



For example, what the author calls *Standard Vacuum Oil Co. v. Petroleum Workmen's Union*⁴ is given in the Labour Law Journal as *Burmah Shell Oil Co. v. Their Workmen*. Further, whenever cases are discussed under any popular name they should be immediately footnoted by their full names. *Muir Mills* case, for instance, should have been cited as *Muir Mills v. Suti Mill Mazdoor Union* in the footnote.⁵ Unless these conventions are observed, readers would find it very difficult to pick out the discussed cases. Where quotations from a case are given the exact page of the report from which they are extracted have to be given. This would relieve the reader of the arduous task of finding the particular passage from the report of the case. Long quotations may, with benefit be avoided, but wherever extracts from the cases are given, it is necessary and proper to give a clear indication of their being extracts.

On the whole the book is a useful work for lawyers as well as to employer and employee organisations.

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Taxation of Foreign Income—Cases and Materials, by Prof. Boris I-Bittker, Southmayde Professor of Law, Yale University and Prof. Lawrence F. Ebb, Professor of Law and Director, International Legal Studies, Stanford University, Preliminary Edition, Stanford University, California (1960), pp. 580.

Taxation of foreign income has become a subject of great importance in the context of rapidly increasing international economic collaboration. As such, this painstaking work of cases and materials on the subject by two well-known authorities is a welcome addition to the rather sparse literature on the subject. The volume exhibits in the manner of presentation of the cases and materials as well as the appended notes a remarkable insight into the intricacies of the subject woven in a host of bilateral agreements among nations and the interpretations by the courts of law in various countries. The basic emphasis on American law and conventions on the subject as is given expression in the work is appropriate as it is the United States, more than any other country that has become today the focal point in the field of international economic relations. Hence the importance and usefulness of the work will not be confined to the U.S. students of law; indeed the appeal and worth of the book easily transcend the limits of any national boundary. As the authors put it in the preface, "...an understanding of the operation of our tax system, especially as modified by our bilateral tax-conventions, requires some insight into the reach of foreign tax laws." This, however is, an understatement of fact because

5. See p. 19.



the exhaustive drawal on the tax-cases and materials of other countries, as one finds in the work, actually reaches far beyond the sure "reaches of foreign tax laws" revealing before the discerning student the pattern of the working of the tax system related to foreign income and the rationale behind such working.

The reading of the book is rather heavy—understandably so, because the actual language used belongs to the courts of law in different countries. The notes at the end of each case and other clarificatory materials link up the different contexts and explain deftly the posers and pointers relevant to them. This is a distinct quality of the work, and the way the court-jargons have been explained is characteristic of the high degree of the authors' scholarship and mastery of the details dealt with in the work. This is no mean achievement in the realm of law books, saving the reader from the usual boredom that a work on law often is. The arrangement of the details has been designed with this end in view. Naturally, *Bases for Taxation* comes as the first Chapter consisting of an introduction followed by a bird's eye-view of the U.S. taxation of foreign income, the theories of jurisdiction, allocation of income and the determination of income originating in a foreign country. Aptly, the introduction starts with a comment on the Report on Double Taxation submitted by the League of Nations Economic and Financial Commission. This Report laid down the principles governing the international competence in taxation. The second Chapter describes the different methods of engaging in foreign business and investment. Chapter Three considers the income-tax treaties and their effect on taxation of foreign income in different countries. In this context the salient questions making up the treaties have been taken into account and the prospects of bilateral treaties making way for multi-lateral treaties have been gauged. The last Chapter considers the questions of foreign exchange fluctuations, blocked currency, foreign situs, trusts, international transportation industry and the enforcement of foreign taxes. The Appendix gives the more important statutory provisions on the subject. All these details taken together provide a panorama of taxation of foreign income and afford an insight into the functioning of the internal tax-laws on foreign income as well as international agreements in this regard.

One, however, comes across some of the limitations of a work of this nature. The changes in tax-laws within the national boundaries and outside and the new treaties and stipulations tend to make such a work easily vulnerable. The rationale discerned on the basis of existing provisions may be easily rendered nugatory and as a result the



work is likely to get easily dated. The authors take foreign cases and materials relating to India, for example, which were decided as far back as 1955 (the latest incorporated in the work). Not merely that there have been other cases decided by Indian Courts in the meantime, but also the Indian Income-tax Act itself has undergone major changes during the period. In the context of the economic planning in this country, these changes have meant a shift in attitude to personal business taxation itself. The following cases may be pointed out with a view to drawing the attention of the authors to the more recent changes that have occurred in this country.

Deletion of Section 4 (1) of the Income-tax Act which exempted the foreign income of a resident which was not remitted to India to the extent of Rs. 4,500/- (Finance Act 1959).—Redrafted Section 4(3) covers exemptions relating to the remuneration of Consuls, Vice-consuls, trade commissioners, etc., intended for only foreign citizens and full-time official representatives where such exemptions are reciprocal; Also exemption of free or concessional passages home on leave to employees of foreign nationality (Central Board of Revenue Circular dated May 19, 1958); Exemption for accumulated foreign profits brought to India by persons hitherto not resident in India (Press Note dated November 15, 1957); Expenditure of visit of foreign countries, of a revenue nature should be allowed as deduction in the assessment (Central Board of Revenue Circular dated January 1, 1959).

Such changes are inevitable in the context of the tax-system of a developing economy and its adjustments with the changing conditions and circumstances. These need not and should not however minimise the value of a work of basic nature on the subject unless the changes are so sweeping in content and far-reaching in effect that they have brought into existence something fundamentally different and altogether new.

The work is necessary reading for not only students of international trade and finance but also for a wide range of lawyers and economists, Indian scholars, Government department-personnel and the legal sections of public and private corporations that have international dealings. They will all do well to be acquainted with the complexities of an important subject so competently explained by the learned authors.

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