POWER OF TAXATION UNDER CONSTITUTION OF INDIA: - AN ANALYSIS

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# INTRODUCTION

Judge Cooley in his famous work ‘the laws of taxation’ said, “Taxation is a mode of raising revenue for a public purpose. The term is ordinarily used to express the exercise of the sovereign power to raise revenue for the expenses of government...the power of taxation is an essential and inherent attribute of sovereignty belonging as a matter of right to every independent government....In fact, the power of taxation may be defined as the power inherent in the sovereign state to recover a contribution of money or other property in accordance with some reasonable rule of apportionment from the property or occupations within its jurisdiction for the purpose of defraying the public expenses."

So we can say that taxation can be defined in many ways. In one way it is the process by which the sovereign, through its law making body, races revenues use to defray expenses of government[[1]](#footnote-2). It can also be defined as a means of government in increasing its revenue under the authority of the law, purposely used to promote welfare and protection of its citizenry[[2]](#footnote-3). It is also the collection of the share of individual and organizational income by a government under the authority of the law.[[3]](#footnote-4)

Taxation is the inherent power of the state to impose and demand contribution upon persons, properties, or rights for the purpose of generating revenues for public purposes[[4]](#footnote-5). It can also be said that the imposition of taxation is out of necessity and is inherent in every government and sovereignty[[5]](#footnote-6) .

The power of taxation is an incident or an attribute of sovereignty.[[6]](#footnote-7) The taxing power is an essentially a legislative power.[[7]](#footnote-8) In the contemporary world, no government can adequately discharge its diverse duties without it.[[8]](#footnote-9) Its constitutional significance requires legitimate sanction for its collection.[[9]](#footnote-10)

Constitution is a foundation and source of power to legislate all laws in India[[10]](#footnote-11). Both Parliament and State Legislature derive their power from the Constitution and so every law made should not be beyond Constitution[[11]](#footnote-12). So the Indian Constitution states that there will be two independent governments, one at Centre and other at the State level[[12]](#footnote-13). They shall not be subordinate to each other but will coordinate with each other[[13]](#footnote-14). Hence both the governments must have under its own independent control financial resources sufficient to perform its exclusive functions[[14]](#footnote-15). The federal government has the exclusive control over the currency and coinage and therefore, the financial autonomy of the State government is always dependent upon the currency and credit determined by the federal government[[15]](#footnote-16). Taxation is an important source of revenue and each government in a federation should be allowed to exercise its power to tax, unfettered by the control of the other government[[16]](#footnote-17).

As already been stated that power to tax is an inherent sovereign power of State to collect money or other property from its citizens and the inhabitants in the territory for defraying expenditures[[17]](#footnote-18). Due to change in the concept of the State from ‘police state’ to ‘welfare state’, there has been change in the object of taxation also. Formally, the object was to collect revenue to defray the expenses of the government, while in the latter , the object was to expend it on public order, public health, public morals and the general welfare of the people within the constitutional limits[[18]](#footnote-19).

The concept of taxation is very dynamics in the sense that now it is not only a revenue earning measure but also powerful measure to wipe out a vast disparity of wealth and income between the citizens of the country[[19]](#footnote-20).

## DISTRIBUTION OF POWER UNDER THE CONSTITUTION OF INDIA

Article 265 of the Indian Constitution states that there can be no levy of tax except according to the prescribed authority of law. So the power to tax is contained in Article 246 and also there are relevant tax entries in the Union and State List of the Seventh Schedule of the Constitution. One of the interesting to note is that there is no Concurrent list on the topic of tax. In other words, it means that there is no over-lapping jurisdiction with regard to taxation. The Parliament has the residuary power to deal with taxation[[20]](#footnote-21). Hence the power to tax in the case of State legislature should derive from a specific tax entry and in the case of Union Legislature it may be from a specific entry or from the residuary power[[21]](#footnote-22).

