

preface to the first edition

The introduction of Value Added Tax in 2005 was a novel fiscal doctrine. Laws, in India, have been notoriously infamous for being too complex for people to grasp and understand. When the VAT was introduced, it did nothing to dispel this notion. The dealers and the authorities alike were flummoxed and not a day would pass without some clarification or the other being sought for. The dealers, prepared as they were to a familiar tax structure, perceived the new tax regimen as oppressive and reactions ranged from open opposition to clear cut evasions. The authorities, trying to implement a law which they were not familiar with and probably did not understand in its entirety, were at times outrightly unhelpful, apathetic and even high handed—their attitude being defined by the need to meet revenue collection targets.

This mutually hostile position was not good for business and confidence. Artificial liabilities were created, throwing a large number of dealers to penury. Their tragedy was further compounded by the fact that to prefer an appeal against an order, the dealer had to pay a percentage of the liability which was being contested. Those who were not sufficiently solvent could not even prefer the appeal before authorities without recourse to which the Hon'ble High Courts, in terms of Principle of Alternative Remedy, would not even entertain a writ petition!!

Tax collectors have never been popular people. Even in olden days, the view was same. A few lines from the Bible prove it:-

“As Jesus went on from there, he saw a man named Matthew sitting at the tax collector’s booth. “Follow me,” he told him, and Matthew got up and followed him. While Jesus was having dinner at Matthew’s house, many tax collectors and “sinners” came and ate with him and his disciples. When the Pharisees saw this, they asked his disciples, “Why does your teacher eat with tax collectors and ‘sinners’?” On hearing this, Jesus said, “It is not the healthy who need a doctor, but the sick”.

However, even though the motivation to write this book stemmed from my deep conviction to help the dealers, it was also mounted on requests made by very noble acquaintances amongst the authorities, who actually wanted an easy interpretation of the many complex issues involved, to restore dealer’s confidence, and even save them from embarrassing reversal of their orders by Hon'ble High Courts.

The purpose of this book, which is the first edition, is to assist people and practitioners in understanding the fundamental principles of VAT. The fiscal policy and law both are important for the development and growth of the society in which tax administration plays an important role. This book focusses on the principles and basic concepts of VAT law. We superimpose technical details on the fundamentals only to the extent necessary for a proper and enduring understanding of VAT law. I assume that there are two types of readers of this book—those who do not have any knowledge and those who have prior knowledge—at least of VAT law. Hence, we start with an examination of fundamental concepts. In Chapter 1, in the “Introduction,” for example, we look at the federal and provincial powers to tax under constitutional doctrines.

We also look at the key concepts of tax systems and the basic principles of tax policy that influence the structure and politics of the law. Tax law must make difficult compromises between competing social and economic values, revenue requirements, administrative efficiency, a sense of fair play and the costs of fiscal administration. Although the primary function of tax statutes is to raise revenue, governments also use them to achieve other social and political goals—for example, to dispense benefits, provide economic incentives, hide indirect trade subsidies and, sometimes, even to buy votes.

In this text, we address five fundamental questions that are common to all fiscal statutes:—

"Who is taxable?

"What is taxable?

"How much do we tax?

"When is income taxable? and

"What are the processes to ensure compliance and the resolution of disputes?

I have tried to answer all these questions.

I have tried to build a bridge between the collectors and dealers by authoring this book. It can be best judged by going through the compilation of my hard work.

—Author