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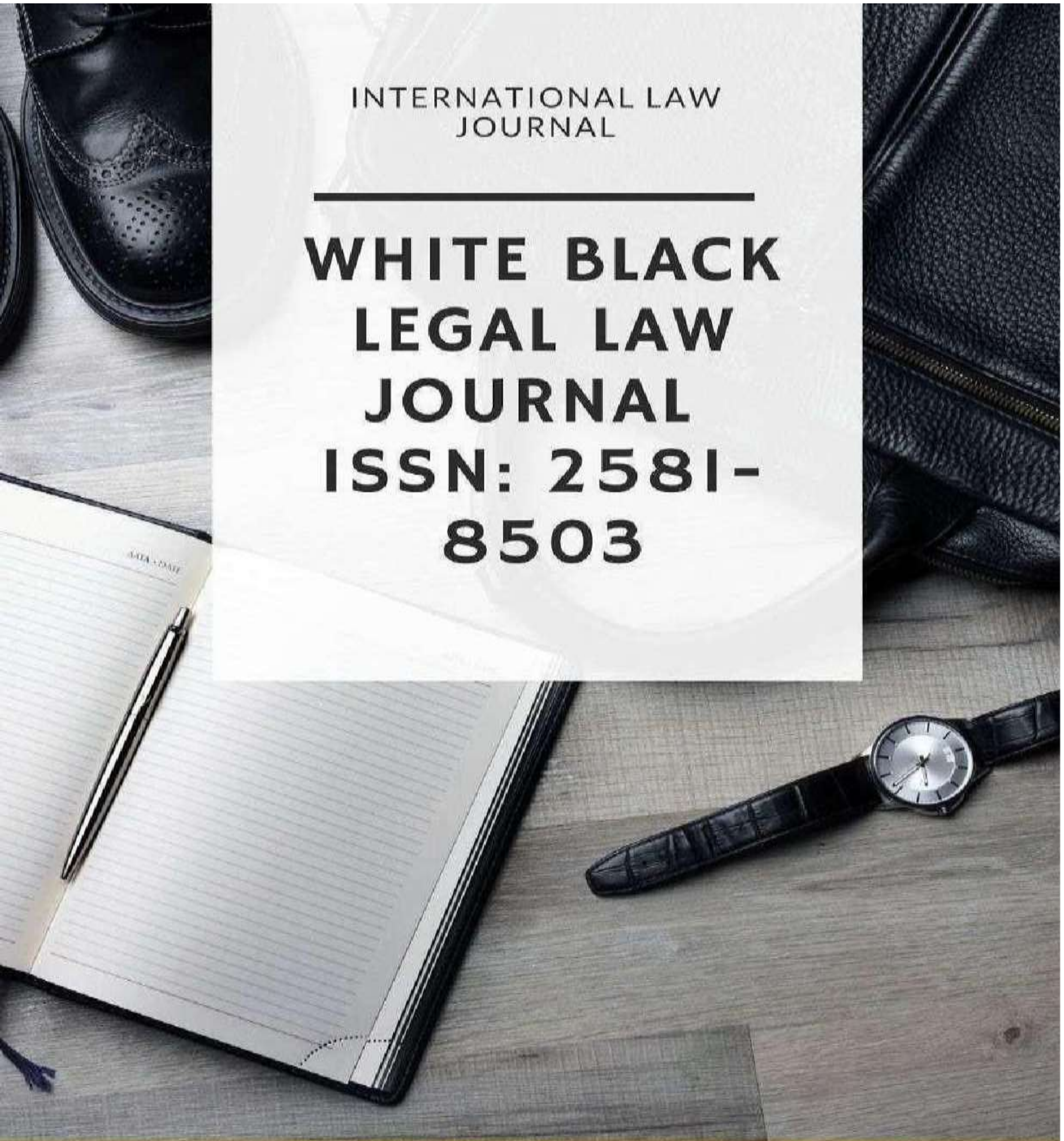

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WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal providededicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you

TAX EVASION AND TAX AVOIDANCE IMPACT ON INDIAN ECONOMY

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ABSTRACT

Tax evasion and tax avoidance are two practices that have significant effects on the Indian economy. Tax evasion includes engaging in illegal activities to avoid paying taxes in full. Both tax avoidance and tax evasion cause a loss of government revenue, which may restrict governmental spending on infrastructure, social welfare, and development programmers. Tax avoidance refers to the legal exploitation of tax law loopholes to minimize tax liability. Income disparity is also worsened by tax avoidance and evasion, which also damages public trust in the tax system. In the past, the tax evasion and tax avoidance of a large informal sector, poor tax administration, and complicated tax laws have allowed tax evaders to thrive, resulting in significant revenue losses that have made it difficult for the government to fund public services.