Article 246(1) of the Constitution contains the Union list, on which Parliament has authority to make laws. The Union list contains 13 items from Entry 82 to Entry 92 of the List I of the Seventh Schedule. Following are some of the items dealt with in the List 1:

 Entry 82 deals with tax on income other than agriculture,

Entry No. 83 states duties of customs including export duties.

 Entry No. 84 deals duties of excise on Tobacco and other goods manufactured or produced in India except alcoholic liquors for human consumption, opium, narcotic drugs, but including medicinal and toilet preparations containing alcoholic liquor, opium or narcotics.

 Entry No. 85 talks about Corporation tax.

 Entry No. 92A states about Taxes on sale or purchase of goods other than newspapers, where such sale or purchase takes place in the course of Interstate trade or commerce.

 Entry No. 92B deals on Taxes on consignment of goods where such consignment takes place during Inter-State trade or commerce.

 Entry No. 92C states about Tax on services.

Some other items covered under List I are taxes on capital of companies, taxes on railways fares and freight, taxes other than stamp duties on transactions in stock exchange, cheques, promissory notes, bill of lading, letter of credit, policies of insurance, transfer of shares, debentures, proxies and receipts, taxes on sale and purchase of newspaper and on advertisement published, etc.

 Like Parliament has exclusive authority to make laws on certain items, similarly the State Legislature has exclusive authority to make laws on certain items in List II of the Seventh Schedule in the State. Such is prescribed in Article 246(3) of the Constitution. List II has enumerated the items from Entry 45 to Entry 63. Some of them are as follows:

Entry No. 46 – Taxes on agricultural income.

Entry No. 51 – Excise duty on alcoholic liquors, opium and narcotics.

 Entry No. 52 – Tax on entry of goods into a local area for consumption, use or sale therein (usually called Octroi or Entry Tax).

 Entry No. 54 – Tax on sale or purchase of goods other than newspapers except tax on interstate sale or purchase.

 Entry No. 55 – Tax on advertisements other than advertisements in newspapers.

 Entry No. 56 – Tax on goods and passengers carried by road or inland waterways.

 Entry No. 59 – Tax on professionals, trades, callings and employment.

Other items in the List II are related to taxes on animals and boats, tolls, taxes on land revenue, stamp duties, taxes in consumption and sale of electricity, passengers carried by road or inland waterways, etc.

One of the most interesting features to be noted in the Indian Constitution is that the financial arrangement regarding the proceeds of many taxes mentioned in the two list of the Seventh Schedule, are either exclusively given to the states or they are shared between the Union and the States[[22]](#footnote-23). Article 268 states about the duties levied by the Union but collected by the States. These relate to Stamp Duties and such other duties of excise on medicinal and toilet preparations[[23]](#footnote-24). It has also been stated that although they form part of Union List but they would not form part of Consolidated Fund of India but will be given to the State[[24]](#footnote-25).

According to Article 269, there are items on which the taxes are levied and collected by the Union itself but are assigned to the States. The items which come under this Article are: succession of property other than agricultural land, terminal taxes on goods or passengers carried by railways, sea or air, taxes on the sale or purchase of newspaper and on advertisement published therein, etc.[[25]](#footnote-26)

Article 270 of the Constitution deals with the taxes which are levied and collected by the Union and distributed between the Union and States. Taxes on income other than agricultural income shall be levied and collected by Union and it will be distributed between Union and the State in the proportion prescribed[[26]](#footnote-27).

On the other hand, Article 272 states that taxes which are levied and collected by the Union but these taxes may be distributed between the Union and States.

Article 273 and Article 275 deals with the Grants in aid to be distributed to States from the Consolidated Fund of India. These provisions were incorporated to provide funds to the States to meet the requirements of the States and also to remove disparity among different States to provide social service to its people depending on their financial position[[27]](#footnote-28).

The Constitution has also made provisions for the smooth functioning of the federal government in the form of constituting Finance Committee under Article 280. The function of this Finance Committee is to make recommendations to the President of India as “the principles which should govern the grant-in-aid of the revenue of the State out of the Consolidated Fund of India”.

