VISION: Journal of Indian Taxation
Vol. 7 (2), Jul-Dec 2020, pp. 59-68
doi: 10.17492/jpi.vision.v7i2.722039
www.journalpressindia.com/vjit

Revitalization of Inheritance Tax in India

*Lavanay Gupta**

ABSTRACT

Inheritance tax (or estate tax as it is referred to in some countries) is a tax levied on the total assets which the deceased has left behind. These taxes are implemented with a common aim that is to achieve social and economic equality. The Constitution of India entrusts the duty upon the government to ensure the policies drafted should aim to reduce the concentration of wealth and reduce the inequality in the society. India, a developing country struggling hard to overcome the wide socio-economic gap, abolished estate taxation in the year 1986. This paper compares India without estate tax with the countries who have successfully implemented the estate tax. The paper concludes with a proposal to implement the estate tax in India once again, so as to utilize the limited resources of the country in the best possible way.

Keywords: *Inheritance tax; Estate tax; Socio-economic equality; Inclusive development.*

1.0 Introduction and History of Inheritance/Estate Tax

Inheritance tax is a tax levied by the government on total asset of the deceased after some minimum deduction which an heir inherits on the death of the person and is to be paid by the person inheriting the fortune. The estate tax is also similar to inheritance tax but it is levied on the assets of the deceased person and not in hands of the heirs inheriting the fortune.

The concept of inheritance tax was not invented by America but was a concept commonly used in the 17th and 18th century by kings to collect the revenue from the common man on the transfer of his property to their heirs on succession. America introduced the concept of inheritance/estate tax around 200 years ago to fund the war against France and then from time to time it was repealed and reintroduced at the time of other wars.

**Student, Department of Law, O.P. Jindal Global University, Panchkula, Haryana, India. (Email: lavanaygupta96@gmail.com)*

Initially, the idea of inheritance tax was introduced by various kingdoms or countries to collect revenues and pile up their treasures. In 1916 President of America Woodrow Wilson introduced estate tax to fulfil the monetary needs during the time of war but after the war ended both the Presidents Theodore Roosevelt and Woodrow Wilson decided to not do away with estate tax as they saw this as an opportunity to redistribute the income and reduce socio-economic disparity. With this decision, a better use of estate tax was invented which was a step towards an ideal society where everyone had levelled playing field to work hard.

The United Kingdom introduced a tax named as 'estate duty' on the lines of inheritance tax in the year 1949 where the tax was imposed on the estate of every dead person, on this Stafford Cripps commented in his budget speech

"The Legacy and Succession Duties also have the drawback that they impose a proportionately heavier burden on the small than on the large estate. For example, an estate of £6,000, passing wholly to brothers and sisters, pay a total charge of 3 percent estate duty and 10 percent legacy and succession duties, equivalent to a rate of nearly 13 percent, or 10 percent over the Estate Duty rate; whereas, at the other extreme, an estate of £3 million would pay only 2½ percent. over the rate of Estate Duty. It is, no doubt, because of this unequal incidence of the duty that testators, in fact, leave about two-thirds of the total legacies and bequests free of duty, and in all such cases the Legacy and Succession Duties merely become a wholly illogical, extra Estate Duty, falling upon the residue."[1]

The above speech highlighted the poor implementation of estate tax which rather than helping led to increasing inequality due to which it was abolished and reintroduced as inheritance tax in 1976 with an exemption up to a certain amount of estate to rectify the problems in the earlier introduced tax regime.

2.0 History of Estate Duty in India

The concept of estate duty tax was introduced in India in the year 1953 by the Congress government with an insight to reduce the huge gap in wealth distribution in India. In the financial year, 1953-54 the top 1 percent population of India held 11.1 percent wealth of India[2], which remained constant, rather declined to 10.4 percent in the year 1985-86[3] i.e. approximately 30 years from 1954 which was a great achievement if compared to the present income distribution system i.e. top one percent possessing 21.3 percent wealth of the country[4] shows a huge bump in the wealth possessed by one percent population of the India.