The Indian government has implemented a number of measures that target tax avoidance and evasion in the current situation. These include improving tax legislation, enhancing tax administration, and utilizing technology to increase compliance and transparency. Tax evasion is being battled and a tax system that is more equitable is being promoted through initiatives such as demonetization, the implementation of the Goods and Services Tax (GST), and the creation of the Direct Tax Code. This paper explores multi dimensions of tax avoidance and tax evasion in the view of current government laws, policies and preventive measures, how it has affected the Indian economy and the judicial interpretation of tax evasion and avoidance.

Keywords: Tax payer, Tax evasion, Tax avoidance, Impact of economy, penalties

INTRODUCTION

Taxes play a crucial role in funding public services and programs in any society. However, there's a fine line between legal tax planning and unlawful tax evasion. In India, understanding this difference is essential for ensuring fair taxation and government revenue.

Tax evasion is where individuals deliberately fail to pay the tax liability. For example, if the taxpayer fails to pay tax that is imposed on him or if he pays the tax less than the tax that is imposed on him it becomes an illegal act and it's a tax fraud it is called tax evasion. Whereas tax avoidance means the taxpayer through the advantage of the legislature and through the loopholes in it he reduces the tax liability to pay. Tax avoidance is a legal method and it has not been prohibited by any law. Due to these common practices, it has a significant impact on the Indian economy. Due to the sizable amount of money that is typically lost as a result of these practices, the effect of tax evasion and tax avoidance on India's economic growth is an important factor to take into account.

Tax evasion results in a decrease in the amount of money the government can bring in, which can result in budget deficits, a reduction in public services, and overall easing of the pace of economic expansion.

TAX

A tax is a legally required fee or charge imposed by municipal, state, and federal governments on individuals and businesses in order to finance vital public services, programmes, and operations. The government's primary source of income is taxes. The levying of taxes is called taxation. The taxes may be imposed on the income and wealth of persons or corporations but the rate of taxes may vary. There are other kinds of taxes like wealth tax, property tax, gift tax, sales tax etc. The tax can be classified into various types on the basis of nature, form, method, aim.

The traditional classification of tax is direct tax and indirect tax.

- **DIRECT TAX**

A direct tax is one that is paid directly to the taxing authority i.e., government by a person or an organization. A direct tax cannot be passed along to another person or organization. The person or organization who is subject to the tax is accountable for making the required payments. A taxpayer may be required to pay a direct tax to the government for a variety of reasons, including real estate taxes, personal property taxes, income taxes, asset taxes, FBT, gift taxes, capital gains taxes, etc.

The example of direct tax is income tax, wealth tax, corporate tax etc.

Income tax is a tax it is levied on the individuals to pay the tax on the basis of the income earned.

Corporate tax is levied on the profits that are earned by the companies.

Wealth tax is the tax levied on the basis of the wealth of the person.

- **INDIRECT TAX**

An indirect tax is one that is imposed on a person's expenditures that is initially paid by one person but whose burden is ultimately transferred to another person. Excise duty, sales tax, custom duties etc. are examples of indirect taxes. GST replaced all except customs and excise to liquor and petrol in contrast to direct taxes, indirect taxes are typically obtained from the final customer via a middleman. It is then the intermediary's responsibility to forward the tax to the government. Everyone pays the same indirect tax rate, which is independent of an individual's income. In India, the Central Board of Indirect Taxes and Customs (CBIC) is in charge of overseeing indirect taxes.

Goods and service tax, value added tax, customs duty are some examples of indirect tax.

TAX EVASION

(i) DEFINITION AND KEY CHARACTERISTICS

In India, most people do not pay their taxes. They attempt to get around this by using illicit methods or by taking advantage of certain tax loopholes in India. The term "tax evasion" refers to the unlawful methods used by individuals, corporations, trusts, and other entities to avoid paying taxes. It involves purposefully lying to tax authorities about the true nature of their business in order to lower or avoid paying taxes by understating their expenses or declaring lower incomes, profits, or gains than they actually made. revenue that would have gone towards social and economic advancement is instead utilized on antisocial activities. All of this is detrimental to the nation's development because it encourages social evils and black money. Additionally, the amount of evasion tax has been determined by chartered accountants and tax attorneys who assist businesses, individuals, and firms in avoiding paying taxes. Evading taxes is a crime in all major nations, with penalties for offenders including fines and confinement.

