



## BOOK REVIEWS

**TAX OFFENCES, BLACK MONEY AND THE LAW (1987).** By K.D. Gaur. Deep and Deep Publications, New Delhi. Pp. xxiv—416. Price Rs. 250./

THE BOOK under review<sup>1</sup> is timely and relates to an important aspect of today's problem in the area of tax laws. An attempt has been made here to study various problems arising out of the cancerous growth of black money, as a result of evasion and avoidance of taxes, their consequences, as also ways and means of its discouragement.

The book is divided into ten chapters with a foreword<sup>2</sup> by R.N. Misra, Judge, Supreme Court of India (as he then was) and an introduction<sup>3</sup> by Nagendra Singh, President, International Court of Justice. The first chapter 'Taxation and its Significance in National Economy' states the background in which tax crimes are committed in India, while the second briefly describes the direct tax laws, their origin and the income tax machinery. The nature, causes and extent of black money and its impact on socio-economic structure of the society have been dealt with in depth in chapter III. The learned author has systematically and critically examined the various legislative and administrative steps taken by the government to unearth black money from 1950 till this day. He has very powerfully commented on decisions of the Supreme Court on the issue of special bearer bonds in the case of *R. K. Garg v. Union of India*.<sup>4</sup> This issue, according to him, cannot be approved by any standard in a democratic set-up governed by the rule of law. It places premium on dishonesty and is a glaring example of the state's inaction and surrender to the tax criminals. The learned author has very rightly said that such an action gives encouragement to like minded persons to conceal income and wait for the occasion when such a scheme would be announced so that black money can be turned into white. All that is true, but why the government has issued special bearer bonds even against the recommendations of the Wanchoo Committee Report<sup>5</sup>, has not been discussed. The author should look into this area also in the next edition.

In chapter four, a discussion of various devices adopted by tax payers to defeat provisions of tax laws with particular reference to HUF, partnership,

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1. K.D. Gaur, *Tax Offences, Black Money and the Law* (1987).

2. *Id.* at iii-iv.

3. *Id.* at v-vi.

4. (1982) 123 I.T.R. 239, *id.* at 68.

5. *Direct Taxes Enquiry Committee Final Report* (1971).



religious and charitable endowments would enlighten the reader. A comparative study of the role of judiciary and judicial attitude to tax avoidance in India, UK, USA, Canada, Australia and New Zealand in chapter five, makes the book very informative and useful. In the sixth and seventh chapters, various provisions relating to penalties and prosecution alongwith a comparative study of the doctrine of *mens rea* have been made at great length. In chapters eight and nine, the author has beautifully analysed the law through various cases relating to penalty proceedings in fiscal legislation and the *vires* of tax legislation debated in various courts in India.

The last chapter deals with suggestions to streamline taxation laws for better economic growth. Many valuable suggestions have been made by the author. One of them relates to taxation of agricultural income in India. The learned author has critically analysed the various provisions of laws, decided cases and reports. He has very powerfully argued for taxation of agricultural income in the same way as non-agricultural income. But Nagendra Singh in the introduction had suggested that taxation of agricultural income would yield little or nothing and in place of encouraging agriculture it would hamper agriculture production and prove disastrous. This reviewer respectfully disagrees with this view and is inclined to agree with that of the author that taxation of agriculture income will not only be equitable but also prove prosperous for the agriculture sector when the taxes collected by the government will be invested for agricultural development. Moreover, according to data available,<sup>5a</sup> about 61 per cent of agricultural land is in the hands of 16 per cent farmers who have huge income from agriculture, particularly, after the green revolution. Would it not be just, proper and equitable to tax only these farmers? This would, on the one hand, not touch small farmers and, on the other, encourage 16 per cent big farmers to earn more and more from agriculture so that the taxes paid by them would, in turn, be invested on agricultural development. Further, non-taxation of agriculture income many a times, leads to tax evasion and helps in converting black money into white. For these reasons, Justice Wanchoo<sup>5b</sup> and Raj<sup>6</sup> suggested taxation of agricultural income in their respective reports. Raj suggested clubbing of agricultural with non-agricultural income for rate purposes and agricultural holding tax on agricultural income and wealth. The government accepted the clubbing of agricultural income for rate purposes in 1973 but not agricultural holding tax. It is, therefore, a half-hearted approach. Gaur, therefore, rightly suggests that agricultural holding tax should also be imposed. This would not only check tax evasion and black money but would also be just and equitable leading to more development and prosperity in the agricultural sector.

The present work closes with conclusions and valuable suggestions. In

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5a. *Ibid.*

5b. *Ibid.*

6. *Report of the Committee on Taxation of Agricultural Wealth and Income* (1972).



fact, the entire work deserves the attention of the legislature and all concerned authorities.

Gaur must be congratulated for exposing readers to the cancerous problems emanating from tax evasion and black money and providing valuable suggestions to check this cancerous growth in India. The book has been written in simple language and covers a vast spectrum in a short compass which is by no means an easy task. The treatment of the subject is both analytical and objective. Comparative material makes it very informative. The table of cases, bibliography, reports and subject index increase its research value. The book will be very useful for LL.M. students, researchers, law teachers, lawyers, judges, law makers and tax administrators.

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