Similarly, 73rd and 74th Constitutional Amendment[[28]](#footnote-29) has provided for devolution of financial and administrative power to self-governing democratic institutions in rural and urban areas.[[29]](#footnote-30)

Article 243H empowers the State Legislature to make laws for imposing taxes by the Panchayats. State legislature has the power to authorize and assign Panchayats to collect, levy and appropriate taxes. This Article also has the provision for providing grants-in-aids to the Panchayats out of the Consolidated Fund of India. Under Article 243X, there are similar provisions which have been conferred on the Municipalities.

Similar to Article 280, Article 243I also provides for the establishment of Finance Commissioner for reviewing financial position of the Panchayats and Municipalities. The function of Finance Committee is to make recommendations to the Governor as to the principles which should govern:

* The distribution of the taxes, duties, etc. between the State and the Panchayats and the State and Municipalities and the respective share of the proceeds of such taxes that have to be divided between them,
* The determination of taxes, duties which may be assigned to and appropriated by the Panchayats and Municipalities
* The grants-in-aid to the Panchayats and Municipalities.

The Constitution of India has very well recognized the importance of taxation. The drafters of the Constitution knew that taxation has and will always play a major role in the administration of the country, so it has made the concept of taxation legal by incorporating it in the Constitution.

##  CLASSIFICATION OF TAXES

Taxes, primarily, are classified into Direct and Indirect taxes. Direct taxes are those kinds of charge which are imposed directly on the taxpayer and are paid directly to the government by the person, both natural and juristic, on whom it is imposed[[30]](#footnote-31). On the other hand, Indirect Taxes are those kinds of charge which are collected by the intermediary from the person who bears the ultimate economic burden of the tax[[31]](#footnote-32). The indirect taxes have the capability to increase the price of the goods or services. The difference between the direct and indirect taxes are that in direct tax the ‘formal’ and ‘effective’ incidence is generally on the person who pays the tax[[32]](#footnote-33) whereas an indirect tax is the one that can be shifted by the taxpayer to someone else[[33]](#footnote-34). In other words, in indirect taxes, the formal incidence is on the dealer or the manufacturer and the effective incidence is on the buyer or the consumer[[34]](#footnote-35).

On the basis of incidence of taxes, direct taxes can be categorized into income tax, wealth tax, estate duties, etc., whereas indirect taxes comprise of taxes on commodities and services, etc[[35]](#footnote-36)

Also the whole power of taxation which is conferred on Union and State under the Constitution can be divided under following headings[[36]](#footnote-37):

1. Taxes on Property
2. Taxes on Income
3. Taxes on Commodities
4. Customs and Octroi duties
5. Taxes on Motor Vehicles and Transportation
6. Taxes on mineral rights
7. Taxes on Advertisement, luxuries, etc.

These topics have been dealt with in details in the subsequent pages.

### TAXES ON PROPERTY

Property tax or the ‘house tax’ is a local tax on building along with appurtenant land, and imposed on owners[[37]](#footnote-38). The tax power is vested in the states and it is delegated by law to the local bodies, specifying the valuation method, rate band, and collection procedures[[38]](#footnote-39). The property occupied by the owner, i.e., where such property does not earn any type of rent, is taxed at the cost[[39]](#footnote-40). The vacant land[[40]](#footnote-41) and the land under the control of Central Government[[41]](#footnote-42) and the property which belong to the foreign missions[[42]](#footnote-43) are usually exempted from tax.

 There are many type of property tax levied such as wealth tax, tax on lands and buildings, tax on gifts, succession duty, estate duty, etc. Only few are discussed below:

1. Wealth Tax

Parliament enacted Wealth Tax Act, 1957 under Entry 86, List I of the Seventh Schedule, which dealt with levy of tax on capital value of the assets excluding agricultural land[[43]](#footnote-44). But in 1969, the ambit of the Wealth Tax was widened to include the capital value of the agricultural land also[[44]](#footnote-45). The Supreme Court in India vs. H.S.Dhillon[[45]](#footnote-46) held that the tax on agricultural land comes under the Centre’s residuary power. The majority was of the view that although Entry 86 stated “exclusive of agricultural land”, but that does not mean that the Parliament does not have the power to deal with it. Article 248 is given a wide interpretation and so a matter not included in List II and List III falls under the residuary aspect[[46]](#footnote-47). The Court further held that the Parliament has the power to combine its power under List I and residuary power to enact a law[[47]](#footnote-48).