Key characteristics of TE include-:

- Deliberate Non-Compliance: TE involves a deliberate and intentional act of non compliance with tax

- commitments, where individuals or entities purposefully fail to report income, profits, or gains accurately to tax authorities.
- False Declarations: TE often entails making false declarations or no declarations to tax authorities, such as
- declaring less income, profits, or gains than actually earned, or overstating deductions to reduce tax liabilities.
- Criminal or Civil Penalties: Engaging in TE can lead to criminal or civil legal penalties, including fines and imprisonment, as it is considered an illegal activity that undermines the tax system and results in revenue loss for governments.
- Associated with Informal Economy: TE is commonly associated with the informal economy, where
- individuals or businesses engage in illegal activities to avoid paying taxes, such as hiding income, using bribes, or manipulating financial information.
- Contrast with TA: TE differs from TA, as it involves illegal actions to evade taxes, while TA focuses on legally minimizing tax liabilities through exploiting loopholes or exceptions in tax laws.

(ii) ILLEGAL PRACTICES AND FRADULENT SCHEMES

Illegal practices and fraudulent schemes under TE include-:

- Concealment of Income: Concealment of income is a common method of TE, where taxpayers intentionally hide their true income from tax authorities to pay lower taxes. This fraudulent practice involves not disclosing actual earnings in tax filings, using cash transactions to avoid a paper trail, or providing false information to underreport income. By concealing income, individuals evade taxes and violate tax laws, leading to potential criminal charges and penalties. This deceptive act undermines the tax system and results in revenue loss for governments, highlighting the seriousness of TE as a criminal offense.
- Not Filing Income Tax Returns: Not filing income tax returns is a form of TE where taxpayers intentionally avoid submitting their income details to tax authorities, leading to the concealment of income and evasion of tax liabilities. This practice involves individuals failing to fulfil their legal obligation to report their earnings accurately, thereby hiding income and not paying the taxes owed. By not filing income tax returns,

taxpayers engage in illegal activities that undermine the tax system, potentially resulting in criminal charges and penalties.

- Incorrect Income Tax Returns: Incorrect income tax returns are a common method of TE where taxpayers intentionally file inaccurate tax returns to evade taxes. This deceptive practice involves individuals understating their total income, presenting false deductions or exemptions, or inflating expenses to pay lower taxes than owed. By filing incorrect income tax returns, taxpayers engage in illegal activities that violate tax laws and lead to revenue loss for governments. This fraudulent behaviour can result in severe penalties, including fines and potential criminal charges, highlighting the serious consequences of TE.
- Forged Documents: Incorrect income tax returns are a common method of TE where taxpayers intentionally file inaccurate tax returns to evade taxes. This deceptive practice involves individuals understating their total income, presenting false deductions or exemptions, or inflating expenses to pay lower taxes than owed. By filing incorrect income tax returns, taxpayers engage in illegal activities that violate tax laws and lead to revenue loss for governments. This fraudulent behaviour can result in severe penalties, including fines and potential criminal charges, highlighting the serious consequences of TE.
- Default in Filing TDS Return and/or TCS Return: Default in filing Tax Deducted at Source (TDS) return and/or Tax Collected at Source (TCS) return can be considered a form of TE. When individuals or entities fail to submit these returns as required by law, they are not fulfilling their obligations to report the taxes deducted or collected at the source. This non-compliance can lead to underreporting of income, evasion of tax liabilities, and ultimately, a violation of tax laws. By defaulting in filing TDS and TCS returns, taxpayers engage in practices that undermine the tax system, potentially resulting in penalties and legal consequences.

TAX AVOIDANCE

(i) DEFINITION AND CONCEPTUAL FRAMEWORK

By using tax avoidance, we satisfy all legal requirements while simultaneously lowering our tax liability; we are not punished or fined for tax avoidance because we are not breaking any laws; rather, we are simply taking advantage of legal loopholes to reduce our tax burden. Tax avoidance is a legal means of reducing our tax liability by taking advantage of lack of provision in the law and it will result in less tax being paid by us. Since tax avoidance entails tax dodging and delays tax liability, it is regarded as immoral. Making adjustments to the accounts so that there are no tax laws broken is one method of tax avoidance. Although it is legal, tax avoidance may occasionally be regarded as fraud.