"As both wealth-tax and estate duty laws apply to the property of a person, the former applying to his property before death and the latter after his death, the existence of two separate laws with reference to the same property amounts to procedural harassment to the taxpayers and the heirs of the deceased who have to comply with the provisions of two different laws. Having considered the relative merits of the two taxes, I am of die view that estate duty has not achieved the twin objectives with which it was introduced, namely, to reduce unequal distribution of wealth and assist the States in financing their development schemes. While the yield from estate duty is only about Rs.20 crores, its cost of administration is relatively high. I, therefore, propose to abolish the levy of estate duty in respect of estates passing on deaths occurring on or after 16th March 1985. I will come forward in due course with suitable legislation for this purpose."[5]

With the above words spoken by the then Union Finance Minister V.P. Singh during the union budget speech for the year 1985-86 the estate duty tax was bought right down to zero from eighty five percent on total estate to be passed on by inheritance imparting huge relief to the few wealthy families of India and pushing India into a trap of unequal distribution of wealth. The wealth held by the bottom 50 percent population in India also decreased from 12.3 percent in the year 1953 to 6.4 percent in 2012, thus increasing the wealth distribution gap between rich and poor. Although many factors contributed to the control on the concentration of wealth till the mid 1980's but the economic analysis of the data and various factor demonstrates that the estate tax and various other taxes on wealth helped to control the wealth accumulation in India.[6]

After the year 1985, the only taxes imposed on possession of assets were wealth tax and capital gain tax. The minimal tax rate of one percent in form of wealth tax which was levied on the tax payer having total income more than 30 lakhs in a financial year was also abolished in the year 2015. Therefore, the only tax levied to control the wealth accumulation in India is Capital Gain tax which is also levied only on sale of an asset. Therefore, India is still miles away from achieving an equal socio-economic environment which is the basic necessity to improve the standard of living in India and tackle various economic problems India is facing since independence.

3.0 Reasons for Abolition of Estate Duty

The Estate Duty was abolished in India due to high cost of administration of this tax against the minimal collection which was being made by way this tax. Therefore, the government felt that the tax wasn't economically viable to be implemented. Moreover, most of the property was Benami during those times i.e. the property used to be registered in name of some person other than the actual owner of the property to dodge the taxes. So, this led to failure of the entire aim of levying the Estate Duty as there was no way to ascertain the actual estate of the decease. Thus, the State was able realise a meagre amount out this tax.

4.0 Comparison of India with Countries Having Inheritance/Estate Tax

The below comparison would be carried basically on two factors which are Gini Coefficient and Inequality Adjusted HDI.

4.1 Gini coefficient

Gini coefficient was developed by an Italian statistician Corrado Gini and published a paper on it in the year 1912 *Variability and Mutability*[7]. Gini Coefficient is used to statistically represent the income and wealth distribution in a country. Gini coefficient is not affected by the size of the economy or the population of the respective country it just indicates the distribution of income and wealth between the rich and poor of the country. Due to the above characteristics, it is one of the most suitable tools for comparing the socio-economic conditions of two or more countries and coming out with the decision as to implement inheritance/estate tax or not. The value of the Gini coefficient near to zero depicts proper equality whereas the increasing value of the Gini coefficient depicts inequality in the economy.

4.2 Inequality adjusted HDI (IHDI)

Inequality-adjusted HDI depicts the distribution of health, education, and income among the population of the country after discounting the average of each dimension. IHDI takes into account the distribution pattern apart from the indicators for HD calculations. Difference between IHDI and HDI is the human development cost of inequality also known as the loss to human development due to inequality. This is also a suitable factor to compare countries for inequality as it takes into account the upliftment of society due to equal distribution of wealth and income.[8] The value of IHDI near to 100 depicts perfect equality whereas the decreasing value of IHDI depicts inequality.

4.3 People living below poverty line

The number of people living below the poverty line in a country depicts the condition of the economy of the country. More the number of people living below poverty lines shows the poor management of the country and unequal distribution of income in the country, whereas the reverse trends show properly implemented welfare schemes and a society based on equal distribution of wealth.

