TAX EVASION AND AVOIDANCE: A CRITICAL COMPARATIVE STUDY OF LEGISLATIVE FRAMEWORKS IN INDIA AND THE UK

Harsh Raj, Galgotias University

ABSTRACT

Tax evasion and tax avoidance are significant global issues that directly affect national revenues, economic equality, and the integrity of tax systems. Although both methods lead to diminished government revenue, they fundamentally differ: evasion encompasses unlawful actions like underreporting income or exaggerating costs, while avoidance involves leveraging legal loopholes to lower tax obligations. Notwithstanding this contrast, both occurrences compromise the integrity of tax law and elicit legislative and administrative reactions from governments across various jurisdictions. This research paper rigorously analyses the legislative frameworks concerning tax evasion and avoidance in India and the United Kingdom (UK), providing a comparative assessment of their effectiveness, structure, and execution. India, characterised by its developing economy and intricate tax structure, has traditionally had considerable difficulties in tax compliance. In response, it has established a variety of legislative instruments, including the Income Tax Act of 1961, the General Anti-Avoidance Rules (GAAR), and the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act of 2015. These are augmented by judicial interpretations and administrative directives promulgated by the Central Board of Direct Taxes (CBDT). Nevertheless, India persists in contending with challenges like informal economies, inadequate enforcement, and constraints in international collaboration. The UK exemplifies a developed economy characterised by a relatively stable tax system that prioritises anti-avoidance measures through statutory and common law rules. Significant initiatives are the Finance Act 2013, which established a principle-based General Anti-Abuse Rule (GAAR), the Disclosure of Tax Avoidance Schemes (DOTAS) framework instituted by the Finance Act 2004, and specialised anti-avoidance rules (TAARs) designed for particular tax planning methods. HM Revenue & Customs (HMRC) is pivotal in enforcement and oversight, aided by a proactive judiciary that reads tax legislation with a purposive approach rather than a literal one. The document contrasts the two countries based on several criteria: statute design, administrative enforcement, judicial methodology, transparency requirements, and conformity with international benchmarks, including the OECD's Base Erosion and Profit Shifting (BEPS) framework. The UK has made substantial advancements in mitigating aggressive tax avoidance through the early implementation of transparency measures and ongoing court backing, whereas India is currently developing its framework, though it has made great progress in recent years. Notwithstanding their disparities, both nations encounter shared challenges: the adaptability of multinational firms, the constraints of local legislation in addressing cross-border tax strategies, and the conflict between guaranteeing tax compliance and fostering a business-friendly climate. The document advocates for a unified worldwide strategy that promotes legislative alignment, data exchange, and collaborative enforcement frameworks. This study closes with recommendations for policy reforms in both India and the UK. It indicates improved administrative efficiency, broader adoption of digital technologies, and strengthened international cooperation for India. The paper advocates for the rectification of particular legal deficiencies in the UK while preserving its pre-eminence in tax transparency. A comparative analysis of these concepts can facilitate more cohesive and effective responses to tax evasion and avoidance in a globalised economy.

Keywords: Tax Evasion, Tax Avoidance, Tax Compliance, Tax Planning, Legal Boundaries, Tax Enforcement, Anti-Abuse Rule, Tax Fraud, Tax Penalties, Statutory Provisions

PART 1: INTRODUCTION

i) MEANING

Taxation is the foundation of every operational state. It supplies the fundamental resources required to sustain infrastructure, provide public amenities, guarantee economic stability, and enhance social welfare. A fair and robust tax system is essential for successful government, facilitating wealth redistribution, mitigating income inequality, and financing national growth. Tax systems globally are progressively compromised by the ongoing issues of tax evasion and tax avoidance—two distinct phenomena that, albeit differing in legality, equally deplete the budgetary foundation of nations and diminish public confidence in the rule of law. Tax evasion, the intentional and unlawful underpayment or non-payment of taxes, is universally acknowledged as a criminal crime, frequently entailing income concealment, document falsification, or other deceptive practices. Conversely, tax evasion functions within legal parameters, leveraging loopholes and inconsistencies in laws to reduce tax obligations. Although permissible, it elicits significant apprehensions over equity and the ethical responsibilities of individuals and companies to the communities in which they function. In recent years, increased public awareness, media enquiries (such as the Panama and Paradise Papers), and political pressure have elevated these issues in public discourse. This paper conducts a critical comparative examination of the legislative frameworks of tax evasion and avoidance in India and the United Kingdom (UK). Both nations provide unique yet informative case studies. India, a swiftly advancing economy characterised by a multifaceted socio-legal framework and significant informal economic activity, has traditionally faced challenges related to pervasive tax evasion and inadequate enforcement. Conversely, the UK, as a developed economy with a robust legal framework, encounters difficulties from intricate tax avoidance strategies—especially employed by multinational firms and affluent individuals—despite possessing established compliance mechanisms. The juxtaposition of these two nations is not capricious. The aim is to elucidate the distinctions and commonalities in legislative intent, design, enforcement capability, judicial interpretation, and policy response. Moreover, it offers a framework for assessing how historical, economic, political, and institutional elements influence tax policy and practice across diverse legal systems.