(ii) STRATEGIES AND MECHANISMS EMPLOYED

Some TA strategies used by individuals include-:

- Investing in Municipal Bonds: Municipal bonds offer tax-free interest income, making them a popular choice for individuals looking to reduce their tax liability.
- Aiming for Long-Term Capital Gains: Holding assets for the long term can lead to lower tax rates on capital gains, providing a tax-efficient way to grow wealth and reduce tax commitments.
- Starting a Business: Launching a side business not only generates additional income but also offers various tax advantages, allowing for deductions on business-related expenses and reducing overall tax liability.
- Maximizing Retirement Accounts and Employee Benefits: Contributing the maximum allowable amount to retirement accounts like 401(k)s and taking advantage of employee benefits can help individuals reduce their taxable income and lower their tax burden.
- Utilizing Health Savings Accounts: Health savings accounts (HSAs) provide a tax advantaged way to save for medical expenses, with contributions being tax-deductible and withdrawals for qualified medical expenses being tax-free.

These strategies demonstrate how individuals can legally reduce their tax liabilities by leveraging various investment options, business ventures, retirement accounts, and health savings accounts to optimize their tax planning.

Some TA strategies used by businesses include-:

- Investing in Tax-Advantaged Schemes: Businesses can reduce their tax liability by investing in tax-advantaged schemes like retirement plans, which offer tax benefits and deductions.
- Utilizing Tax Shelters: Tax shelters provide legal ways for businesses to lower the amount of taxes they have to pay, allowing them to invest in initiatives that offer tax advantages.
- Offshoring: Some businesses move money to offshore tax zones with lower tax rates

and financial secrecy laws to reduce their tax burden, taking advantage of loopholes that allow for tax minimization.

- Claiming Deductions and Credits: Businesses can engage in TA by maximizing deductions and credits available to them under the tax laws, reducing their taxable income and overall tax liability.
- Strategic Financial Planning: By structuring finances through legal entities like corporations or trusts, businesses can minimize their tax commitments within the boundaries of the law.

These strategies illustrate how businesses can legally reduce their tax liabilities by leveraging various investment options, tax shelters, offshore accounts, deductions, and credits to optimize their tax planning and financial management.

RESEARCH PROBLEM

- ❖ What are the main causes of tax evasion and tax avoidance in tax?
- ❖ How does tax evasion and tax avoidance impact the revenue collection of the Indian government?
- ❖ What measures can the Indian government take to effectively combat tax evasion and tax avoidance?
- ❖ What are the legal policy measures that can be taken to incentivize tax compliance and reduce tax evasion and tax avoidance in India?

OBJECTIVE OF STUDY

- ➔ Aims to analyze the various methods used by the individuals and businesses to evade or avoid taxes, assess the magnitude of revenue loss due to these activities, and evaluate the overall impact of the economy including income inequality, resource allocation and fiscal health etc.
- ➔ To understand these practices' impact on the Indian economy is to understand its extent to which these activities occur in the country and the consequences impacted on our economy.
- ➔ It explores the potential policy measures and strategies to combat the tax evasion and tax avoidance and the potential benefits of reducing these activities for the economy as a whole.
- ➔ Recognizing the country's tax system's weaknesses.

SCOPE AND LIMITATION OF THIS RESEARCH

This study has limitations to the comprehension of tax evasion and avoidance and suggests additional consequences resulting from these actions for the economic development of developing countries such as India. The government's role in combating the issues of tax evasion and avoidance is also covered and analyzed in further research.

➢ REASONS FOR THE TAX EVASION & AVOIDANCE

In both developed and developing nations, there are numerous explanations why people evade and avoid paying taxes. Since developed nations have high levels of tax awareness, the motivations behind tax avoidance and evasion there are different from those in less developed nations and nations in development. A major effect of tax avoidance and evasion is a drop in tax revenue for the government, undermining its integrity. Avoiding and evading taxes leads to lower government revenue, which increases the deficit and forces the government to print money or borrow it more currency, which causes inflation. Examining its circumstances is essential in order to Put forth ideas for reducing or eliminating them. The reasons for the tax evasion and avoidance are as follows:

(i) **High tax rates:** High tax rates can create an incentive for individuals and businesses to engage in tax avoidance and evasion. When the tax burden is substantial, people naturally look for legal and illegal means to reduce the tax liability that is imposed on them. They also explore the offshore tax havens, trust or complex structures to legally minimize taxes or resort to illegal activities to evade the taxes altogether.