5.0 Comparision

5.1 Japan and India

The Gini coefficient of Japan for the year 2008 was 32.2 and the Gini coefficient of India was 35.2.[9] These values of the Gini coefficient show the difference in the equal distribution of income and wealth in both countries with Japan in a slightly better position than India. The factors affecting the Gini coefficient are numerous like economy, income etc, considering the various hardships like natural calamities which Japan's economy has to frequently face it can be said that they are at a slightly better position in the terms of equal distribution of wealth and income.

Japan is ranked 21st in the inequality-adjusted HDI with a ratio of 0.791 whereas India is placed at the 97th position with a ratio 0.454 which shows the poor distribution of income and wealth.[10]

Japan has one of the highest tax rates for estate tax in the world with the tax rate of 55 percent on both Japanese national and foreign national on domestic as well as international property with some limited exceptions. The above step along with other measures such as efficient tax compliance and social security has made it possible for the country like Japan with limited resources at there disposal and frequent suffering due to natural calamities are still one of the most developed economies in the world with only 16 percent people living below poverty line and 2.8 percent of its total workforce as unemployed.[11] The payment of estate tax is compensated by a properly developed social security system which provides support to its citizen at all times. Their tax system has been termed as one of the most stringent systems in the world making it difficult for anyone to evade the tax, thus resulting in the overall socio-economic development of Japan.

5.2 United Kingdom and India

The Gini coefficient of the United Kingdom for the year 2011 was 33.21 whereas for the same year Gini coefficient for India was 35.2.[12]

United Kingdom is placed at the 13th position with IHDI ratio of 0.836 and India is placed at the 97th position with IHDI ratio of 0.454,[13] the huge gap between the ranking based on IHDI of both countries depict problem of unequal distribution of income in India due to which India is given such a low ranking.

The United Kingdom has only 15.3 percent[14] of its people living below the line of poverty which is way too less as compared to the number of people in India living below the line of poverty. It shows how well the economy and income of people have been managed by the government policies in the United Kingdom.

The above data clearly depicts the equal distribution of income and wealth in the United Kingdom to a great extent. Estate tax can be given credit for being one of the reasons behind this socio-economic equality in the United Kingdom.

The estate tax rate in the United Kingdom has been set at 40 percent which is comparatively higher than other European countries but the well-planned social security schemes have succeeded to a great extent in compensating the high estate tax rate. The United Kingdom is home to huge manufacturing companies has still managed to maintain the equitable distribution which in itself is a great example for India do reintroduce the estate duty tax to counter the problem of poverty and rising gap between income distribution.

6.0 Contentions for Reintroduction of Estate/Inheritance Tax in India

6.1 Constitutional argument

The Article 38(2) of the Indian Constitution cast the duty upon the State to formulate the policies which reduce the inequalities of income and the status amongst the individual. The Article 39(c) of the Indian Constitution also cast the duty upon the State to form the economic policies which doesn't lead in concentration of wealth. Although the Directive Principle of State Policy cannot be enforced upon the State in the Court of Law. But still the State has the obligation to embed the Directive Principle of State Policy in the policies they form and aim to achieve the equality in the society. Therefore, reintroduction of the Estate Duty can help to achieve the above laid principles for the welfare of India.

6.2 OECD recommendation

Organisation for Economic Co-operation and Development is an economic organisation comprising of 36 members which publishes model tax conventions. These model tax conventions are laid down on the basic principle of increasing tax compliance in the country and reducing the tax evasion by its citizens. The organisation also undertakes country specific economic surveys and render advise on how to improve the tax structure of the country. The OECD in the Economic Survey for India in the Year 2017 February recommended India to levy inheritance tax based on the fact that there was extreme concentration of wealth in the form of household property.