ii) BACKGROUND

Taxation is a vital instrument wielded by a sovereign government. It facilitates the accumulation of money required for sustaining public infrastructure, delivering basic services such as healthcare, education, and security, and redistributing wealth to promote social fairness. Taxation is a fundamental element of fiscal policy and economic governance in both developed and developing nations. It signifies the social contract between citizens and the state, wherein individuals and entities contribute to public finances in return for public goods and services. The efficacy of a taxation system is significantly reliant on taxpayer compliance and the efficiency and integrity of the legal and administrative frameworks established to enforce tax responsibilities. When people or companies deliberately cheat taxes or exploit legal loopholes to avoid equitable contributions, the state forfeits essential revenue, jeopardising both budgetary sustainability and social fairness. This leads us to the dual challenges of tax evasion and tax avoidance—concerns that have become increasingly pertinent in the globalised economic landscape of the 21st century.

PART 2: CONCEPTUAL FRAMEWORK

I) DEFINITIONS

i) **TAX EVASION: -** Tax evasion[1] is the unlawful act of intentionally circumventing the payment of taxes owed to the government. It entails fraudulent activities by individuals, corporations, or other entities to diminish their tax obligations by obscuring income, exaggerating deductions, or concealing funds in unreported accounts. Tax evasion constitutes a criminal offence in the majority of nations and is subject to fines, penalties, and potential incarceration. Tax avoidance lawfully exploits loopholes or utilises tax-saving features, but tax evasion contravenes tax regulations and constitutes fraud. Prevalent methods of tax evasion encompass income underreporting, neglecting to submit tax returns, asserting fraudulent deductions, and utilising offshore accounts to conceal assets. Tax evasion compromises the integrity of a nation's tax system depriving governments of crucial money necessary to finance public services such as healthcare, education, and infrastructure. It also engenders inequity within the tax system, as law-abiding taxpayers are compelled to shoulder a greater burden to offset the revenue shortfall. Governments around have instituted diverse strategies to identify and prevent tax evasion, encompassing audits, international information-sharing agreements, and stringent fines. Technological advancements and data analytics have enhanced tax authorities' capacity to detect questionable financial activities. Notwithstanding enforcement initiatives, tax evasion continues to be a pervasive problem, particularly in countries characterised by inadequate regulatory monitoring or rampant corruption. Combating tax evasion necessitates rigorous enforcement alongside heightened public awareness and a culture of tax compliance. Transparency, accountability, and effective governance are essential for mitigating worldwide tax evasion. Tax evasion is penalised under the Indian Income Tax Act, 1961[2], specifically in sections 276C (evasion of tax), 277 (false statements), and

[1] COMMON MODE OF TAX EVASION AS AMENDED BY THE FIANACE ACT, 2024, BY RAM DUTT SHARMA

[2] INCOME TAX ACT, 1961

278 (abetment). The Black Money[3] (Undisclosed overseas Income and Assets) and Imposition of Tax Act, 2015, further penalises the avoidance of overseas assets

ii) TAX AVOIDANCE: - Tax avoidance[4] denotes the lawful practice of reducing tax obligations through strategies permitted by a nation's tax legislation. Tax evasion entails unlawful acts to evade tax responsibilities, whereas tax avoidance functions within legal parameters, frequently using loopholes or ambiguities in the tax legislation to diminish the tax liability. Individuals, corporations, and other entities practice tax avoidance by structuring their financial arrangements to minimise tax liabilities. Common tactics encompass reallocating income to low-tax locations, optimising permissible deductions, leveraging tax incentives, and utilising tax shelters or offshore companies. Although these tactics are legally permissible, they can provoke ethical dilemmas, particularly when employed in an aggressive or excessive manner. Tax avoidance can profoundly affect government income, especially when substantial multinational businesses relocate profits internationally to exploit lower tax rates. This undermines the domestic tax base and may impose a heavier financial burden on smaller enterprises and individual taxpayers. In response, nations and international organisations have established policies to address aggressive tax avoidance. This encompasses the reinforcement of tax legislation, the establishment of anti-avoidance measures, the augmentation of transparency, and the promotion of international collaboration via projects such as the OECD's Base Erosion and Profit Shifting (BEPS) project. Although tax avoidance is lawful, public opinion of it differs. Prudent tax planning is widely endorsed, whereas aggressive tax avoidance is frequently condemned for its perceived inequity and for subverting the intent of the law. Advocating for equity, openness, and adherence to regulations is crucial for sustaining confidence in the tax system.

