



Income Tax Evasion in India: A Study of 100 Case Laws

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Abstract

This study deals with analysis of 100 case laws/Judgements decided in various Income Tax Appellate Tribunal, High Courts and Supreme Court in F.Y. 2021-22 and F.Y. 2022-23 in India. Since Income Tax Evasion is a serious issue for India Economy over the years it is required to identify the ground reality. The study reflects the facts of various court judgements in terms of category of Assessee, Type of Courts, Source of Identification of Tax Evasion cases, Amount Involved in Tax Evasion cases and the heads of income in which tax evasion actually taken place. Further the study identifies 10 common Methods of Tax Evasion along with their frequency for better understanding of Tax Evasion modus operandi in India.

Keywords: Income Tax Evasion, ITAT, Case Laws, Heads of Income, Assessee, Assessment.

Introduction

A tax is a compulsory financial charge or some other type of levy imposed on a taxpayer being an individual or legal entity by a governmental organization in order to fund government spending and various public expenditures. A failure to pay in a timely manner (non-compliance), along with evasion or resistance to taxation, is punishable by law.

The Concept of Income Tax Planning and Tax Evasion

Tax Planning: It means reduction of tax liability by the way of various exemptions, deductions and tax benefits available under tax law. Tax planning allows a taxpayer to make the best use of various tax exemptions, deductions and tax reliefs to minimize his tax liability every financial year.

Tax Evasion: It is an illegal practice where a person, organization or corporation intentionally avoids paying their true tax liability. Those caught evading taxes are generally subject to criminal charges and substantial penalties. For Example-

- i). Underreporting of Income
- ii). Inflating Expenses and False Deduction.
- iii). Falsifying the Income Records.
- iv). Hiding Interest, Commission or Brokerage Income.

Evil Consequences of Tax Avoidance and Evasion in Economy are as summarized below:

- i). Substantial loss of much needed public revenue;
- ii). Serious disturbances caused to the economy;

- iii). Sense of Injustice and Inequality;

Justification and Relevance of the Study

During the last few years a lot of cases have been filled in Supreme Court, State High Courts and Income Tax Appellate Tribunal in relation of Income Tax Avoidance and Evasion. The cases filled in various courts represent that there has a dispute between Taxpayers and Tax Authorities on interpretation of provisions of Income Tax Act 1961, hence an exploratory detailed research work indeed required on the case laws. It will be helpful to the Government and Tax Department Assessee General Public.

Literature Review

Here are some reviews that are done by the researcher to explore the area.

Kumar Das, P. (2018) concluded that Prevention and control of black money is pre-requisite for establishing an equitable, transparent and efficient economy. The fight against generation and more legal framework, co-extensive administrative setup and a very stronger intervention of the state, which, in turn, needs a hardy complex and prolonged requiring new strong determination to fight the threat. Effective implementation strategies and accumulation of black money and curbing black money is far of the tax laws can arrest tax evasion. Relaxation in tax laws, simplification of tax laws, removal of drawbacks in the tax system, proper processing of information available can be the best tool for

the betterment of Indian tax compliance. Educating the people about the tax laws is vital as it will create an atmosphere to perform their duties to the nation.

Sarkar, S. (2012) indicates that parallel economy has been expanding very rapidly in India as well as in developing countries. This study suggests that recommendations of the laws should be implemented correctly for reducing bad effects of black economy.

Turyatini, T. (2017) Investigated that leverage and company size partially has a significant effect on tax avoidance. Sales growth, ownership and independence partially have no significant effect on tax avoidance. Based on the results the study concludes that large company utilizes resources owned to tax avoidance. Institutional Ownership does not work well in tax avoidance action done by Property and real estate companies.

Oladipupo, and Ogundeji, (2013) concluded that Tax Authorities in the country should engage in the practices capable of attracting public confidence and take steps to improve relationship between tax payers and tax officials. Collaboration Amount Various Stakeholders would also be of Substantial Benefits. The Media should also be used extensively to Promote Taxation. And Finally Tax related offences must be duly sanctioned, so that taxpayers are aware about the effect of every intended evasion.

Abubakar, Mansor, & Mohamad, (2021) highlights that even though corporate tax avoidance is deemed desirable as a means to minimize tax payments, leaving excess cash that can be distributed as extra dividends, the complexities and the secretive nature of corporate tax avoidance allows managers to take corporate tax decisions in their own personal interest.