7.0 Review of Literature

The author Thomas Picketty along with Lucas Chance in their paper titled 'Indian income inequality, 1922-2015: From British raj to billionaire raj?'[15] enumerated the vast inequality in distribution of wealth in India. They state that the post 1980's period the top 1 percent captured 22 percent of the total wealth. Picketty (2014) in his book 'Capital in the 21st Century' states that the wealth is much more unequally distributed than the income. In his book he introduces a concept of comparison of rate of growth (r) to the rate of nominal economic growth (g), where if r>g, then rich will be getting richer. He also highlights that the higher wealth to income ratio enumerates the trends of unequal distribution of wealth. To counter the above-mentioned problem, he suggests to introduce tax on wealth like estate tax and wealth tax. Rishab Kumar in his paper titled 'The evolution of wealth-income ratios in India 1860-2012' through his research highlights the accumulation of wealth and the wealth to income ratio reaching to 600-700%. Thus, the above trend highlights the need for imposition of tax on wealth in India.

The author Anne L. Alstott in her research paper titled 'Equal opportunity and inheritance taxation' defines the need for providing a levelled playing field to the people stepping into the world. She explains this with an example of a spaceship landing on a barren land people getting down from it getting equal access to the available resources on such land and then playing by the 'option luck' to accumulate more resources by their hard work. Similarly, she suggests a system of providing equal available resources to the child on maturation into an adult as in the real world there is no concept of spaceship landing on barren land, so that everyone gets to work hard and earn more resources i.e. utilise the opportunity of 'Option Luck' rather than 'Brut Luck' where the person gets to have more resources because of destiny. Towards the end of her paper she describes need for a comprehensive Inheritance Tax which helps to provide a levelled playing field and get to earn more resources based on the choices they make in their life regarding the utilisation of those resources.

8.0 General Opinion

India is dealing with the problem of unequal distribution of income and wealth since the time of independence, the problem is so persistent that the Indian GDP has risen from $36.536 billion in 1960 to $2.264 trillion economy in 2016[16] which is a great progress but still India has failed to keep a check on income and wealth distribution amongst its citizens.

Wealth tax and income tax have been one of the best solutions proposed by the economist all over the world to curb the problem of the huge gap in economies between rich and poor. India is a country where top 1 percent of rich people earned 73 percent of net income of India in the year 2017 whereas in 1930's only 21 percent of net income was earned by top 1 percent of rich people.[17] The above data clearly shows the increase in concentration of wealth in India. Analysing the above data, it seems that the step taken by the former Union Finance minister V.P. Singh to remove the estate duty tax backfired along with other factors contributing to rise in unequal distribution of wealth in India.

Moreover in the current times the issues faced in implementation of the estate tax earlier have been rectified to great extent by introducing the Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act, 2016, strengthening the Prohibition of Benami Property Transactions Act, 1988 and introducing other multiple measures to strengthen the tax compliance in India. The above steps have helped to ascertain the exact amount of estate possessed by the individual and avoid tax evasion. This will help to increase the net tax collection and also decrease the cost of administration as the basic framework required to implement the tax efficiently is already in place.

India will have to introduce a well-planned social security system which ensures fulfilment of basic necessities of an individual and motivate them to part away with a fraction of their fortune as the sense of insecurity among the citizens could lead to great damage to the country.

India being a developing country and mainly relying on Primary and Secondary sector which are capital intensive sectors, levying estate tax would deplete the capital required for further development of the country. But the Government can introduce the estate tax exempting the resources utilised for development of the country and create employment in the country. Thus, reducing the impact on the wealth creation ability of the country and simultaneously reducing the concentration of wealth and reducing the socio-economic gap prevailing in India.

I would base my contentions to reintroduce estate duty tax in India on the above-mentioned data which is collected by authorities distinguished in their own fields and clearly depicts that tax on the estate has to some extent helped in controlling the unequal growth of some of the most developed economies. As the countries where a few people control the majority of the assets of the country leads to the problems of unemployment, poverty and depleting opportunities for unprivileged people ultimately leading to rising crime rate and unstable economy.