1. Gift Tax

The Constitution contains no specific legislative entry dealing with the tax on gift and hence it falls under the residuary power of the Parliament[[48]](#footnote-49). The Gift Tax Act was enacted in 1958 in whole of India except Jammu & Kashmir[[49]](#footnote-50). In 1998, the act was abolished but again in 2004, it was revived under section 56(2) of the Income Tax Act, 1961. According to this Section, gift received by any individual or Hindu Undivided Family (HUF) in excess of Rs. 50,000 in a year would be taxable[[50]](#footnote-51).

1. Land And Buildings Tax

Entry 49 of List II states about the levy of tax on lands and buildings. The word land includes everything above and under the earth except minerals as there is a different entry (i.e. Entry 50), dealing with tax on minerals[[51]](#footnote-52). In Ralla Ram vs. Province of East Punjab, it was held that tax on land and building based on its annual value was valid and it does not become a tax on income[[52]](#footnote-53)

### TAXES ON INCOME

This is the second kind of direct taxes. Taxes on income include income tax, tax on profession, trade and business, etc. These are discussed briefly below:

1. Income Tax

The tax on income, which is derived from either capital or labour or both, comes under income tax. The Constitution has divided the power to tax income between Union and State. Parliament has been given power to tax non-agricultural income under Entry 82 and the State legislature under specific entry. Income Tax Act, 1961 was enacted which imposes tax on any individuals, HUF, or firms or cooperatives society and trust or every juridical person[[53]](#footnote-54). The income is taxed on the basis of residential status of the assesses. There are three residential status[[54]](#footnote-55) given- (i) Resident & Ordinarily Residents (Residents) (ii) Resident but not Ordinarily Residents and (iii) Non –Residents.

In Karimtharuvi Tea Estate vs. State of Kerala[[55]](#footnote-56), it was held that Rule 8 of the Income Tax Rules will be applied, in the case where the assesses is liable to pay tax, where he sold the tea, in the apportionment of it as 40% as business income and 60% as agricultural income.

1. Tax On Profession, Trade And Business

List II, Entry 60 empowers State to levy tax on trade, profession and business. The business organizations and companies in India are taxed under the provisions of Income Tax Act, 1961 from their world wide transactions. It has been held that tax on pension is a tax on income as being a pensioner is not profession or employment[[56]](#footnote-57). This tax is very similar to the tax levied by the Union and the Constitution also recognizes the same[[57]](#footnote-58).

### TAXES ON COMMODITIES

Examples are excise duty and tax on sale or purchase of goods. These are discussed briefly below:

1. Excise Duty

Excise duty is the duty on the goods produced in India either in the process of their manufacture or before their sale to the consumer[[58]](#footnote-59). The Constitution confers the power both to Parliament and State Legislature to levy excise duty. Parliament, under Entry 84 of List I, has given power to levy excise duty on tobacco and other goods and the State legislature has been empowered under Entry 51 of List II to levy excise or countervailing duties on alcoholic liquors for human consumption, opium Indian hemp, narcotics excluding medical and toilet preparations containing alcohol, opium, Indian hemp or narcotics[[59]](#footnote-60). The excise duty is levied only on the alcohol which is suitable for human consumption and not for industrial purpose.

1. Taxes on Sale and Purchase of Goods.

The Constitution empowers the State Legislature under Entry 54 of List II for ‘taxes on the sale or purchase of goods other than newspaper subject to the provisions of Entry 92A of List I.’The interesting thing to note is that the word ‘sale’ has not been defined in the Constitution. The Supreme Court has held in Madras vs. Gannon Dunkerley[[60]](#footnote-61) that the word ‘sale of good’ has the same meaning as given under the Sale of Goods Act, 1930.

