



ESTATE DUTY. By C.R. Datta. 1974. Eastern Law House, Calcutta. Pp. 30+384+294 Rs. 60.

THE LAW of Estate Duty was enacted for the first time in India in 1953. Prior to 1953, legislation in India in connection with death duties was restricted to the duties payable for obtaining a grant of legal representation, *i.e.*, probate duty and the allied duties in respect of letters of administration and succession certificates. Our Estate Duty Act is almost a copy of the English statutes relating to estate duty as they stood at the time of passing of the Act. There were two advantages of this, first, the Indian legislature had a draft Bill which they could copy without any hitch and secondly, we could get the benefit of the English decisions, as we had none of our own. The estate duty law is a very complex one and it affects those who leave an estate worth Rs. 50,000 or more after their death. There are a number of standard books on the Estate Duty Act like, Nanavati's *The Estate Duty Act*, Chopra's *Estate Duty*, V. Balasubramanian's *Law and Practice of Estate Duty* and Chaturvedi and Pithisaria's *Estate Duty Law*. Datta's *Estate Duty*, the book under review, is not in the same class as the aforesaid books, nevertheless it is a welcome addition to the commentaries on the Estate Duty Act.

Datta is a Bar-at-Law and is a senior lecturer in the Calcutta University. He is the author of a book on company law and this is his first attempt in this area. He has brought all his expertise to bear on this book. The book is in one volume covering over 670 pages and besides stating the law succinctly, it provides a wealth of information to the persons who have to deal with the Estate Duty Act.

In the preface the author has spelled out the object of the book:

This is a commentary on the provisions of the Estate Duty Act 1953 in a manner which is understandable to the persons who are most affected by the Act. An attempt has been made to avoid such discussions and references as might create confusion. An effort has been made to state the existing law on the subject in a simple and straightforward manner.

The book partly achieves this object, having been written in a clear and lucid style. But despite the best efforts of the author, it is not possible to present this law "in a simple and straightforward manner." This shortcoming may not be due to any lapse on the part of the author, but the result of the law on the subject being so complex. The author has, however, endeavoured to present the law in a 'simple' manner by introducing new and useful features in the book some of which may be pointed out here:

1. On pages 12 to 14 the author has given a comparative table of the provisions of the Estate Duty Act and the United Kingdom legislation. This chart is of immense use since our Act is based on the English legislation.



2. On pages 15 to 32 under the heading "Some of the Important Aspects of the Estate Duty Act" the author has given a consolidated list of (i) Properties which do not pass or deemed to pass on death; (ii) Properties which are excluded from the payment of estate duty; (iii) Properties which are lumped together for rate purpose but no duty is payable on them; (iv) Properties which are liable for estate duty and are included in the estate of the deceased; (v) Some of the important powers and functions of the appellate tribunal, appellate controller and controller of estate duty; (vi) Certificates that may be issued under the Estate Duty Act; (vii) Persons accountable for estate duty and their important rights and duties, and (viii) Information to be furnished to the controller by accountable persons. The consolidation of these important items can give the reader a bird's eye view of the picture and it can help him to locate the relevant provisions easily.
3. On page 32 under the heading "Achievement of Social Objective and Reduction of Estate Duty Liability," are given first, the social objectives of the duty, namely, to "break up large estates in order to prevent transmission from generation to generation great accumulations of wealth," and secondly, the possible ways of reducing the estate duty. For example, wealth tax is not payable in respect of certain assets. These are materials for the purpose of arranging properties with a view to reducing the potential liability to estate duty. Similar is the case with the gift tax, where gift tax is not charged on certain gifts, and one can make use of these exemptions to reduce the estate during one's lifetime. This delineation of the methods of reducing the estate duty liability is very useful to those persons who own large estates and who want to reduce the estate duty on their estate after their death.
4. The book has provided on pages 364 to 368 a list of the vulnerable periods, the periods of limitation and penalty, *e.g.*, for gifts made *inter vivos* whether by way of transfer, delivery, declaration or trust, settlement upon persons in succession or otherwise, the vulnerable period is two years before death.
5. Some examples of computation of estate duty have also been given.

In the second part of the book one finds the Estate Duty Rules, 1953, the Estate Duty (Controlled Companies) Rules, 1953, the Estate Duty (Distribution) Act, 1962 and Rules, 1963. Notifications, circulars, press notes and clarifications have also been given. The Income-tax (Appellate Tribunal) Rules, 1963, are also given on page 144 *et al.*

Since the Estate Duty Act is based on the English legislation, the author has included the relevant English Acts dating from 1881 to 1965. Extracts from the Indian Succession Act, 1925, have been incorporated. The book also gives a sample of forms which have to be filed for the grant of letters of administration, succession certificate and probate.



The book is thus more or less a complete and detailed study of the Estate Duty Act. The reviewer, however, feels that the commentary on the sections is not adequate and enough case law has not been given. A critical review of the decisions has not been attempted by the author. Despite these shortcomings, the book is useful for both the tax lawyer and the tax teacher. The student can also profitably pursue the commentary and we are sure that he will be able to understand the sections. Not many books have been written on the Estate Duty Act and when one does find a good book on the subject, he is apt to overlook the minor shortcomings and recommend that book to those whom it may concern. This is exactly what the reviewer wants to do with regard to Datta's *Estate Duty*.

*Mahesh C. Bijawat**

*M.A. (Agra), LL.B. (Banaras), LL.M., J.S.D. (Yale), I.T.P. (Harvard), Reader in Law, Banaras Hindu University.