II) ETHICAL AND LEGAL DISTINCTIONS[5]

[3] THE BLACK MONEY ACT (UNDISCLOSED OVERSEAS INCOME AND ASSETS) AND IMPOSITION OF TAX ACT, 2015

[4] COMMON MODE OF TAX EVASION AS AMENDED BY THE FIANACE ACT, 2024, BY RAM DUTT SHARMA

[5] https://ijlsi.com/wp-content/uploads/Tax-Avoidance-vs.-Tax-Evasion-A-Critical-Examination-of-Legal-Boundaries-in-Indian-Taxation-Law.pdf

Tax evasion and tax avoidance, while frequently conflated, diverge markedly in their legal standing and ethical considerations. Tax evasion denotes the intentional distortion or concealing of income to diminish tax obligations. It encompasses behaviours such as income underreporting, deduction inflation, and asset concealment, constituting a criminal crime under the law. The Income Tax Act of 1961 in India stipulates penalties, fines, and potential imprisonment for tax evasion. In the UK, the Finance Act and HMRC regulations impose severe penalties for evasion, including criminal prosecution. Tax avoidance entails structuring one's financial activities to reduce tax obligations while remaining compliant with legal regulations. While theoretically permissible, it frequently entails leveraging discrepancies, inconsistencies, and ambiguities in tax law to obtain an unanticipated benefit. Routing investments via tax havens or employing shell corporations to transfer profits may be legal, however they are regarded as aggressive tax planning. The UK's GAAR[6] and India's GAAR were both implemented to address such arrangements, emphasising substance over form in transactions. Tax evasion is broadly denounced from an ethical perspective as it diminishes public trust, exacerbates inequality, and depletes the tax base. Tax evasion, although lawful, creates significant ethical concerns. It demonstrates a deficiency in social responsibility, especially when employed by affluent individuals and multinational organisations to evade equitable contributions to the public treasury. Ethical tax conduct necessitates conformity with both the legal text and its underlying intent and objectives. Consequently, the differentiation is not alone in legality but also in intention, transparency, and public accountability. Legislatures in India and the UK are progressively adopting principles-based ways to tackle the ethical aspects of tax compliance.

PART 3: LEGISLATIVE FRAMEWORK IN INDIA

I) INCOME TAX ACT, 1961[7]

The Income Tax Act of 1961 is the principal statute regulating income taxation in India. Enacted on April 1, 1962, it supplanted the previous Indian Income Tax Act of

[6] https://blogs.kcl.ac.uk/kslr/files/2024/04/Murthy-Article.pdf
[7] INCOME TAX ACT, 1961

1922 and has since functioned as the foundation of India's direct tax framework. The Act, designed to consolidate and alter income tax legislation, is handled by the Central Board of Direct Taxes (CBDT) under the Ministry of Finance.

INCOME CALCULATION: THE FIVE CATEGORIES OF INCOME ACCORDING TO THE INCOME TAX ACT OF 1961

The Income Tax Act of 1961 categorises taxable income into five distinct classifications, each pertaining to a certain type of income. This classification facilitates thorough tax coverage across diverse income sources and delineates distinct calculation methods and permissible deductions for each.

PERSONS LIABLE TO TAX UNDER THE INCOME TAX ACT, 1961

1. **Persons**

This pertains to natural persons, namely, human beings. Individuals are subjected to taxation according to a progressive slab rate system, which differs based on their age and income level. Specific regulations are in place for elderly citizens (aged 60–79 years) and super senior citizens (aged 80 years and more), granting them elevated exemption thresholds.

2. **Hindu Undivided Families (HUFs)**

A Hindu Undivided Family (HUF) is a separate tax entity, distinct from its individuals, and is specific to India's personal and family law framework. It comprises persons who are direct descendants of a shared ancestor. The Karta, or the eldest male (or female, following the 2005 modification to the Hindu Succession Act), oversees the activities of the HUF. Hindu Undivided Families (HUFs) might generate revenue via ancestral assets, investments, or commercial enterprises.