(ii) **Complexity of tax laws:** Tax codes are often intricate and complex, making it easier for individuals and businesses to exploit loopholes or engage in aggressive tax planning. The complexity can create confusion, enabling tax avoidance activities that exploit unclear provisions or mismatches between different tax ways.

(iii) **Lack of transparency in tax systems:** In some cases, there is lack of transparency in tax systems or weak enforcement mechanisms can encourage tax avoidance and evasion. Limited resources for tax authorities, bribery and corruption can undermine their ability to effectively monitor and enforce compliance. This creates an environment where individuals and businesses may feel they can evade taxes without severe consequences.

(iv) **Globalization and multinational corporations:** The globalized economy has led to increased opportunities for multinational corporations to exploit differences in tax laws and regulations across jurisdictions. Creating complex corporate structures, shifting profits to low-tax jurisdictions or engaging in transfer pricing manipulation, multinational corporations can legally reduce their tax liabilities significantly.

(v) **Weak tax administration:** Inadequate enforcement and lack of resources for tax administration agencies increase the likelihood of tax evasion. Weak audit capabilities, limited monitoring and ineffective penalties fail to deter potential evaders.

(vi) **Corruption and bribery:** Widespread corruption and bribery can undermine tax collection efforts.

Bribes paid to tax officials can result in lenient treatment on tax matters or even complete exemptions, creating an unfair or non - transparent tax.

(vii) **Perceived unfairness:** Some individuals may engage in tax evasion and tax avoidance due to perceived unfairness that the tax system is unfair or unjust They may argue that the taxes are not used efficiently or that they are disproportionately burdened compared to others, leading to a mindset of tax resistance.

(viii) **Informal economy:** Countries that have large informal economies are more susceptible to tax evasion. In these cases, individuals and businesses may conveniently avoid declaring their income or transactions, which leads to a significant loss in tax revenue.

(ix) **Financial gain and greed:** Tax avoidance and evasion often come down to financial gain and greed. Individuals and businesses seek to maximize their profits by minimizing tax obligations, regardless of the societal impact or ethical considerations. The prospect of retaining a higher share of income or profits can be enticing enough to prompt tax avoidance or evasion activities.

(x) **Ineffective tax policies:** Tax policies that do not adequately address the loopholes, exemptions or disparities can inadvertently contribute to tax avoidance or evasion. Poorly designed policies can create incentives for individuals and businesses to engage in aggressive tax planning or exploit the legal gaps.

(xi) **Regulatory competition:** In a globalized economy, countries often compete to attract investment and businesses by offering competitive tax incentives. This may lead to a "race to the bottom" in which nations cut their tax rates, opening the door for tax evasion.

(xii) **Strategic tax planning:** Individuals and businesses engage in careful tax planning to minimize them taxes. This includes strategic decisions such as selecting taxfavorable investments, utilizing tax credits or deductions or structuring their affairs in a manner that reduces their taxable income.

In India, companies seek not to pay or dodge taxation in order to preserve cash for transactions or agreements with government offices and hirelings. Experts advise against paying taxes because of the high rates so as to save revenue for the future. Officials in the political and most of the time, other lawmakers avoid prosecution because their income mostly comes from fixes and illegal techniques. The actions of individual citizens, society norms on the market side, and flaws and deficiencies in the revenue or demand part of tax administration all lead to tax evasion and avoidance.

- **DIFFERENCE BETWEEN TAX EVASION AND AVOIDANCE**

Tax planning and tax avoidance are very similar in that they are both entirely permissible under the law. It is the taxpayer's expectation to plan their taxes, while the government does not anticipate tax avoidance. The Income Tax Act of 1961, for instance, has some provisions that a taxpayer can most effectively use the deductions allowed by Sections 10 and 80C to minimize his or her tax liability to properly carry out tax planning, including Section 80U, Section 37, etc. Yet, in contrast, an organization moving its intellectual property from India to a nation with lower tax rates is a successful instance of tax evasion.

However, contrary to tax planning and avoidance, tax evasion is totally prohibited by law and is not supported in any way by any government. Tax evasion entails breaking the law and is tantamount to outright theft. One typical instance of tax evasion is cash income that was not disclosed. Discovered hidden during the 2016 demonetization campaign in numerous Indian homes. Money that was made unlawful and was unreported wealth that people had amassed through not paying taxes.

