanchoo, with the subject of reference:[24]

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24. Government of India, - 'Report of Direct Taxes Enquiry Committee', under the Chairmanship of K.N.Wanchoo, 1971, p.1.

(a) to recommend concrete and effective measures:

(i) to unearth black money and prevent its proliferation through further evasion;

(ii) to check avoidance of tax through various legal devices, including the formation of trusts; and

(iii) to reduce tax arrears;

(b) examine various exemptions allowed by the Tax Laws with a view to their modification, curtailment, or withdrawal,

(c) indicate the manner in which tax assessment and administration may be improved for giving effect to all its recommendations.

The Committee submitted its Report in December 1971. On the basis of recommendations, the Taxation Laws Act. was amended in 1975 incorporating Government's power to unearth black money, curb tax evasion, reduce tax arrears and streamline the administrative set-up.[25] The Committee recommended for inclusion of a number of additional items, like lump sum payments for technical 'know-how'; expenditure in connection with 'amalgamation' or 'merger' etc., in the list of amortisation. The Committee observed that most of the incentive schemes, such as 'development rebate' under section 33 and 'tax-holiday' benefits under section 80J of I.T. Act., 1961, were capital oriented.

25. Lal, B.B. - 'Income - Tax Law and Practice', Vikas Publishing House Pvt. Ltd., New Delhi, 1981.

It recommended that "tax rebate ranging from 5 per cent to 10 per cent of the tax payable be allowed to an assessee in respect of income derived from a labour-oriented industrial unit newly set up after a specified date. The rebate should be admissible for a period of 5 years beginning from the year in which the operations commence."[26] The Committee further recommended tax rebate for increasing 'productivity' of the companies. It urged upon 'lower levy' in the case of small companies. As regards Additional income-tax on closely-held companies, the Committee observed that "the provisions of section 104 of the Income-tax Act are intended to plug avoidance of tax by share-holders of closely-held companies. In practice, however, the provisions do not seem to have achieved their intended purpose. .... recommended that section 104 of the Income-tax Act be omitted."[27] The Committee recommended 55% uniform rate of income tax for all domestic companies, whether widely-held or closely-held, industrial or non-industrial. Like Bhoothalingam Committee, this Committee also did not see any reason to continue 'sur-tax' any further. This Report induced many changes of far-reaching importance in the subsequent Finance Acts.

The Finance Act, 1976 replaced the scheme of initial depreciation allowance in respect of plant or machinery, granted earlier under section 32 (1) (vi) of the Income-tax Act, 1961, by a scheme of 'Investment Allowance' under section

26. K. N. Wanchoo - Op.cit., p. 122.
27. Ibid. pp. 123-4.

32A, with the object of encouraging investment in new plant and machinery, accelerating production and extending the scope of employment. The rates of income tax on different sources of foreign companies had been revised. The Finance Act 1977 had inserted a new section, 72A in the I.T. Act for amalgamation of industrial sick units.

In June 1977, the Minister of Finance, Government of India, Mr. H. M. Patel, announced in the Lok Sabha to appoint a Committee of experts to examine and suggest legal and administrative measures for simplification and rationalisation of the direct tax laws. Accordingly, the Direct Tax Laws Committee was formed on 25th June 1977 under the Chairmanship of Shri N.A. Palkhivala. The interim report and the final report were submitted in December 1977 and September 1978 respectively under the Chairmanship of Mr. C. C. Chokshi (in pursuant of the appointment of Mr. N.A. Palkhivala as India's Ambassador in Washington D.C.). The report contained a number of valuable suggestions[28] in the perspective of corporate taxation, specially as regards 'depreciation allowance'; 'Amalgamation of Industrial Units' under Section 72A; 'Additional Income-tax' on undistributed profits; computation of 'tax on capital gains'; provisions regarding 'Set-off and carry-forward of losses' and the utility of charging 'sur-tax' over and above the matters connected with the

28. Government of India, - 'Report on Direct Tax Laws Committee', 1978 under the Chairmanship of C.C.Chokshi.

assessment procedures, appeals, refunds etc.

The Government has not yet given effect of its recommendations and proposed to introduce separate bill for incorporating the valuable suggestions in the direct tax laws.