3. **Corporations**

This encompasses Indian enterprises and foreign entities generating income in India. Corporations are levied a uniform tax rate, subject to additional levies and cess.

Domestic Companies: Established in India, subject to ordinary corporate taxation rates.

Foreign Companies: Established outside India, subject to taxation on revenue received, accumulated, or deemed to accrue within India.

4. **Enterprises**

Comprises partnership firms (both registered and unregistered) and Limited Liability Partnerships (LLPs). Companies are treated as distinct entities at a uniform rate, although partners are individually taxed on the income they derive from the firm post-taxation.

5. **Association of Persons (AOPs) and Body of Individuals (BOIs)**

These denote two or more individuals who unite for a shared objective, typically without establishing a legal partnership. AOP may comprise individuals or entities. BOI comprises solely persons. Tax liability is calculated either at the highest marginal rate or at tiered rates, contingent upon the type of income and the determinability of individual shares.

6. Artificial Legal Entities

This is a residual category encompassing entities not previously mentioned but acknowledged as legal persons for taxes purposes. Illustrations encompass:
Trusts
Communities
Divinities or Sanctuaries (pertaining to religious or philanthropic donations)

7. Municipal Authorities

Local governments, including municipalities and panchayats, which generate revenue (e.g., rental income or service fees), are subject to taxation under the Act, although they are frequently excluded for specific activities.

GAAR AND ANTI-AVOIDANCE MEASURES[8]

Anti-avoidance measures are legislative mechanisms intended to thwart taxpayers from exploiting discrepancies and inconsistencies in tax regulations to artificially diminish their tax obligations. These steps are crucial for preserving tax equality, protecting revenue, and ensuring the integrity of the tax system. Anti-avoidance methods are often classified into:

Specific Anti-Avoidance Rules (SAARs): Provisions designed to address specific transactions or schemes.

General Anti-Avoidance Rules (GAAR): Comprehensive principles that enable tax authorities to disallow tax advantages from arrangements devoid of commercial reality.

India implemented its General Anti-Avoidance Rules (GAAR) via Chapter X-A of the Income Tax Act, 1961, effective April 1, 2017. The regulations were integral to a broader initiative aimed at improving tax transparency and mitigating aggressive tax strategies, particularly concerning cross-border investments and treaty exploitation.

FEATURES OF INDIAN GAAR

Impermissible Avoidance Arrangement (IAA) as per Indian General Anti-Avoidance Rules (GAAR)

According to the Indian General Anti-Avoidance Rules (GAAR), an Impermissible Avoidance Arrangement (IAA) denotes a transaction or plan primarily aimed at securing a tax benefit, and which meets one or more of the specified criteria detailed in Section 96 of the Income Tax Act, 1961. The IAA clause is central to the GAAR framework and is crucial for differentiating between lawful tax preparation and abusive tax evasion.

An arrangement will be considered impermissible if it satisfies the following criteria: -

i) Non-Arm's Length Transactions[9]: -The arrangement establishes rights or

[8] CHAPTER XA INCOME TAX ACT, 1961
[9] SECTION 92C INCOME TAX ACT, 1961

duties that are not typically formed between parties engaging at arm's length. This indicates that the transaction's structure markedly deviates from what would be anticipated in an equitable market bargain between independent entities.

ii) **Misappropriation or Exploitation of Tax Provisions: -** The arrangement leads to the exploitation or misapplication of the provisions of the Income Tax Act. This encompasses techniques that, while legally permissible, subvert the purpose of the legislation by exploiting gaps or ambiguities.

iii) **Absence of Commercial Substance: -** A fundamental requirement is the absence of commercial substance in the transaction. As stipulated in Section 97, this transpires when the configuration:

Exerts no substantial impact on the business risks or net cash flows of any entity.

Encompasses the circular movement of capital,

Entails a compliant party with limited engagement.

Contains components that obscure the true nature of the transaction.

iv) **Unconventional Course of Action: -** The transaction is conducted in a manner not typically utilised for legitimate purposes. This pertains to fabricated or artificial arrangements that do not conform to standard commercial or economic practices.

Consequences of Impermissible Avoidance Arrangement (IAA) as per Indian General Anti-Avoidance Rules (GAAR)

i) Denial of tax Benefits: - The primary consequence of invoking GAAR is the potential disallowance of any tax benefit acquired or allegedly acquired through the arrangement. This encompasses:

Deductions or exemptions.

Minimised tax obligations pursuant to tax treaties, Deferred taxation

Any additional favourable provisions under the Income Tax Act.

ii) Recharacterization of the Transaction: - The authorities may redefine the transaction's nature to represent its actual essence rather than its legal form. For example:

A loan may be classified as equity.