Basis for Comparison	**Tax Evasion**	**Tax Avoidance**
Meaning	Reducing tax liability by using illegal means is known as tax evasion.	Minimization of tax liability by taking such means which does not violate the tax rules is tax avoidance.
Legality	Illegal	Legal
Objective	Evade or avoid payment of	Reduce tax obligation while

	taxes illegally	staying within the law.
Methods Use	Fraudulent activities, false information	Utilizing legitimate tax provisions and strategies
Compliance	Violates tax laws and reporting requirements	Complies with tax laws and reporting requirements
Consequences	Penalties, fines, legal actions, reputation damage	No legal consequences
Examples	Underreporting income, fabricating expenses.	Utilizing tax incentives, deductions and exemptions

LEGAL PROVISIONS FOR TAX EVASION AND TAX AVOIDANCE

(1) Penalties & Fines

- As per Section 270A of Income Tax Act, 1961, there is a penalty of 50% of tax in cases of under- reporting of income and 200% of tax in cases of mis-reporting of income.
- If you fail to keep, maintain or retain books of accounts as required by Section 44AA, penalty of Rs. 25000 can be imposed under Section 271A.
- If undisclosed income is found during the search proceedings under the Income Tax Act, penalty of up to 60% of undisclosed income can be imposed under Section 271AAB.
- As per Section 271B, failure to get accounts audited up to due date under Section 44AB can result in a penalty of 1.5% of gross receipts (subject to maximum of Rs. 1.50 lakh).
- If you fail to furnish a report of CA under Section 92E, a penalty of Rs. 1 lakh can be imposed under Section 271BA.
- If you fail to furnish information as required under Section 92D, a penalty of Rs. 5 lakhs can be imposed.

(2) Imprisonment

- As per Section 276BB, imprisonment of 3 months to 7 years is imposed in case of failure to pay the tax collected under Section 206C.
- As per Section 276C (2), imprisonment of 3 months to 3 years in case of willful

attempt to evade payment of tax, penalty, and interest.

- As per Section 275A, imprisonment up to 2 years in case of contravention of order made under Section 132(1) or 132(3).

Audit and investigation

Indulging in tax evasion and tax avoidance may lead to an audit and investigation by the Income Tax Department. The Income Tax Act, 1961, has given power to the authorities to initiate audits, investigations, and scrutings of the assessee in default.

Search & seizure

The Income Tax Department has power to initiate search and seizure when the department has sufficient grounds and reasons for tax evasion and tax avoidance.

TAX LAWS IN INDIA

The tax laws in India are a complex and ever-changing landscape. They are governed by various statutes, rules, and regulations issued by the Central Board of Direct Taxes (CBDT). These laws cover a wide range of taxes, including income tax, corporate tax, and goods and services tax (GST).

(i) The Income Tax Act

The Income Tax Act of India is a comprehensive piece of legislation that governs the levy and collection of income tax in India. Enacted in 1961, the act has undergone numerous amendments over the years to keep pace with changing economic and social conditions. The Income Tax Act is administered by the Central Board of Direct Taxes (CBDT), a statutory body under the Ministry of Finance.

The act applies to all individuals, Hindu Undivided Families (HUFs), companies, and other legal entities that earn income in India. It prescribes the various sources of income that are subject to tax, the rates of tax applicable to different categories of taxpayers, and the exemptions and deductions that are available. The act also provides for the assessment of income, the filing of tax returns, and the payment of taxes.

The Income Tax Act is a complex piece of legislation, and taxpayers are advised to seek professional advice to ensure that they are complying with all the requirements of the law. The CBDT has published a number of guidelines and circulars to help taxpayers understand and comply with the provisions of the act.

The Income Tax Act is an important source of revenue for the Indian government. In the 2022-23 fiscal year, the government collected over Rs. 14 lakh crores in income tax, which accounted for about 20% of the total tax revenue. The income tax collected by the government is used to finance various public services, such as education, healthcare, and infrastructure development. The Income Tax Act is a vital part of the Indian tax system. It helps to ensure that the government has the resources it needs to provide essential services to its citizens. The act also promotes equity by ensuring that individuals and businesses pay their fair share of taxes.

(ii) Corporate Tax

Corporate tax is a significant source of revenue for governments, and it is levied on the profits earned by companies. The tax rate can vary depending on the jurisdiction, but it is typically a percentage of the company's net income. In addition to corporate tax, companies may also be required to pay other taxes, such as sales tax, property tax, and payroll tax.