There was lot of confusion regarding the term ‘tax on sale or purchase of goods’, so in 1982 by 46th Amendment, the term was widened by inserting Entry 29A to Article 366[[61]](#footnote-62). Consequently, the State Sales Tax Acts have been amended to provide for levy of sales tax on their respective transactions[[62]](#footnote-63).

### CUSTOMS AND OCTROI DUTIES

1. Custom Duty

Entry 83 reads as ‘duties of customs including export duties’, which empowers Parliament to levy on the importation and exportation of goods. The custom duties are levied under the Custom Acts, 1962 and Custom Tariffs Act, 1972. They are basically to protect indigenous industries from the competition of foreign industries.

1. Octroi

It is used to denote duty collected by the local authorities on goods brought within its area for use or consumption[[63]](#footnote-64). The duty is levied on goods of outside origin entering the local area and not on goods produced inside the area[[64]](#footnote-65).

### OTHER TYPES OF INDIRECT TAXES

* Taxes on motor vehicles and transportation are one of the kinds of indirect tax, which has been described in Entry 57 of List II of the Seventh Schedule. It reads as ‘taxes for vehicles, whether mechanically propelled or not, suitable for use on roads, including tram, cars subject to the provisions of Entry 35 of List III’. In State of Assam vs. LabanyaPrabha Devi[[65]](#footnote-66), it was held that the state legislature has the power to fix rates of tax under Entry 57 and Entry 35 of List III authorises them to fix rules for guidance in the matter of taxation subject to the overriding power of the Union Parliament[[66]](#footnote-67). Toll tax also comes under ‘taxes on motor vehicle and transportation’. The Constitution of India by Entry 59 of List II of the Seventh Schedule provides for the levy of toll tax[[67]](#footnote-68).
* The next type is taxes on Mineral Rights which is under List II, Entry 50 of the Seventh Schedule[[68]](#footnote-69). The Entry reads as, “Taxes on mineral rights subject to any limitations imposed by the Parliament by law relating to mineral development”. In Orissa Cement Ltd. vs. State of Orissa[[69]](#footnote-70), the Supreme Court held that the Entry 50 relates to the taxes on the leases of mineral rights and not on the minerals actually extracted. After this judgement, the State Government of Orissa, in order to bring this under the purview of Entry 50 enacted the Orissa Rural Employment, Education and Production Act,1992, which imposed tax on all type of land, agriculture and non- agriculture including minerals bearing land[[70]](#footnote-71).
* The taxes on Advertisements, luxuries, electricity, betting and gambling are some of the indirect taxes. These all are under the ambit of State list.

## RESTRICTION ON THE POWER OF TAXATION UNDER THE CONSTITUTION

The Constitution of India imposes some restriction on the taxing power of the State and of Centre. The restriction on taxing power with regard to the indirect taxes are concerned, are listed below:

* Article 286(1) states that the State Government cannot impose tax on the sale or purchase of goods during importation or exportation from one state to another state, within the country.
* Article 286(2) has authorized Parliament to enact laws with respect to the importation and exportation of goods from one state to another state within the country.
* Article 286(3) empowers Parliament to impose restriction on tax of sale or purchase of goods of special importance and the State legislature can impose tax on such goods only subject to such restriction imposed by Parliament.
* Article 301 states that there shall be freedom in trade, commerce and intercourse throughout the territory of India, except under the provisions provided in Article 302 and 304. (Jindal Strips Ltd. v State of Haryana and others,(2007) 29 PHT 385 (P&H))
* Article 302 allows the Parliament to impose restrictions on trade and commerce in the interest of public. In other words, the Parliament has the power, in order to promote public interest, to impose restriction on the trade and commerce.
* Article 303(2) and (3) talks that there will be no discrimination between two states, except by Parliament, by law only in case of scarcity of goods.
* Article 304 states that the state can impose tax on goods imported from other states, but the state cannot discriminate between other states regarding the importation of like goods from other states.
* Article 265 – No tax shall be levied or collected except by authority of law.
* Article 300A - No person shall be deprived of its property save by authority of law.