In the meantime, the Government appointed another Committee on May, 1979 under the Chairmanship of Mr. V. M. Dandekar, to study the impact of different tax, rebates and relief measures on the techniques of production vis-a-vis capital intensive and labour-intensive. The Committee submitted its report, in the name - 'Report of the Expert Committee on Tax Measures to Promote Employment', in January 1980.[29]

The Finance Bill 1980 was placed in June and became law in July 1980 and took effect from the assessment year 1981-82. The relevant changes made in the Act may be stated briefly as under:

1) additional depreciation for new plant and machinery, under section 32 (1) (iia), was allowed @ 50% of normal depreciation, installed after 31st. March 1980 but before 1st April 1985, in the initial year;

2) a new section 80I was inserted for allowing tax-holiday benefits @ 25% of profits and gains of a new indus-

29. Government of India - 'Report of the Expert Committee on Tax Measures to Promote Employment', under the Chairmanship of V.M. Dandekar, 1980.

trial undertaking or ship or hotel business with certain conditions attached thereto;

3) balancing charge on assets acquired on scientific research would be based on actual cost increased by twentyfive percent.

The Finance Act 1981 introduced certain provisions and those principal provisions concerning corporate assessees may be enumerated as follows:

1) surcharge had been reduced from 7.5% to 2.5% of income-tax in the case of all classes of companies, introduced earlier;

2) sur-tax might be paid in advance;

3) fourteen groups of industries have been removed from the Eleventh Schedule to the Income-tax Act, 1961 which contained a list of disqualified industries for investment-related tax concessions, like investment allowance, tax holiday; which meant, henceforth such industries would become eligible for the specified tax concessions;

4) complete tax holiday in respect of units set up in free trade zones for an initial period of five years;

5) dividends derived from industrial companies having manufacturing electronic components would be completely exempted from income-tax.

6) for the purpose of getting tax benefits, 'small-scale industrial company' had been redefined as having the aggregate value of plant and machinery installed therein on the last day of the previous year upto Rs. 20 lakhs as against Rs. 10 lakhs.

The main provisions relating to corporate business houses under the Finance Act 1982 are given below:

1) tax deduction, rates to be notified by the Government in respect of export turnover of business houses if the amount exceeds at least 10% over the last year, under section 89A.

2) in computing total income from newly established small-scale industrial undertaking in certain specified areas, deduction will be made @ 25% in place of 20%, under section 80 HHA, introduced in the Finance Act, 1977;

3) investment allowance at enhanced rate of 35% on plant and machinery used for the manufacture or production of any article or thing, using indegenous technology, under section 32A (2B) has been extended for another five years (originally should have been expired before first day of April, 1982);

4) depreciation rate has been enhanced to 30% on devices and systems for energy saving or for minimising environmental pollution or for conservation of natural resources.

The Finance Act 1983 brought significant changes relating to corporate assessees and the main provisions on such changes are given below:

1) Rate of depreciation on plants and machinery has been raised from 10 to 15 per cent.

2) Hundred per cent depreciation on systems and devices used for energy saving has been allowed.

3) Allowed to write off fully the small items of plants and machinery valuing Rs. 5,000, raised from Rs. 750.

4) Surcharge paid by companies on income-tax has been raised from 2.5 per cent to 5 per cent.

5) Fiscal incentives has been limited to 70 per cent of profits, thus ensuring at least 30 per cent of the profits as taxable. Provisions for unabsorbed depreciation and losses to be continued and not to be considered for the said 70 per cent.

6) Business houses having export turnover exceeding the previous year's figure, are entitled to deduct 5 per cent of incremental turnover in computing taxable income. This has removed the relevant provisions, introduced in 1982. Indian exporters would be further entitled to a deduction of 1 per cent of the export turnover of the relevant year.

7) Indian company whose business consists mainly in the construction of ships or the manufacture or processing of goods or in mining or in the generation or distribution of electricity or any other form of power and whose shares (not being shares entitled to a fixed rate of dividend whether with

or without a further right to participate in profits) carrying not less than '50 per cent' of the voting power have been allotted unconditionally to specified authorities, have been substituted by '40 per cent' voting power for the definition of 'industrial company.'

8) Twenty per cent of expenditure by companies on travel and advertisement, excluding a few items stated as travel expenditure, to be disallowed while computing taxes.