Kim, J.H., & Im, C.C. (2017) analyzed that there is a significant distinction between SME and Non SME regarding the related financial determinants. The result shows that Firm Size, Profitability, Leverage, Operating Cash Flow, Capital Intensity Growth Rate, All influence the Corporate Tax Avoidances of SME. The Result also suggests that there is variation in the determinants among the SME with high corporate tax avoidance.

Priyesh, S., & Siddharth, D. (2011) concluded that Judicial pronouncements within India and outside India have always marked out this distinction between the two. The pre dominant feature in deciding the nature of any transaction is not the underlying motive but the legality of such transaction. Further there are certain concerns with the DTC and GAAR which should be overcome by the possible ways mentioned.

D'souza, E. (2016) demonstrates how taxpayers in a developing country use tax evasion to compensate for imperfect financial markets as well as government expenditure patterns that do not benefit them. The model suggests that if public goods such as stable and well enforced social and legal order are underprovided, or if the government and its various organs of administration is sufficiently predatory, or if the government directs tax-expenditure policies to benefit certain segments of society.

Kumar, G. (2021) concluded that black money and Tax Evasion is a curse to our country and society both. Tax Evasion and Black Money both are complementary to each other. Even Govt had taken many actions and remedial measures to control the black money and tax evasion, but yet they were not sufficient. People of the country should themselves motivate to control black money and tax evasion.

Doifode, Das, Aggarwal (2020) concludes that the Indian taxpayer don't feel that their tax paid to the government is used wisely for the wellbeing of the nation. It is important for

the central government to make sure that the citizens are given a detailed account on how the money is being allocated for public welfare. This will be a positive action and will help in increasing the income tax compliance in the country.

Maji, S.K. (2017) revealed that the respondents in no situation attached any favour to the tax evasion except the case of students. The opinions showed that tax evasion cannot be justified in any manner except in situations such behavior if the prevailing rate of tax are found to be very high in any country, the lack of awareness about the taxation system amongst the people of any country. The result of the study also suggested that the tax evasion can be curbed by the suggested ways such as by reducing the complexity of the tax procedures, by reducing the tax evasion, by implementing the anticorruption laws, by increasing the vigilance except the cancellation of the registration of the tax practitioners.

Drogalas, Anagnostopoulou, Pazarskis, & Petkopoulos (2018) revealed that Taxpayers commit tax evasion when they believe that public money is not allocated efficiently from the Government to the citizens. Consequently, Transparency is of utmost importance to taxpayer in order for them to believe that their contribution to public income is important and necessary. Comparing the results of this study with similar studies in other countries, Authors observe that there is no significant difference in the way tax ethics is being perceived by the citizens.

Research Methodology

The Study period of this research work is two years i.e. F.Y. 2021-22 and 2022-23. During this period total 696 case laws decided in ITAT High Courts and Supreme Court in India therefore Population is 696 for the Study. Sample Size Selection- for selection of Sample Size Slovin's formula is used as

$$n = N/1+N.e^2 = 696/1+696*.10*.10 = 87 \text{ (approx.)}$$

where

N= 696 Population Size e = error acceptance percentage.

For simplicity total 100 sample size is selected. For sample selection Random Sampling is used and random no is selected from excel.

Objectives of the Study

- i). To critically examine the facts of 100 cases decided in Supreme Court, High Courts & ITAT in respect of Income Tax Evasion in India for F.Y. 21-22 to 22-23
- ii). To classify the Income Tax Evasion cases under different Heads of Income.
- iii). To identify various methods which are used by Assessee for Income Tax Evasion in India.

Objective 1

Content Analysis of 100 case laws.

