

LL.B. IV Term

Paper : LB – 4033 - Taxation–II

[Wealth Tax and Provisions of the Income Tax Act, 1961 not covered in Taxation – I]

Prescribed Constitutional and Legislative Provisions:

1. Constitution of India 1950 (Provisions relating to Distribution of Legislative Powers with special reference to Taxing Powers)
2. The Wealth-tax Act, 1957
3. The Income-tax Act, 1961

Recommended Readings:

1. Vinod K. Singhania & Kapil Singhania, *Taxmann's Direct Taxes – Law and Practice*
2. Girish Ahuja & Ravi Gupta, *Direct Taxes – Law and Practice*

The students are required to acquaint themselves with the tax proposals and reforms contained in the Direct Taxes Code Bill, 2009. The salient features of the Bill have been given in the beginning of this material.

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PART – A : LEGISLATIVE POWERS TO LEVY TAXES: CONSTITUTIONAL PROVISIONS

Topic 1 : Distribution of Legislative Powers between the Union and States with particular reference to Taxing Powers

General Scheme of Distribution of Legislative Powers (Articles 245 – 254); Distribution of Taxing Powers (Articles Ambit and Scope of Entry 97 and Entry 86 of List I (Union List) of Seventh Schedule vis-a-vis Entry 49, List II (State List)

PART - B : WEALTH-TAX ACT, 1957

Topic 2 : Constitutional Validity of the Act

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| 1. <i>Banarsi Dass v. W.T.O.</i> , AIR 1965 SC 1387 :
(1965) 56 ITR 224 (SC) | 24 |
| 2. <i>Sudhir Chandra Nawn v. W.T.O.</i> , AIR 1969 SC 59 | 30 |
| 3. <i>Union of India v. Harbhajan Singh Dhillon</i> ,
AIR 1972 SC 1061 | 33 |
| 4. <i>C.W.T. v. Dr. Karan Singh</i> (1993) 200 ITR 614 (SC) | 47 |

Topic 3 : Over-all view of Act

Concepts – ‘assets’ [section 2(ea)]; ‘valuation date’ [section 2(q)]; Charging Provision (section 3)

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| 5. | <i>C.W.T. v. Ellis Bridge Gymkhana</i> , AIR 1998 SC 120 | 58 |
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Topic 4 : ‘Net Wealth’

Ingredients – meaning of ‘assets belonging to the assessee’ [section 2(m)]

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| 6. | <i>C.W.T. v. Bishwanath Chatterjee</i> (1976) 103 ITR 536 (SC) :
AIR 1976 SC 1492 | 62 |
| 7. | <i>Nawab Mir Barkat Ali Khan v. C.W.T.</i>
(1997) 226 ITR 654 (A.P.) (F.B.) | 66 |

Topic 5 : ‘Net wealth to include certain assets’ – Interpretation (section 4)

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| 8. | <i>CWT v. Kishan Lal Bubna</i> (1994) 1 SCC 60 | 75 |
| 9. | <i>C.W.T. v. H.H. Sri Rama Varma, Maharaja of Travancore</i>
(1975) 100 ITR 91 (Ker) | 78 |
| 10. | <i>C.W.T. v. Nawab Fazal Yarjung</i> (1998) 233 ITR 654 (AP) | 81 |

Topic 6 : Exemptions in respect of certain assets (section 5)

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| 11. | <i>Trustees of Gordhandas Govindram Trust v. C.I.T.</i>
(1973) 3 SCC 346 | 82 |
| 12. | <i>Trustees of HEH the Nizam’s Pilgrimage Money Trust v. C.I.T.</i> (2000) 4 SCC 179 | 86 |
| 13. | <i>Director of Wealth-Tax (Exemption) v. Estate R.P. Kayam Trust</i> (2002) 253 ITR 30 (Cal.) | 88 |
| 14. | <i>Mohd. Ali Khan v. C.W.T.</i> (1997) 3 SCC 511 | 90 |
| 15. | <i>C.W.T. v. D.S. Virawala Suragwala</i> (2003) 259 ITR 405 (Guj) | 93 |
| 16. | <i>C.W.T. v. Jugal Kishore Bhagat</i> (1992) 197 ITR 250 (Cal.) | 99 |
| 17. | <i>C.W.T. v. P. Babul Reddy</i> (1996) 218 ITR 625 (A.P.) | 102 |
| 18. | <i>C.W.T. v. Laxmi Dutt</i> (2003) 263 ITR 225 (All.) | 103 |
| 19. | <i>C.W.T. v. M.K. Abdul Khader Haji</i> (2000) 242 ITR 728 (Ker) | 104 |
| 20. | <i>C.W.T. v. K.O. Mathews</i> (2003) 261 ITR 702 (Ker) | 108 |

Topic 7 : Exclusion of assets and debts outside India (section 6);
Valuation of assets (section 7 read with Schedule III)

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| 21. | <i>C.W.T. v. Consolidated Pneumatic Tools Co.</i>
(1972) 4 SCC 428 | 110 |
| 22. | <i>Pandit Laxmi Kant Jha v. C.W.T.</i> (1973) 90 ITR 97 (SC) | 111 |

Topic 8 : Liability to Assessment in Special Cases (sections 19, 19A, 20 and 20A)

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| 23. | <i>C.W.T. v. Keshub Mahindra</i> , (1983) 139 ITR 22 (Bom.) | 115 |
| 24. | <i>Ved Prakash Narang v. C.W.T.</i> (1988) 172 ITR 184 (All.). | 121 |
| 25. | <i>C.W.T. v. G.E. Narayana</i> (1992) 193 ITR 41 (Kant.) | 127 |
| 26. | <i>Tatavarthi Rajah v. C.W.T.</i> (1997) 225 ITR 561 (SC) | 132 |

PART – C : INCOME-TAX ACT, 1961

Topic 9 : Set Off, Carry Forward and Set off of Losses (sections 70, 71, 71A 71B, 72, 73, 74, 74A)

Topic 10 : Search and Seizure (sections 132, 132A, 132B)

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| 27. | <i>Pooran Mal v. Director of Inspection (Investigation)</i>
(1974) 93 ITR 505 (SC) | 137 |
| 28. | <i>I.T.O. v. Seth Brothers</i> (1969) 74 ITR 836 (SC) | 148 |
| 29. | <i>Bapurao v. Assistant Director of Income-tax</i>
(2001) 247 ITR 98 (M.P.) | 155 |
| 30. | <i>Union of India v. Vipin Kumar Jain</i> (2003) 260 ITR 1 (SC) | 157 |

Topic 11 : Assessment – Best Judgment Assessment; Income escaping assessment
(Sections 139, 142, 143, 144, 145(2), 147, 148, 149, 150, 151 and 153)

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| 31. | <i>State of Kerala v. C. Velkutti</i> (1966) 60 ITR 239 (SC) | 160 |
| 32. | <i>C.I.T. v. Burlop Dealers Ltd.</i> (1971) 79 ITR 609 (SC) | 164 |
| 33. | <i>Gemini Leather Stores v. The Income-tax Officer</i> ,
AIR 1975 SC 1268 | 167 |
| 34. | <i>The Income Tax Officer v. Lahkmani Mewal Das</i>
(1976) 3 SCC 757 | 169 |
| 35. | <i>Srikrishna (P) Ltd. v. Income-Tax Officer</i> (1996) 9 SCC 534 | 175 |