9.0 Conclusion

The present pandemic times have exhibited the incumbent need for socio-economic equality in the society. The society has been overburdened with the concentration of wealth and the poverty-stricken people are dying because the wealthy has declined to fulfil their duty towards the people who helped them accumulate wealth. The imposition of inheritance tax will help the government to keep in check the concentration of wealth and also provide social security to the under privileged classes of the society. The tough times have highlighted the need for maintaining socio economic equality to avoid the social rift between the wealthy and poverty-stricken in the society. Therefore, imposition of inheritance tax can be step forward to maintaining the social fabric of the society and achieve inclusive development in India.

Endnotes

1. Stafford Cripps, Chancellor of the Exchequer (6 April 1949). "Death Duties". Parliamentary Debates (Hansard). House of Commons. col. 2088–2090.
2. 'India - WID - World Inequality Database' (*WID - World Inequality Database*) <https://wid.world/country/india/> accessed 2 April 2020.
3. *Ibid.*
4. *Ibid.*
5. SPEECH OF SHRI VISHWANATH PRATAP SINGH MINISTER OF FINANCE INTRODUCING THE BUDGET FOR THE YEAR 1985-86. (1985). [online] union government of India, p.17. Available at: https://www.indiabudget.gov.in/bspeech/bs198586.pdf [Accessed 9 Apr. 2018].
6. Kumar R, 'Capital and The Hindu Rate Of Growth: Wealth Concentration In New Independent India 1961-1986' (2016) <http://www.ecineq.org/ecineq_nyc17/FILESx2017/CR2/p319.pdf> accessed 2 April 2020.
7. Gini, C. (1909). "Concentration and dependency ratios" (in Italian). English translation in Rivista di Politica Economica, 87 (1997), 769–789.
8. 'Inequality-Adjusted Human Development Index (IHDI) | Human Development Reports' (Hdr.undp.org, 2018) <http://hdr.undp.org/en/content/inequality-adjusted-human-development-index-ihdi> accessed 9 April 2018
9. 'GINI Index' (Fred.stlouisfed.org, 2018) <https://fred.stlouisfed.org/series/SIPOVGINIIND> accessed 10 April 2018
10. Human Development Reports' (Hdr.undp.org, 2018) <http://hdr.undp.org/en/composite/IHDI> accessed 10 April 2018
11. 'Japan - OECD Data' (the OECD, 2018) <https://data.oecd.org/japan.htm> accessed 10 April 2018

12. 'GINI Index' (Fred.stlouisfed.org, 2018) <https://fred.stlouisfed.org/series/SIPOVGINIIND> accessed 10 April 2018
13. 'Human Development Reports' (Hdr.undp.org, 2018) <http://hdr.undp.org/en/composite/IHDI> accessed 10 April 2018
14. 'The World Factbook — Central Intelligence Agency' (Cia.gov, 2018) <https://www.cia.gov/library/publications/the-world-factbook/fields/2046.html> accessed 10 April 2018
15. Picketty, T., & Chancel, L. (2017). Indian income inequality, 1922-2015: From British Raj to Billionaire Raj?. WID.world. Retrieved from https://wid.world/document/chancelpiketty2017widworld/
16. 'India | Data' (Data.worldbank.org, 2018) <https://data.worldbank.org/country/india> accessed 12 April 2018
17. THE WIRE, 'Richest 1percent Cornered 73percent Of Wealth Generated in India in 2017: Oxfam Survey' (2018) <https://thewire.in/economy/richest-1-cornered-73-wealth-generated-india-2017-oxfam-survey> accessed 12 April 2018

References

Chancel, L., & Piketty, T. (2019). Indian income inequality, 1922-2015: From British Raj to Billionaire Raj? *Review of Income and Wealth, 65*(S1). doi: 10.1111/roiw.12439

Equal Opportunity and Inheritance Taxation. (2007). *Harvard Law Review, 121*(2). Retrieved from https://www.jstor.org/stable/40042666

Kumar, R. (2018). Poor country, rich history, many lessons: The evolution of wealth-income ratios in India 1860-2012. *SSRN Electronic Journal*. doi: 10.2139/ssrn.3111846

Piketty, T., & Goldhammer, A. (2014). *Capital in the Twenty-First Century*. Harvard University Press.