A Study on various Ways of Tax Avoidance and Tax Evasion in Agricultural Sector and their Effect

Dr. Ujjwal M. Mishra
Associate Professor
Department of Management Studies
Sinhgad College of Engineering, S.No.44/1 Vadgaon(BK), Pune-411041, India

Abhijit Kulkarni
PG Student
Department of Management Studies
Sinhgad College of Engineering, S.No.44/1 Vadgaon(BK), Pune-411041, India

Abstract

Tax evasion and tax avoidance are deviations from what is to be brought into being legal, reasonable and just, they occur frequently together. It is common in them, that they result in losses in the tax revenue. Otherwise they are different from each other. An arrangement made to beat the intent of the law by taking unfair advantage of the shortcomings in the tax rules is known as Tax Avoidance. It refers to finding out new methods or tools to avoid the payment of taxes which are within the limits of the law. An illegal act, made to escape from paying taxes is known as Tax Evasion. Such illegal practices can be deliberate concealment of income, manipulation in accounts, disclosure of unreal expenses for deductions, showing personal expenditure as business expenses, overstatement of tax credit or exemptions suppression of profits and capital gains, etc. This will result in the disclosure of income which is not the actual income earned by the entity. Agriculture income is exempt under the Indian Income Tax Act. This means that income earned from agricultural operations is not taxed. Some people are missing using the tax exemption for making fake income certificates or converting their black money into white by showing this as agricultural income.

Keywords: Tax Evasion in Agricultural Sector, Ways of Tax Avoidance

I. INTRODUCTION

Government has to play an important role in all round development of society in the modern era. It has not only to perform its traditional functions (defense, maintenance of law and order) but also to undertake welfare and development activities such as health, education, sanitation, rural development, water supply etc. It has also to pay for its own administration. All these functions require huge public finance. Taxes constitute the main source of public finance whereby government raises revenue for public spending. Taxes have been broadly categorized into direct and indirect taxes. “Direct taxes” include those taxes which are paid by the person on whom these are levied like income tax, wealth tax etc. On the other hand, ‘indirect taxes’ are levied on one person, but paid by another e.g. sales tax, excise duty, custom duty etc.

Income tax is the most important of all direct taxes and with the application of progressive rate schedule, provision of exemption limit and incorporation of a number of incentive provisions. It can be used not only to satisfy all the canons of a sound tax system but may also go a long way in realizing variety of socio economic objectives set out by the economic system. It also helps in bringing distributional justice through higher rate of tax on the rich class of the society. It may also act as a tool for controlling inflation. Due to all these factors, income tax has assumed great importance in the structure of direct taxation. Therefore, all politically advanced democracies impose some form of personal taxation, generally based on income.

A. Tax Evasion and Tax Avoidance

In the context of the question recounting to avoiding or evading of taxes by the common public, the symposium seems to completely turn round around the trapezium of direct taxes as compared to indirect taxes because of the obvious fact that direct taxes have to be paid directly and willingly by the people unlike in case of indirect taxes where people are taxed on goods and services the moment they avail them. As a result of this, the attention of Indian judiciary has been on developing the law relating to evasion of taxes. At times, judiciary found itself in pandemonium as to how to draw line of differentiation between the concept of tax evasion and the idea of “unacceptable” tax avoidance. On the top of this, it must be mentioned that though the issue of tax “evasion” per se seemed to be quite settled but the idea of tax avoidance over a period of time became a matter of both academic and judicial interest. Consequently, there were a myriad of opinions on the same.

Tax evasion and tax avoidance are deviations from what is to be brought into being legal, reasonable and just. They occur frequently together. It is common in them that they result in losses in the tax revenue. Otherwise they are different from each other. Tax evasion is associated with defiance of the law: It is a fissure developed due to the taxpayers' real demeanor retiring from what has been promulgated as statutory fiscal law. In contrast, tax avoidance does not follow from the breaking of the law. It is yet the circumvention of law: taxpayers entangled in tax avoidance attack what can be seen as the integrity of law.
All in all, 'tax avoidance' and 'tax evasion' are terms so habitually referred to in economic and business dealings today that they compose a substantial part of our daily conversational language and people in general use these expressions even exclusive of the knowledge of their exact connotation and divergence. Whereas tax avoidance implies a state of affairs in which the taxpayer reduces his tax liability by taking benefit out of the shortcomings and ambiguities in the legal provisions, in the case of tax evasion, facts are calculatingly misinterpreted and the tax liability is understated. Thus, while tax avoidance is considered theoretically perfectly legal and is, at times, referred to as 'tax planning', tax evasion is take to be illegal and, therefore, carries with it the jeopardy of penalties and prosecutions under the tax laws. As such, the black economy comprises the sum total of all the various methods of tax evasion but does not include tax avoidance. Many a times, a distinction is made theoretically between “acceptable” tax avoidance and “unacceptable” tax avoidance. The former is categorized as tax planning in some jurisdictions.

