CHAPTER III
NATURE OF TAXATION

A tax is a charge levied upon a person or property for the support of the Government or for a Public purpose. Namely to raise the general revenue, it is a demand of sovereignty. Thus taxation is the taking of private property for public use under conditions determined by law. As explained by the Australian High Court" The primary meaning of taxation is raising money for the purposes of Government by means of contribution from individual persons."11

Mr. Justice Lathan, the Chief Justice of the high Court of Australia has put the definition in the following terms "A tax is a compulsory exaction of money by public authority for public purposes enforceable by law and is not payment for the services rendered."12

According to Cooley "Taxes are burdens or charges imposed by the legislative power upon persons or property to raise money for public purpose."

Though the power of levying tax is essential for the very existence of the Government, its exercise must be controlled by the constitutional provisions made in that

11 R.V. Barger (1908) 6 C.L.R. 38 (48).
12 Mathews V Chicoy Marketing Board (1938), 60 C.L.R. 263 (276).
Under Art 265 of the Constitution of India, "No tax shall be levied or collected except by authority of Law."

Thus there must be valid law, before there can be a tax. The act of levying a tax is legislature in character. The legislation should fix the tax base and make a declaration of tax liability of the tax-payer and should prescribe the modes of assessment and recovery of tax. It can be imposed by authority by Act of Parliament or the State Legislature as the case may be.

In the L.T.Swamiar's case, Mukherjee J. brings out the essential characteristics of a tax as distinguished from other forms of imposition. The essence of taxation is copulsion, that is to say, it is imposed under statutory power without the tax payers' consent and the payment is enforced by law. It is different from expropriation of money from one group for the advancement of another. It is a burden or charge imposed by the legislative power upon person or property in order to raise money for public purpose. It is in its nature compulsory and coercive.

Thus the essence of a tax, as distinguished from other charges by the Government, is the absence of a direct

quid pro quo between the tax payer and the public authority.

However, this delineation of tax warrants some modification to accommodate the latest economic aspirations of an uneven society while viewed in the growing order of modern egalitarian economy.