A sequence of actions may be consolidated into one taxable occurrence.

Intermediaries may be disregarded if they lack a genuine economic purpose.

This idea corresponds with the "substance over form" approach and dissuades the employment of artificial legal constructs solely for tax evasion.

iii) Omitting Entities or Transaction Phases: - If specific organisations or processes in a transaction are considered to be established or organised purely for the purpose of acquiring a tax advantage, they may be disregarded outright. This may encompass:

Disregarding shell corporations or intermediary entities,

Eradicating procedures intended exclusively for tax arbitrage (e.g., round-tripping),

Disregarding certain contractual duties for tax considerations.

iv) Consolidation of Associated Individuals: - The tax authority may consider connected persons as a unified entity if their separation lacks business justification. This aids in averting the fragmentation of activities among associated entities to manipulate income or diminish tax obligations.

THRESHOLD FOR APPLICABILITY OF GAAR IN INDIA

The General Anti-Avoidance Rules (GAAR) in India are designed to target just those tax arrangements that result in significant tax avoidance, rather than applying universally to all tax strategies. To guarantee proportionality and prevent excessive litigation over tiny tax savings, the Indian legislation established a monetary threshold for its applicability. Per Rule 10U(1)(d) of the Income Tax Rules, 1962, in conjunction with Section 95[10] of the Income Tax Act, 1961, the General Anti-Avoidance Rule (GAAR) is applicable solely where the cumulative tax advantage obtained by all parties from the arrangement surpasses ₹3 crore (INR 30 million) in the pertinent assessment year.

OVERVIEW OF GOODS & SERVICES ACT, 2017[11]

The Goods and Services Tax (GST) is one of the most significant tax reforms in independent India, aimed at simplifying and unifying the indirect tax regime across the country. Enacted through the Constitution (One Hundred and First Amendment) Act, 2016, GST was implemented on 1st July 2017, replacing a complex web of central and state indirect taxes with a single, destination-based tax. The GST Act is authorised under Article 246A[12] of the Constitution, which grants both Parliament and State Legislatures the right to legislate on GST matters. A GST Council was constituted under Article 279A to advise on critical issues, thereby facilitating cooperative federalism in tax policy formulation.

FEATURES OF GST

Comprehensive and destination-oriented: GST is imposed on the supply of all products and services, excluding alcohol for human consumption, and is collected at the consumption point.

Input Tax Credit (ITC): Taxpayers may claim credits for taxes paid on inputs, thereby mitigating the compounding impact of tax-on-tax.

Threshold exemption: Small enterprises with an annual turnover below a specified amount (e.g., ₹40 lakh for products, ₹20 lakh for services in most

[10] SECTION 95 INCOME TAX ACT, 1961
[11] GOOD AND SERVICES ACT, 2017
[12] CONSTITUTION OF INDIA

states) are exempt.

E-invoicing and digital compliance: Focus on real-time reporting, e-way bills, and return submission via a consolidated GST Network (GSTN).

Anti-profiteering provision: Guarantees that the advantages of tax reduction are conveyed to consumers.

OBJECTIVES OF GST

Eliminate tax multiplicity: Superseded VAT, CST, excise duty, service tax, and various state and local taxes.

Establish a cohesive national market: Minimised tax impediments among states, facilitating company operations.

Improve compliance and transparency: Digitalisation and technology-driven infrastructure designed to minimise evasion.

Enhance economic efficiency by minimising transaction costs and streamlining tax administration.

PART 4: LEGISLATIVE FRAMEWORK IN UNITED KINGDOM

I) OVERVIEW OF UK INCOME TAX FRAMEWORK AND FINANCE ACTS[13]

The income tax system of the United Kingdom is fundamental to its fiscal policy, contributing a substantial portion of government revenue. It is principally administered by HM Revenue and Customs (HMRC) and regulated by a complex framework of statutory legislation, case law, and administrative guidelines. The framework is designed to guarantee equality, efficiency, and compliance, while adapting to economic and political fluctuations through periodic revisions via Finance Acts.