Apart from the above discussed the following also impose restrictions on the taxing power:

1. Fundamental rights

Part III of the Indian Constitution grants fundamental rights to the citizens, which is considered to be the most valuable gift from the Constitution to the citizens. Taxation laws are sometimes challenged under Article 14 and 19 of the Constitution. Article 14 of the Constitution is a well settled law in regard to taxation laws as held in Federation of hotel and Restaurants Association of India vs. Union of India[[71]](#footnote-72).

The object of subjecting taxing powers to Article 14 is that the States should evenly and equitably distribute the burden of taxation[[72]](#footnote-73). The basic object of taxing statutes is the collection of revenue. Such can also be used for regulating and such regulation can be treated as permissible or lawful purpose for testing the reasonableness of classification under Article 14[[73]](#footnote-74). It has also been clarified that there has to be close connection with the object of the statutes. In modern times, the role of Article 14 has widened, now this Article 14 comes into picture immediately when the States’ action is arbitrary while performing legislative or executive actions[[74]](#footnote-75).

Article 19 of the Constitution also is related to the taxation laws. Power to tax is an incident of sovereignty and hence every tax is not per se violative of the rights under Article 19[[75]](#footnote-76).

The Supreme Court in M/S. Pankaj Jain vs. Union of India, it was held that mere excessiveness of a tax is not per se violative of Article 19(1) (g).

Thus to conclude, if a taxing law is challenged on the ground that it is arbitrary or unreasonable, then it should be examined under Article 14. And if it is challenged on the ground of illegality then such taxing law is examined under Article 19(1) (g).

1. Inter-governmental tax immunities.

In a federal Constitution the doctrine of inter- governmental tax immunity protects one level of government against taxation by the other level of government[[76]](#footnote-77). It restricts to some extent the taxing powers of the governments in a federation[[77]](#footnote-78).

Article 285 states that the state cannot tax any Union property, except where Parliament authorises. In Union of India vs. Purna Municipal Council, it was held that state cannot tax any property of the Union whether it is used for commercial purposes or for governmental purpose.

Article 289(1) state that the Union does not have the power to tax some of the property and income of the states, thus limiting the taxing power of the Union. Whereas, Article 289(2) states that any property which is used by the State for trade or business or income which is accrued there from, then Parliament can remove such property or income from the ambit of taxation of the Union.

1. Power to tax electricity.

Article 287 and 288 refers to the immunity from taxation. Article 287 deals with the exemption, from tax, from use of electricity by both the Union government and by railways for sale or consumption by the State. This Article also states that the Parliament has power to formulate such laws so as to authorise the State to impose such taxes but a condition is attached to it that the price at which electricity is sold to the Union Government should be reduced by the amount of tax which is charged to other consumers of substantial quantity of electricity.

On the other hand, Article 288 deals with the exempting tax on water or electricity which is either stored or law made by generated or consumed or distributed by the authority which is established by law made by Parliament for regulating or developing any inter-state river or river valley by virtue of any pre-constitutional law. The assent of President is required in case such taxation is attempted by any post-constitutional law.

# CONCLUSION

Taxation plays a dominant role in the administration of the country. It has widely been recognized as an important source of revenue. The Constitution of India has stated many Articles which state the ways in which the taxes are to be collected and distributed and also the use of proceeds of such tax collected.

The power to taxation is a very important power in the hands of a sovereign. It is also important to note that there has been change in the way this power was exercised from before. Earlier there was basically a police state, so the job of the sovereign was to collect tax and provide for the security of the state. But with the advent of the welfare state concept, there has been change in the sense that the proceeds are used not only for protection but also for providing socio- economic needs of the citizens apart from the security.