The purpose of corporate tax is to generate revenue for the government, which can then be used to fund public services such as healthcare, education, and infrastructure. Corporate tax can also be used to discourage companies from engaging in certain activities, such as polluting the environment or exploiting workers.

However, corporate taxes can also have a negative impact on businesses. High corporate tax rates can make it difficult for companies to compete with their international rivals, and they can also discourage investment and job creation. In addition, corporate tax can be complex and time-consuming to comply with, which can be a burden for small businesses.

Despite the potential drawbacks, corporate taxation remains an important source of revenue for governments around the world. It is a way to ensure that companies contribute to the costs of public services and that they are held accountable for their actions.

Here are some of the key features of corporate tax:

- It is a tax on the profits earned by companies
- The tax rate can vary depending on the jurisdiction.
- Companies are also required to pay other faxes, such as sales tax, property tax, and payroll tax.
- The purpose of corporate taxation is to generate revenue for the government.
- Corporate taxes can also be used to discourage companies from engaging in certain activities.

- High corporate tax rates can make it difficult for companies to compete with their international rivals.
- Corporate taxation can also discourage investment and job creation.
- Corporate tax can be complex and time-consuming to comply with.

(iii) Goods and Services Tax Act (GST)

The Goods and Services Tax (GST) is a comprehensive indirect tax levied on the supply of goods and services. It is a destination-based tax, which means that it is levied at the point of consumption. GST is a single tax that replaces multiple indirect taxes levied by the Central and State Governments.

GST was introduced in India on July 1, 2017, and it has brought about a significant change in the indirect tax landscape of the country. GST is a major step towards creating a unified common market for goods and services in India.

Here are some of the key features of GST:

- It is a comprehensive tax that applies to all goods and services, except for a few exempt items.
- It is a destination-based tax, which means that it is levied at the point of consumption.
- It is a single tax that replaces multiple indirect taxes levied by the Central and state governments.
- It is a self-assessed tax, which means that taxpayers are responsible for calculating and paying their own taxes.
- It is a technology-driven tax with a focus on electronic filing of returns and payments

GST has had a significant impact on the Indian economy. It has made it easier for businesses to do business across state borders, and it has led to a reduction in the cost of doing business. GST has also helped increase tax compliance and reduce tax evasion.

Overall, GST has been a positive development for the Indian economy. It has made the tax system more efficient and transparent, and it has helped to create a more level playing field for businesses.

Here are some of the benefits of GST:

- It has made it easier for businesses to do business across state borders.
- It has led to a reduction in the cost of doing business.
- It has helped to increase tax compliance and reduce tax evasion.

- It has made the tax system more efficient and transparent.
- It has helped to create a more level playing field for businesses

- **Impact of the tax evasion and tax avoidance on National economy**

1. Loss of Government Revenue: Tax evasion and avoidance lead to a reduction in the amount of tax
revenue collected by the government. This loss of revenue can negatively affect government budgets,
leading to reduced funding for essential public services such as healthcare, education, infrastructure, and social welfare programs.
2. Increased Budget Deficit: The loss of tax revenue due to evasion and avoidance can contribute to a larger budget deficit. This, in turn, may result in higher government borrowing, increased public debt, and potential economic instability.
3. Inequality and Unfairness: Tax evasion and avoidance exacerbate income inequality and unfairness
within a society. Those who can afford to engage in these activities often end up paying lower effective tax rates compared to individuals who cannot exploit such loopholes.
4. Distorted Market Economy: Tax evasion and avoidance can distort the functioning of the market economy. When some businesses or individuals can avoid taxes, they gain a competitive advantage over their counterparts who operate within the legal framework. This can create unfair competition, hinder market efficiency, and lead to market inefficiencies.
5. Decreased Investor Confidence: Widespread tax evasion and avoidance can erode investor confidence in a country's economic system. This is particularly true for foreign investors who may perceive a lack of
legal and fiscal stability. The resulting decrease in foreign direct investment affects economic growth and job creation.
6. Higher Tax Burden on Honest Taxpayers: When individuals and businesses evade or avoid taxes, the burden of funding public expenditures falls more heavily on honest taxpayers. Governments may
respond by increasing tax rates or introducing new taxes to compensate for lost revenue, which can place an additional burden on those who already pay their taxes honestly.
7. Lack of Fiscal Space: Tax evasion and avoidance can limit a government's ability to

invest in
infrastructure, public services, and other productive sectors. This limits the government's capacity to stimulate economic growth, reduce unemployment, and improve the overall standard of living for its citizens.