[13] https://www.gov.uk/government/publications/2010-to-2015-government-policy-tax-evasion-and-avoidance/2010-to-2015-government-policy-tax-evasion-and-avoidance

4.1.1 Income Tax Act 2007

The Income Tax Act 2007[14] is fundamental to the United Kingdom's income tax framework. The Act, implemented through the Tax legislation Rewrite Project, sought to simplify and restate the current income tax legislation with simpler and more consistent language, while preserving its substantive effect. It consolidates diverse rules concerning income tax obligations, reliefs, and exemptions, and functions as the legal basis for the assessment and collection of personal income tax in the UK.

i) STRUCTURE AND SCOPE OF THE INCOME TAX ACT 2007[15]

The Income Tax Act 2007 is systematically organised to elucidate the imposition and administration of personal income tax in the UK. It serves as a fundamental statute, operating alongside other tax legislation to provide a comprehensive framework. The Act comprises several Parts and Schedules, each addressing particular facets of income taxation.

a) Liability to Income Tax

The Act primarily serves to delineate the individuals subject to income tax in the UK.

UK residents are obligated to pay tax on their global income.

Non-Residents: Subject to taxation solely on income sourced from the UK, including employment income, property income, and income derived from UK enterprises.

Dual residents are subject to tax treatment governed by double taxation agreements (DTAs), which take precedence over domestic legislation.

[14] INCOME TAX ACT, 2007, UK
[15] CHAPTER 3, INCOME TAX ACT 2007, UK

b) Classification of Income

The Act outlines the **broad categories of income** subject to tax, while detailed rules on computation are found in accompanying statutes:

Trading Income: Income from self-employment or unincorporated businesses. Governed primarily by the **Income Tax (Trading and Other Income) Act 2005**.

Property Income: Rent and other earnings from land and buildings. The computation of this income is harmonised across all property owners.

Savings and Investment Income: Includes interest from banks, dividends, and other investment returns.

Employment Income: Handled in detail by the **Income Tax (Earnings and Pensions) Act 2003**, including wages, bonuses, pensions, and benefits-in-kind.

Miscellaneous Income: Any income not covered by the above, such as casual earnings or some intellectual property royalties.

II) GAAR, DOTAS AND OTHER KEY REGULATIONS

The United Kingdom has established a thorough legislative and administrative structure to address tax avoidance. In the last twenty years, numerous legislative frameworks have been implemented to tackle the increasing complexity and sophistication of tax preparation methods. The most notable include the General Anti-Abuse Rule (GAAR), the Disclosure of Tax Avoidance Schemes (DOTAS[16]) regime, and other tailored anti-avoidance rules (TAARs). This establishes a stratified framework for tax regulation, seeking to harmonise flexibility for legitimate tax planning with the prevention of exploitative acts. In the United Kingdom, the General Anti-Abuse Rule (GAAR) was established via the Finance Act 2013, drawing upon prior principles such as the Ramsay Principle. The UK's GAAR pertains to abusive tax arrangements that are

[16] https://www.gov.uk/guidance/disclosure-of-tax-avoidance-schemes-overview

deemed "not a reasonable course of action" in light of the applicable tax legislation. A GAAR Advisory Panel was established to evaluate the appropriateness of the taxpayer's actions, maintaining a balance between enforcement and certainty. The Disclosure of Tax Avoidance Schemes (DOTAS) is a statutory framework established in the UK pursuant to the Finance Act 2004. It requires the disclosure of specific tax arrangements—those exhibiting characteristics indicative of avoidance—to HM Revenue and Customs (HMRC) at an early stage. DOTAS seeks to furnish HMRC with prompt intelligence regarding nascent tax avoidance tactics, facilitating expedited legislative reactions. Proponents of such schemes are required to report and obtain a scheme reference number, which must be communicated to all clients. India lacks a direct counterpart to DOTAS; nonetheless, certain reporting obligations for overseas transactions are mandated under the Transfer Pricing and overseas Taxation frameworks. The notion of Significant Economic Presence (SEP) and Country-by-Country Reporting (CbCR), aligned with the OECD's BEPS Action Plan, signify India's progressive shift towards timely disclosure.

III) ROLE OF HMRC IN ENFORCEMENT

Her Majesty's Revenue and Customs (HMRC) is the primary tax authority in the United Kingdom, tasked with the administration and enforcement of tax legislation. Founded in 2005 through the amalgamation of the Inland Revenue and HM Customs and Excise, HMRC is pivotal in tax collection as well as in the investigation, detection, and prosecution of tax evasion and avoidance.

HMRC has a risk-based and intelligence-driven enforcement strategy. It employs sophisticated data analytics, international information sharing (pursuant to Common Reporting Standards and BEPS standards), and third-party disclosures to identify irregularities and track evasive behaviours. The Connect system, an advanced data-matching instrument, enables HMRC to cross-reference taxpayer information with more than 1 billion data points, encompassing bank accounts, land registries, and foreign assets. HMRC imposes civil and criminal penalties. Civil action often encompasses the enforcement of penalties, interest, and claims for overdue taxes. In egregious or fraudulent instances, HMRC commences criminal investigations and collaborates with the Crown Prosecution Service (CPS) to prosecute transgressors. Crimes include intentional misrepresentation or concealment of income are subject to imprisonment under the Fraud Act 2006 or the Criminal Finances Act 2017.