There has also been change in the outlook of the concept. The government or the sovereign now collects or exercises this power not only for providing smooth administration of the country but also to reduce disparity among its citizens.

The Constitution, in order to fulfil the aims of directive principles of state policy, regarding the removal of disparity among its citizens, has incorporated many provisions in the form Article relating to the taxation. for example, there is Seventh Schedule dealing with the entry relating to it. Also Article 268 states that taxes can be levied only when such is prescribed by the law. It means that if any tax is levied, such tax is backed by a proper provision in the form of any act which is formulated by the Parliament.

The constitution has also made provisions for the enactments of Acts like Income Tax Act or the Wealth Tax Act of the Excise duty Act, etc. the validity of these act comes from the entries which are in the list in the Seventh Schedule of the Constitution.

On the other hand, the Constitution provides a check and balance approach with regard to the powers given. There are many Articles in the Constitution which provides limitations on either the Parliament or State legislature form exercising their power absolutely. Also there is included the provisions for helping the States financially by the Centre.

So I want to conclude by saying that power to tax under constitution of India is a very important sector to deal with. There can be no provisions of taxation laws which are beyond the scope of the constitution. As already stated that it plays a major role for the smooth functioning of the country and also a source of revenue for the government, its importance cannot be denied. If the tax is not justifiable, it can result into huge losses for the government also and also the trust or faith of the citizens can shake regarding the validity of the provisions.

