PREFACE

The principal purpose of this project is to have an analytical exposition of the basic concepts of taxation, with particular reference to corporation and its shareholders. Berle and Means observed:

"The corporation has become more than a method of doing business; it has assumed the aspect of an institution of social organisation comparable to the State itself, and has become a vital fiscal instrument in regulating, controlling and influencing the economy of a country".

The Indian Parliament accepted in December, 1954, the Socialist pattern of society as the objective of social and economic policy. Since then much has been accomplished by invigorating the mechanism of Direct Taxes in this direction, in particular of the Income Tax Act, 1922 and Income Tax Act, 1961.

During the course of these three years the Indian Tax Code has been further enriched by the yearly Finance Acts, with particular reference to Finance Act, 1983 and Finance Bill, 1984. Apart from the statutory changes, a number of cases decided over this period are noteworthy, for example, CIT v. Mahindra & Mahindra Ltd; Vazir Sultan Tobacco Co. Ltd. v. CIT, Andhra Pradesh; CIT v. B. C. Srinivasa Setty; CIT v. Federation of Indian Chambers of Commerce and Industries; CIT v. Navsari Cotton & Silk Mills Ltd.; CIT v. Gedore Tools (India) Pvt. Ltd.; CIT v. M. N. Rajam and CWT v. Ashok K. Parikh.

2. (1983) 14 Taxmann 11 (SC)
5. (1981) Tax 61(3)-45 (SC)
6. (1982) 135 ITR 546 (Guj)
7. (1981) Tax 60 (3)-67 (Del)
8. (1982) 133 ITR 75 (Mad)
The entire study has been divided into seven parts. At the very outset 'Introduction' has been made to the myth of an 'Investment Company'; the nature of obligation between a holding-subsidiary company alliance; contrariety between the provisions of Income Tax Act, 1961 and Companies Act, 1956. Chapter 1, Part I attempts to bring about a concise account of historical developments, tracing the history under the Indian Income Tax Acts of 1886, 1918, 1922 and then the prevailing 1961 Act. The historical retrospect under the Income Tax Act, 1922 has been subdivided into 14 parts, beginning with the concept of income and its accrual. An attempt has been made to trace the genesis of 'Controlled Companies' and implications thereof. Much had been accomplished by the Income Tax (Amendment) Act, 1939 to which a deserved treatment has been given at appropriate places. The study under the Income Tax Act, 1961 has been subdivided into 16 parts, beginning with the concept of 'Deemed Income'. The growing importance of lease-companies has been dealt with immediately thereafter. In order to justify the developments to date, the concept of 'Charitable purpose' and 'Zero-tax' companies has been dealt with in the last.

Rationalisation of the tax structure of companies is a vital aspect which poses many interesting problems.

"The more popular the use of joint stock companies in business, the larger is the claim of the law to submit the relationship between manager and investor to rules and regulations guaranteed by legal sanctions".

Chapter 2 of Part I attempts to deal with implications and objectives of corporate taxation, for example, the variegated spectrum of business approach and taxation approach. An attempt has been made to have a critical evaluation of the 'CBDT Circulars' under the heading 'Worst-Sufferer - The Tax Administration itself' in sub-Part B. 'Perk' has been dealt with under the special features of corporate assessment.

It is a fundamental principle of law of taxation economics that to a given income distribution corresponds a socio-economic structure. Chapters 3 and 4 of Part II deal with the burden of corporate taxation, and the principle of 'shifting the burden' of corporate taxation, with

particular reference to the need for integrating the personal and corporate taxes. As regards the taxation of dividends, the historical retrospect has been dealt with under Chapter 4, with particular reference to the concept of 'Deemed Dividends'. An attempt has been made to analyse the feasibility of taxability of Bonus Shares.

Part III deals with company as compared with other units of assessment. Chapters 5 and 6 bring out the legal and socio-economic aspects of the impact of bodies corporate, for example, a HUF or a trust, on corporate taxation. Part IV deals with procedure of corporate taxation. An attempt has been made to have a critical analysis of the concepts of 'Income Escaping Assessment' and 'Advance Payment of tax' under Chapter 7. This Chapter also deals with the concept of natural justice in Income Tax proceedings at the end.

Part V deals with the variegated nature of computation of corporate income. An attempt has been made to study the concepts of 'Commercial Expediency' and 'Enduring Benefit' under Chapter 8. This Chapter has been subdivided into 5 parts. The concept of 'hedge transactions' and the myth of 'cornering the shares' has been dealt with under sub part III. A concise treatment has been given to the mechanism of 'additional tax liability' in sub part IV. As regards sub part V, an attempt has been made to have a critical evaluation of the twin concepts of 'Reserve' and 'Provision'.

Part VI deals with the position of companies under the three taxes, namely, reintroduction of the Wealth Tax on closely-held companies, concept of a 'controlled company' under the Estate Duty Act. An attempt has been made to have a critical analysis of the general principles of 'share valuation' under these three taxes.