PART 5: COMPARATIVE ANALYSIS

I) STATUTORY DESIGN

STRUCTURAL FOUNDATION AND LEGISLATIVE EVOLUTION

The principal legislation regulating income taxation in India is the Income Tax Act of 1961[17], supplemented by related statutes including the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act of 2015, and the Benami Transactions (Prohibition) Act of 1988. These statutes are frequently revised via yearly Finance Acts, indicating fiscal priorities and policy modifications. Historically, India's strategy depended on particular anti-avoidance provisions (SAAR); however, from 2017, it has integrated a General Anti-Avoidance Rule (GAAR) under Sections 95–102 of the Income Tax Act.

In the United Kingdom, tax legislation is aggregated through multiple Finance Acts, with a significant focus on principle-based statutes. The implementation of GAAR through the Finance Act 2013, along with DOTAS from the Finance Act 2004 and TAARs, exemplifies a proactive and multifaceted legal framework that facilitates prompt action against avoidance schemes. The HMRC possesses a robust legislative authority to execute, examine, and impose penalties via statutory instruments and administrative directives.

PRINCIPLE BASED VS RULE BASED APPROACHES

A fundamental distinction is in the legal theory that informs statute design. The United Kingdom has implemented a principle-based methodology, notably

[17] INCOME TAX ACT, 1961

reflected in its General Anti-Abuse Rule (GAAR)[18], which focusses on "abusive" arrangements devoid of business substance. The terminology is deliberately expansive to encompass a variety of systems, with interpretation assistance from the GAAR Advisory Panel.

India's statutory framework has historically been rule-oriented, emphasising comprehensive provisions and inflexible definitions. Nevertheless, the integration of GAAR and the growing emphasis on substance over form in judicial interpretation indicate India's steady transition towards a more principles-based framework. Indian tax statutes continue to be intricate, verbose, and susceptible to interpretative ambiguity.

DISCLOSURE AND TRANSPARENCY MECHANISM

The UK's DOTAS framework mandates the disclosure of specific tax evasion methods, facilitating prompt regulatory intervention. The POTAS (Promoters of Tax Avoidance Schemes) framework introduces further oversight by enforcing responsibilities and sanctions on those who create and promote these schemes. India has a directly comparable disclosure framework. While procedures for Country-by-Country Reporting (CbCR), Master File submission, and Significant Economic Presence (SEP) under BEPS Action Plans are established, they primarily constitute international reporting obligations rather than domestic anti-avoidance disclosure regulations. The lack of a domestic equivalent to DOTAS represents a significant constraint in India's legislative framework.

SCOPE AND TARGET OF ANTI-AVOIDANCE LAW

The UK's GAAR encompasses a wide range of taxes, such as income tax, capital gains tax, and inheritance tax. It functions with retrospective awareness while implementing prospective enforcement. TAARs facilitate targeted legislative responses to emerging planning methodologies.

India's GAAR is equally extensive in its applicability, encompassing all taxpayers and several transaction categories. Nonetheless, it encompasses

[1818] GAAR RULES

multiple limitations (e.g., a tax benefit beyond ₹3 crore) that restrict its use. Furthermore, India's implementation of GAAR requires procedural clearances, necessitating case referrals to an Approving Panel, thereby undermining quick enforcement efficacy.

II) INTERPRETATION AND ENFORCEMENT

The efficacy of anti-evasion and anti-avoidance legislation depends not only on their formulation but also on their judicial interpretation and enforcement by tax officials. The methodologies employed by India and the United Kingdom significantly diverge, illustrating their disparate legal traditions—India's amalgam of codified statutes and judicial precedent, and the UK's robust common law framework characterised by purposive statutory interpretation.