➢ CASE LAWS

Commissioner of Income Tax vs. Ramkanth Mohanlal Gandhi: (1978) 113 ITR 266 (SC)

In the landmark case of Commissioner of Income Tax vs. Ramkanth Mohanlal Gandhi (1978) 113 ITR 266 (SC), the Supreme Court of India established the principle of "wilful tax evasion" as an essential element of the offence. This principle has had a profound impact on the interpretation of tax laws in India and has been cited in numerous subsequent cases.

The court, in its judgement, held that mere ignorance of the tax law or inadvertent errors would not constitute wilful tax evasion. The court stated that the term "wilful" in the context of tax evasion requires a conscious and deliberate act or omission with the knowledge that it is contrary to the law. The court further held that the burden of proving wilfulness lies with the prosecution, and it must be established beyond a reasonable doubt.

The principle established in the Ramkanth Gandhi case has been applied in numerous subsequent cases. For example, in the case of CIT vs. Hindustan Coca-Cola Beverages Pvt. Ltd. (2017), the Supreme Court held that the assessee's failure to deduct tax at source from the payments made to its dealers was not wilful tax evasion, as the assessee had a bona fide belief that the payments were not subject to tax deduction at source.

The principle of wilful tax evasion has also been applied in cases involving the imposition of penalties under the tax laws. In the case of CIT vs. B.K. Birla (2008), 175 DTR 1 (SC), the Supreme Court held that the imposition of a penalty under Section 271(1)(c) of the Income Tax Act, 1961, requires a finding of wilfulness on the part of the assessee.

The principle established in the Ramkanth Gandhi case is important as it provides a safeguard against the arbitrary imposition of penalties and prosecution for tax evasion. It ensures that only those who have knowingly and deliberately evaded tax are held liable.

CIT vs. McDowell & Co.

The CIT v. McDowell & Co. case, decided in 1985, is a significant precedent in the realm of tax law. It established the crucial concept of "business purpose" in tax avoidance transactions. The ruling introduced the principle that a transaction cannot be deemed tax avoidance if it is undertaken with a genuine business purpose, even if it also results in tax savings.

The case involved the taxpayer, McDowell & Co., which purchased a series of life insurance policies for its key employees. The premiums paid for these policies were substantial and resulted in significant tax deductions for the company. However, the court found that the primary purpose of these transactions was to preserve the company's business interests, not solely to obtain tax benefits.

The court reasoned that the insurance policies served a legitimate business purpose by providing financial protection for the company in the event of the death or disability of key employees. The court held that the tax savings were merely merely incidental to the primary business purpose and therefore did not constitute tax avoidance.

This decision introduced a crucial distinction between tax avoidance and tax planning. Tax avoidance involves engaging in transactions primarily aimed at reducing tax liability, often through artificial or contrived means. In contrast, tax planning involves legitimate business transactions that also result in tax savings as a secondary benefit.

The "business purpose" doctrine established by the CIT v. McDowell & Co. case has been influential in shaping tax law and jurisprudence in subsequent years. It has provided a framework for courts and tax authorities to distinguish between genuine business transactions and those primarily motivated by tax avoidance.

The concept of business purpose has also had implications for tax policy and legislation. It has influenced the development of anti-avoidance provisions and rules aimed at curbing aggressive tax planning strategies.

Taxpayers and their advisors must carefully consider the business purpose of transactions and ensure that they are not primarily motivated by tax avoidance to avoid potential challenges from tax authorities.

In summary, the CIT v. McDowell & Co. case established the concept of "business purpose" in tax avoidance transactions. It held that a transaction cannot be treated as tax avoidance if it has a genuine business purpose, even if it also results in tax savings. This decision has had a significant impact on tax law and jurisprudence, shaping the distinction between legitimate tax planning and tax avoidance.

CONCLUSION

Tax evasion and tax avoidance have significant negative impacts on the Indian economy. These practices lead to a loss of revenue for the government, hindering its ability to fund essential public services such as healthcare, education, and infrastructure development. This loss of revenue also exacerbates income inequality, as the burden of taxation falls more heavily on honest taxpayers. Moreover, tax evasion and avoidance undermine the integrity of the tax system, eroding public trust and confidence in the government. This can harm the overall business environment by discouraging domestic and foreign investment, as potential investors may view the tax system as unfair and unreliable.