1. *General Principles of Taxation, < ,*, https://docs.google.com/presentation/d/1YDkiA3SWuVf1-PKL9FJM81f42DrbokzDUzfeiIrgnKE/edit#slide=id.i5 (last visited Jan. 1, 2019). [↑](#footnote-ref-2)
2. *Relationship Between Tax Policy, Growth of SMEs and the Nigerian Economy,*, http://www.ccsenet.org/journal/index.php/ijbm/article/viewFile/14024/12185 (last visited Jan 3, 2019). [↑](#footnote-ref-3)
3. See General Principles,supra note 1 [↑](#footnote-ref-4)
4. *Taxation,*, http://www.slideshare.net/SFGuadana/dmydocspatricelourdescollegepowerpointsecon105conceptsoftaxation-090909215338phpapp01 (last visited Jan 3,2019) [↑](#footnote-ref-5)
5. Herman M. Knoeller , *The Power to Tax,*, http://scholarship.law.marquette.edu/cgi/viewcontent.cgi?article=3816&context=mulr (last visited Dec.31, 2018) [↑](#footnote-ref-6)
6. K. Paraswaran, *The Power of Taxation Under the Constitution of India,*1977 (1977), http://dyuthi.cusat.ac.in/xmlui/bitstream/handle/purl/1311/Parameswaran%20K%201977.PDF?sequence=1 (last visited Dec.31,2018). [↑](#footnote-ref-7)
7. Id. [↑](#footnote-ref-8)
8. Id. [↑](#footnote-ref-9)
9. Id. [↑](#footnote-ref-10)
10. *Constitutional Provisions Relating to Taxation ,*, http://www.caclubindia.com/articles/constitutional-provisions-relating-to-taxation-13804.asp (last visited Jan 4,2019). [↑](#footnote-ref-11)
11. Id. [↑](#footnote-ref-12)
12. Manjushree Mishra , Freedom of Trade and Commerce 109 (mittalPubl'n 1999). [↑](#footnote-ref-13)
13. Id. [↑](#footnote-ref-14)
14. K.C. Wheare, Federal Government 93 (4th ed. 1967). [↑](#footnote-ref-15)
15. See mishra, supra note 12 [↑](#footnote-ref-16)
16. Id. [↑](#footnote-ref-17)
17. cooley, The Law of Taxation 150 (4th ed. ). [↑](#footnote-ref-18)
18. See Mishra, supra note 12. [↑](#footnote-ref-19)
19. Id. [↑](#footnote-ref-20)
20. See mishra, supra note 12 [↑](#footnote-ref-21)
21. Id. [↑](#footnote-ref-22)
22. See mishra, supra note 12 [↑](#footnote-ref-23)
23. Article 268(1) of the Constitution of India. [↑](#footnote-ref-24)
24. Article 268(2) of the Constitution of India [↑](#footnote-ref-25)
25. Article 269(1) of the Constitution of India [↑](#footnote-ref-26)
26. Article 270 (1) and (2) of the Constitution of India. [↑](#footnote-ref-27)
27. See mishra, supra note 12 [↑](#footnote-ref-28)
28. Popularly known as panchayati raj and nagarpalika constitutional amendment act, 1992 [↑](#footnote-ref-29)
29. See mishra, supra note 12 [↑](#footnote-ref-30)
30. *Direct and Indirect Taxes,*, mospi.nic.in/…/CH….DIRECT%20&20I…. (last visited Dec. 1, 2014). [↑](#footnote-ref-31)
31. Id. [↑](#footnote-ref-32)
32. See mishra, supra note 12. [↑](#footnote-ref-33)
33. See direct , supra note 30. [↑](#footnote-ref-34)
34. See mishra, supra note 12. [↑](#footnote-ref-35)
35. See direct, supra note 30. [↑](#footnote-ref-36)
36. See mishra, supra note 12 [↑](#footnote-ref-37)
37. See direct, supra note 30. [↑](#footnote-ref-38)
38. Id. [↑](#footnote-ref-39)
39. Id. [↑](#footnote-ref-40)
40. Id. [↑](#footnote-ref-41)
41. Instead ‘service charge’ is levied on the land under the Central by the order of the executives. [↑](#footnote-ref-42)
42. See direct, supra note 30. [↑](#footnote-ref-43)
43. See mishra, supra note 12. [↑](#footnote-ref-44)
44. Id. [↑](#footnote-ref-45)
45. AIR 1972,SC 1061 [↑](#footnote-ref-46)
46. See mishra, supra note 12. [↑](#footnote-ref-47)
47. Id. [↑](#footnote-ref-48)
48. Id. [↑](#footnote-ref-49)
49. See direct, supra note 30. [↑](#footnote-ref-50)
50. Id. [↑](#footnote-ref-51)
51. See mishra, supra note 12. [↑](#footnote-ref-52)
52. AIR 1949, FC 81, 85, 86 [↑](#footnote-ref-53)
53. See direct, supra note 30. [↑](#footnote-ref-54)
54. Id. [↑](#footnote-ref-55)
55. AIR 1963 SC 760 [↑](#footnote-ref-56)
56. C. Rajagopalachari vs. Corporation of Madras. AIR 1964, SC 1172,1178 [↑](#footnote-ref-57)
57. See mishra, supra note 12 [↑](#footnote-ref-58)
58. Id. [↑](#footnote-ref-59)
59. See mishra, supra note 12 [↑](#footnote-ref-60)
60. AIR 1958 SC 560 [↑](#footnote-ref-61)
61. See mishra, supra note 12 [↑](#footnote-ref-62)
62. Id. [↑](#footnote-ref-63)
63. Id. [↑](#footnote-ref-64)
64. Id. [↑](#footnote-ref-65)
65. AIR 1967, SC 1575 AT PG. 1577 [↑](#footnote-ref-66)
66. See mishra, supra note 12 [↑](#footnote-ref-67)
67. See mishra, supra note 12. [↑](#footnote-ref-68)
68. Id. [↑](#footnote-ref-69)
69. AIR 1991, SC 1676. [↑](#footnote-ref-70)
70. See mishra, supra note 12. [↑](#footnote-ref-71)
71. AIR 1990, SC 1673 [↑](#footnote-ref-72)
72. See Mishra, supra note 12. [↑](#footnote-ref-73)
73. Id. [↑](#footnote-ref-74)
74. Id. [↑](#footnote-ref-75)
75. Id. [↑](#footnote-ref-76)
76. Id. [↑](#footnote-ref-77)
77. Id. [↑](#footnote-ref-78)