JUDICIAL INTERPRETATION

India mainly adheres to a literal and rule-based interpretation of tax legislation, although there has been a steady transition towards purposive reasoning, especially in matters concerning tax avoidance. Historically, Indian courts shown hesitance in examining the substance of a transaction beyond its legal form. In McDowell & Co. Ltd. v. CTO (1985), the Supreme Court asserted that "tax planning may be legitimate if it adheres to legal parameters, but colourable devices cannot constitute tax planning." This decision represented a pivotal occasion, indicating the judiciary's readiness to apply the theory of substance above form. Subsequent cases, like Union of India v. Azadi Bachao Andolan (2003), exposed anomalies in the application of anti-avoidance principles, underscoring the necessity for legislative clarity via GAAR, which was implemented in 2017. Conversely, the UK judiciary has traditionally employed the Ramsay Doctrine (from W.T. Ramsay Ltd. v. IRC [1981]) to penetrate the facade of tax-driven schemes. UK courts adopt a purposive approach, interpreting tax regulations based on their objectives rather than adhering rigidly to literal wording. This has enabled courts to nullify tax arrangements that, while legally compliant, undermine the law's intent. The UK's GAAR, established in 2013, formalises this methodology by focussing on "abusive" tax schemes through a "double reasonableness" criterion, incorporating insights from an independent GAAR Advisory Panel.

ADMINISTRATIVE ENFORCEMENT

In India, enforcement is primarily conducted by the Central Board of Direct Taxes (CBDT), a statutory body under the Ministry of Finance. Despite the CBDT issuing circulars and guidelines, enforcement largely relies on manual processes and is heavily litigated. The implementation of GAAR in India necessitates approval through a multi-tiered process, including evaluation by the Approving Panel, so constraining its immediate efficacy. Moreover, enforcement is frequently impeded by procedural delays, insufficient digital integration, and capacity constraints within tax administration. In the UK, enforcement is highly institutionalised and efficient under Her Majesty's Revenue and Customs (HMRC). HMRC possesses extensive authority to investigate, audit, and prosecute tax-related offences. Its function encompasses both administrative and investigative aspects, especially in severe instances of tax fraud. HMRC utilises data analytics, real-time reporting, and international cooperation frameworks (such as FATCA and CRS) to monitor tax avoidance and evasion. The UK utilises procedures such as DOTAS, POTAS, and Follower Notices to expedite enforcement and deter involvement in tax evasion schemes.

PART 6: CONCLUSIONS

This comparative analysis emphasises the differing yet progressive strategies of India and the UK in tackling tax evasion and avoidance. The UK has established a comprehensive, principle-based system featuring mechanisms such as GAAR, DOTAS, and a significant enforcement role for HMRC, whereas India's legal structure predominantly adheres to a rule-based approach, despite recent reforms like GAAR indicating a transition towards purposive interpretation. The judicial uniformity and proactive institutional enforcement in the UK stand in stark contrast to India's procedural intricacies and litigation-intensive enforcement mechanism. Both nations confront the difficulty of reconciling taxpayer rights with the necessity for efficient revenue safeguarding. India can glean insights from the UK's focus on disclosure, transparency, and institutional efficacy, while tailoring these principles to its own context. Addressing tax non-compliance necessitates effective legislation, competent institutions, and a principled tax culture. Enhancing enforcement, streamlining procedures, and fostering international collaboration will be essential for attaining sustained fiscal integrity in both jurisdictions.

REFRENCES

i) COMMON MODE OF TAX EVASION AS AMENDED BY THE FIANACE ACT, 2024, BY RAM DUTT SHARMA

ii) INCOME TAX ACT, 1961

iii) THE BLACK MONEY ACT (UNDISCLOSED OVERSEAS INCOME AND ASSETS) AND IMPOSITION OF TAX ACT, 2015

iv) https://ijlsi.com/wp-content/uploads/Tax-Avoidance-vs.-Tax-Evasion-A-Critical-Examination-of-Legal-Boundaries-in-Indian-Taxation-Law.pdf

v) https://blogs.kcl.ac.uk/kslr/files/2024/04/Murthy-Article.pdf

vi) CHAPTER XA INCOME TAX ACT, 1961

vii) SECTION 92C INCOME TAX ACT, 1961

viii) SECTION 95 INCOME TAX ACT, 1961

ix) GOOD AND SERVICES ACT, 2017

x) CONSTITUTION OF INDIA

xi) https://www.gov.uk/government/publications/2010-to-2015-government-policy-tax-evasion-and-avoidance/2010-to-2015-government-policy-tax-evasion-and-avoidance

xii) INCOME TAX ACT, 2007, UK

xiii) CHAPTER 3, INCOME TAX ACT 2007, UK

xiv) https://www.gov.uk/guidance/disclosure-of-tax-avoidance-schemes-overview

xv) https://www.gov.uk/government/collections/tax-avoidance-detailed-information

xvi) https://iatj.net/content/congresses/amsterdam2013/Tax%20Avoidance-Evasion%20-%20United%20Kingdom.pdf

xvii) https://economictimes.indiatimes.com/news/economy/foreign-trade/india-uk-committed-to-combat-tax-evasion/articleshow/18578242.cms