Table 1: Category of Assessee

S. No.	Category	Frequency
1	Individual	38
2	Partnership Firm	10
3	Company	40
4	Others	12

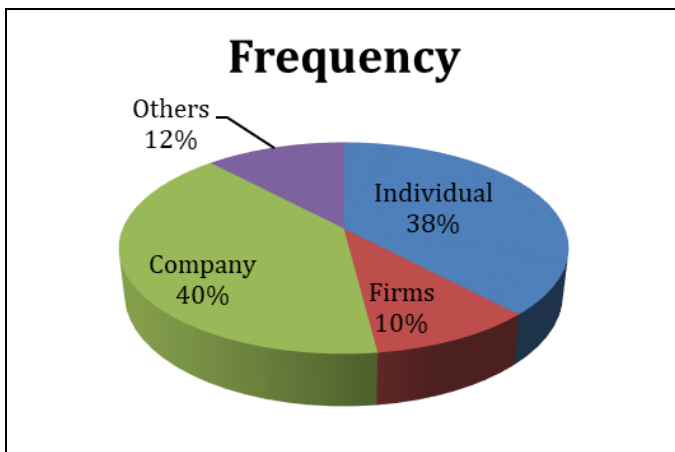


Table 2: Types of Courts

S. No.	Category	Frequency
1	ITAT	44
2	High Court	47
3	Supreme Court	9

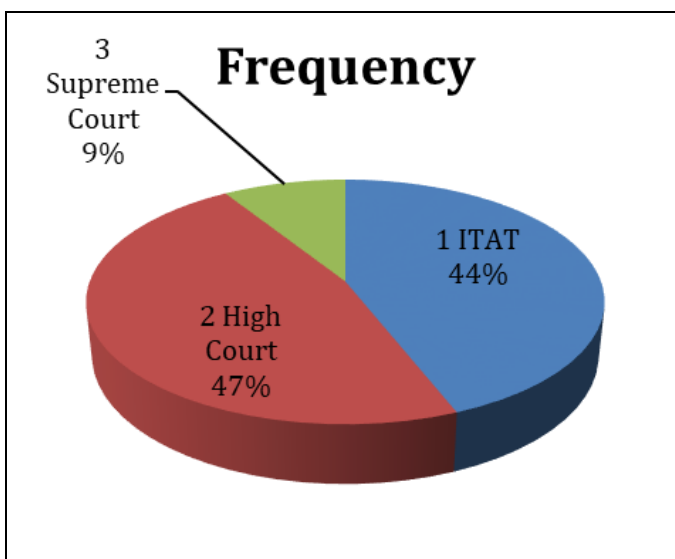


Table 3: Source of Identification of Tax Evasion Cases.

S. No.	Sources of Identification	Frequency
1	Scrutiny/Regular Assessment 143(3)	54
2	Reassessment under section 147	31
3	Best Judgement Assessment	2
4	Search under section 132	9
5	Survey under section 133 A	4

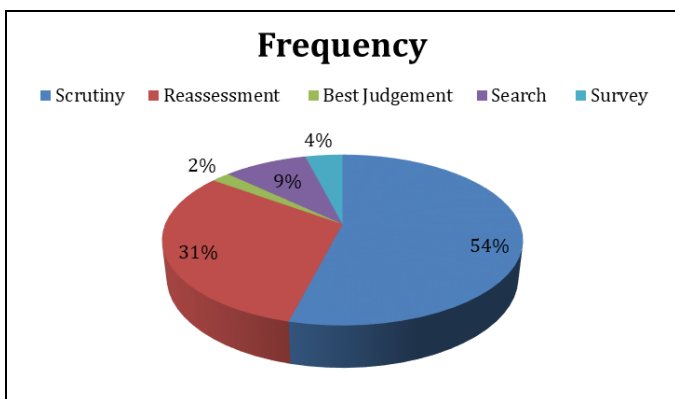


Table 4: Amount Involved in Tax Evasion Cases

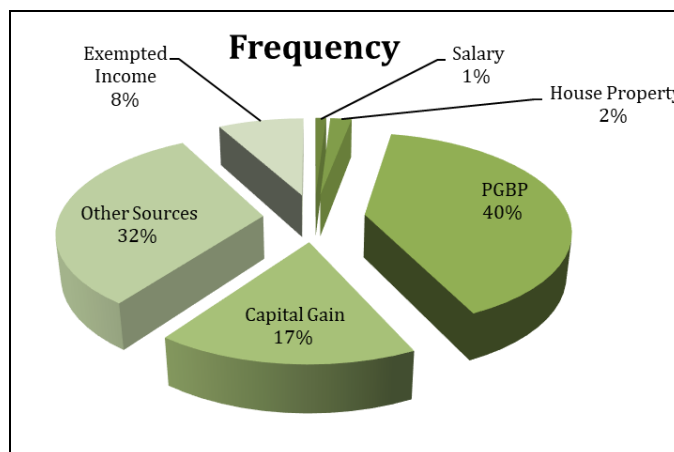
S. No.	Amount of Tax Evasion	Frequency
1	0 - 75 Lakh	58
2	75 Lakh - 1.50 Crore	10
3	1.50 Crore - 2.25 Crore	4
4	2.25 Crore - 3 Crore	4
5	3 Crore - 5 Crore	10
6	5 Crore - 10 Crore	4
7	10 Crore - 25 Crore	7
8	25 Crore - 75 Crore	3

Objective 2

Classify the Income Tax Evasion cases under different Heads of Income.

