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income-tax Appeals

A Correspondent Writes :

INAUGURATING the conference of the Members of the Income-tax Appellate Tribunal on Sunday last, the Chief Justice of India, Mr Justice I^J B Gajendragadkar, expressed the opinion that the administration of income-tax law should be taken off the Appellate Tribunal, a quasi-judicial body, and entrusted to a full-fledged judicial authority. The Chief Justice invited the members of the Tribunal to shed their quasi-judicial robe and join "the parent body and share its glory".

It is good that the Chief Justice's suggestion has provoked thinking on the working of the Income-tax Appellate Tribunal and its future. For a long time Civil Courts were debarred from interfering in any matter relating to the collection of revenue. The power of Chartered High Courts to issue writs was not exercisable in revenue matters. It was only in 1911 that, in deference to strong public opinion, the Income-tax Appellate Tribunal was set up. It was at first placed under the Central Board of Revenue: but soon it was transferred to the control of the (then) Legislative Department with the idea that justice should not only be done but should appear to be done.

The expectations entertained at the time of setting up the Income-tax Appellate Tribunal have been more than fulfilled. By and large the tax-payers look upon the Tribunal as their saviour from unjust or illegal tax demands. This is evident from the figures given by the Tribunal President at the Members' conference. In fact, the demands on the Tribunal have been so heavy that arrears of pending appeals have steadily increased during recent years. It is true that at times (though not very frequently) there have been complaints about the Tribunal's working. However, against any wrong decision of the Tribunal there is the safeguard of a reference (*albeit* only on questions of law) to the High Courts with a further appeal to the Supreme Court, it is as a result of such references to the High Courts and appeals to the Supreme Court that these Courts have

been able to throw light on difficult questions relating to the interpretation of income-tax law.

Suggestions for abolishing the Tribunal and making the High Courts the appellate body in income-tax matters have been made from time to time, but they could not, in the nature of things, be considered, having regard to the large volume of work that would be thrown on the High Courts and the large number of additional judges that would have to be appointed. Even now income-tax references remain pending for long periods before the High Courts, some of them for as long as three years. Such delay in the disposal of tax matters is most undesirable both from the point of view of the tax-payer and the Income-tax Department since subsequent assessments are often held up and a good deal of uncertainty and confusion result.

That the strength of the High Courts will have to be increased very substantially they are to take over the Tribunal's work goes without saying. The expenditure on the Income-tax Tribunal is met by the Centre whereas High Court Judges are paid by the States. The question arises how far the State Governments would be prepared to shoulder the additional financial responsibility. Further, the present difficulty in getting suitable persons to serve as High Court Judges will be accentuated if there is to be a large increase in the strength of the Courts. At the same time, as the Law Minister, who presided over the Conference, pointed out, transfer of the work of the Appellate Tribunal to the High Court will also raise the problem of absorbing the accountant-Members of the Tribunal who would not be eligible for appointment as High Court judges, though most of the judicial members may be.

There may be something to be said in favour of a judicial approach to disputes between the Government and the tax-payer but it is also a fact that income-tax law and practice, as also problems arising out of accounts, are highly specialised and complicated. Without meaning any disrespect to the honourable judges it needs to be said that it has been found in practice that only very few High Court Judges are able to deal

satisfactorily with income-tax cases. If, to this handicap, we add the responsibility of looking into matters of accounting and all other questions of fact relating to income-tax assessments, it would be placing too heavy a burden on the High Courts. Of course, this assumes that with the abolition of the Appellate Tribunal, the High Courts would deal both with facts and law in income-tax appeals. It cannot be otherwise, since the Appellate Assistant Commissioner can never be the final judge of facts.

In the light of these considerations, the assurance by the Law Minister that there will be no radical change in the composition of the Income-tax Tribunal is welcome. In fact, as suggested by the Law Minister, there should be administrative tribunals for all matters that require to be dealt with quasi-judicially, with an appellate authority in each State. It is to be hoped that the Law Minister will implement his suggestion at an early date.

STC in Unflattering Light

THE picture of the S T C that one gets from the Estimates Committee's latest report is certainly not one which would enhance its prestige. Even allowing for the Committee's usual rambling approach and the uneven nature of its analysis, the fact remains that for an institution of some 8 years' standing, the Corporation is far too vulnerable to criticism. Frequently in the Report the length of the Corporation's experience is referred to and surprise expressed that so little has been learned in the time.

True, the Corporation is absolved of an allegation made against it often, both inside and outside Parliament — that it is outstepping its original objective of supplementing private trade and is supplanting it instead. The Estimates Committee points out that the Corporation's share of the country's total trade amounts to no more than 4.8 per cent; this could hardly affect the opportunities of the private sector.

The Committee's conclusions and recommendations are sometimes tinged with more than a touch of ambivalence. For instance, there would seem to be a slight statistical incompatibility between the suggestion that the Corporation