Table 5: Classification of Income Tax Evasion Cases under Different Heads of Income

S. No.	Heads of Income	Frequency
1	Income from Salary	1
2	Income from House Property	2
3	Income from PGBP	40
4	Income from Capital Gain	17
5	Income from Other Sources	32
6	Exempted Income	8



Objective 3

Methods which are used by Assessee for Income Tax Evasion in India.

Method-1: Unexplained Cash Credit/Bogus Entry or Accommodating Entry- 14%

Method-2: Unexplained Investment/Expenditure or Assets without Source- 10%

Method-3: Taxable Income is declared as Bogus Agriculture Income for Exemption- 10%

Method-4: Under Reporting of Income earned under different Heads of Income- 15%

Method-5: Ineligible Deduction claimed by Assessee in different Heads of Income- 14%

Method-6: Ineligible Exemptions claimed by Assessee in different Heads of Income-18%

Method-7: Ineligible Business Expenses claimed by Assessee in PGBP Head- 13%

Method-8: Disallowance of Business Expenses paid by Assessee in in Cash- 06%

Discussion & Results

Hypothesis 1- H₀₁: There is no significant difference between the Demographic Locations of Assessee involved in Income Tax Evasion cases decided in India.

Dataset

The data represents the number of cases across different regions (North, East, West, South) for three court levels (ITAT, High Court, Supreme Court).

Table 6: Regional Distribution of Tax Evasion Cases across Different Court Levels

Region	ITAT	High Court	Supreme Court	Total
North	12	8	2	22
East	2	6	1	9
West	16	11	2	29
South	14	22	4	40
Total	44	47	9	100

One-Way ANOVA Results

F-statistic: 1.37

p-value: 0.320

Interpretation: Since the p-value is greater than 0.05, we fail to reject the null hypothesis. This means that there is no statistically significant difference in the average number of cases among the four regions (North, East, West, South). The variations observed are likely due to chance rather than a real underlying difference.

H₀₂: There is no significant difference among the amount involved in Source of Identification of Income Tax Evasion cases decided in India.

Data Description

The dataset consists of average amounts (in lakhs) under different source of identification across three courts:

Source of Identification: Scrutiny, Reassessment, Best Judgment, Search, Survey

Courts: ITAT, High Court, Supreme Court

The data was organized into the following table:

Table 7: ANOVA Test Results for Amounts Involved Based on Source of Identification

Source of Identification	Rs. in Lakh		
	ITAT	High Court	Supreme Court
Scrutiny	108	485	552
Reassessment	81	749	915
Best Judgment	0	83	0
Search	359	68	385
Survey	751	884	0

ANOVA Test Result

F-statistic = 0.37

p-value = 0.699

Interpretation

Since the p-value is greater than 0.05, we have to reject the null hypothesis. This indicates that there is no statistically significant difference in the amounts across the three courts.

H₀₃: There is no significant difference between the amount of evasion under different Heads of Income.

Table 8: Breakdown of Evasion Amounts under Different Heads of Income across Courts

Heads of Income	ITAT	High Court	Supreme Court
Income from Salary	52	0	0
Income from House Property	9.9	0	0
Income from PGBP	132	711	602
Income from Capital Gain	72	1217	1734
Income from Other Sources	263	98	207
Exempted Income	71	236	1355

ANOVA Test Results

F-statistic: 1.719

p-value: 0.213

Interpretation: Since the p-value is greater than 0.05, we fail to reject the null hypothesis. This indicates that there is no statistically significant difference in the mean values across ITAT, High Court, and Supreme Court.

Conclusion of the Study

Hypothesis 1: Null Hypothesis Accepted

Hypothesis 2: Null Hypothesis Accepted

Hypothesis 2: Null Hypothesis Accepted

On the basis of above discussion it can be concluded that

- i). Each and every case of Income Tax Evasion in India is unique and dependent on various independent factors.
- ii). The descriptive analysis of the cases are easy and reflect the trend and factual finding of each case for understanding.
- iii). The facts of the cases can be grouped in different method of tax evasion to find a valuable insight.
- iv). As far as statistical difference is concern then there is no statistical difference between these 100 case on the basis of geographical locations, amount involved in each cases and heads of income in which evasion was actually done.

Limitation of the Study

- i). The study is done on the basis of only two years data.
- ii). The sample size is taken on the basis of 95% confidence but at 10% of error rate for more accurate result sample size can be increased.
- iii). The analysis is done on average amount involved per case on different parameter which is a relative value. A study on aggregate amount may be conducted.

Scope for Future Work

- i). Another study may be possible on 5 years or 10 years data.
- ii). A study on aggregate amount may be conducted for more understanding.
- iii). There may be study between two states for comparison rather than all over India data.

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