B. Agricultural Income

Agriculture income is exempt under the Indian Income Tax Act. This means that income earned from agricultural operations is not taxed. The reason for exemption of agriculture income from Central Taxation is that the Constitution gives exclusive power to make laws with respect to taxes on agricultural income to the State Legislature. However while computing tax on non-agricultural income agricultural income is also taken into consideration.

In order to give a boost to agriculture and relief to farmers who are engaged in an occupation that is otherwise not very remunerative. Money launderers buy up land in such a situation and show highly inflated gains from agriculture, purportedly through the use of advanced and sophisticated agricultural techniques. Another advantage of laundering money through the agricultural sector is that one also saves on income tax.

Extension services in the agriculture sector, such as dairy farming and poultry, which are also exempt from income tax, are also utilized to laundering money.

C. What does the term Agricultural Income mean?

As per Income Tax Act income earned from any of the under given three sources meant Agricultural Income;
- Any rent received from land which is used for agricultural purpose.
- Any income derived from such land by agricultural operations including processing of agricultural produce, raised or received as rent in kind so as to render it fit for the market, or sale of such produce.
- Income attributable to a farm house subject to the condition that building is situated on or in the immediate vicinity of the land and is used as a dwelling house, store house etc.

D. Now income earned from carrying nursery operations is also considered as agricultural income and hence exempt from income tax. In order to consider an income as agricultural income certain points have to be kept in mind

- There must me a land.
- The land is being used for agricultural operations.
- Agricultural operation means that efforts have been induced for the crop to sprout out of the land.
- If any rent is being received from the land then in order to assess that rental income as agricultural income there must be agricultural activities on the land.
- In order to assess income of farm house as agricultural income the farm house building must be situated on the land itself only and is used as a store house/dwelling house.

E. Certain income which is treated as Agriculture Income

- Income from sale of replanted trees.
- Rent received for agricultural land.
- Income from growing flowers and creepers.
- Share of profit of a partner from a firm engaged in agricultural operations.
- Interest on capital received by a partner from a firm engaged in agricultural operations.
- Income derived from sale of seeds.

F. Certain income which is not treated as Agricultural Income;

- Income from poultry farming.
- Income from bee hiving.
- Income from sale of spontaneously grown trees.
- Income from dairy farming.
- Purchase of standing crop.
- Dividend paid by a company out of its agriculture income.
- Income of salt produced by flooding the land with sea water.
- Royalty income from mines.
- Income from butter and cheese making.
**G. Certain points to be remembered:**

- Agricultural income is considered for rate purpose while computing tax of Individual/HUF/AOP/BOI/Artificial Judicial Person.
- Losses from agricultural operations could be carried forward and set off with agricultural income of next eight assessment years.
- Agriculture income is computed same as business income.

**II. REVIEW OF LITERATURE**

Singh and Sharma (2007) made an attempt to study the perception of tax professionals with regard to Indian Income Tax System by collecting primary data from 100 tax consultants operating in Punjab and Haryana. They tried to investigate the role of tax consultants played in the revenue collection process by helping their clients in understanding the complex tax system and meeting their legal obligations. Factor Analysis of data showed that seven factors – reduction in tax evasion, extension of relief to taxpayers, incentives for dependents and honest taxpayers, broadening the tax base, e-filing of returns, adequacy of deductions and impact of exempt-exempt tax system played an important role in determining the effectiveness of Indian tax system. While concluding the authors suggested for adjustment of income tax rates according to price level changes, broadening of tax base, strict measures against tax evaders, extensive use of TDS, consideration to number of dependents for tax rate purpose and establishment of good relationship with taxpayers.

Arora R.S. and Rani Vanita (2010) Studied the causes and Remedies for Tax evasion & corruption in the Indian Income tax system. They investigated the opinions of tax professionals from the different districts of Punjab regarding tax evasion and corruption in Indian Tax system. They pointed out the high tax rates, corruption, social acceptance of tax evasion, low probability of detection and low tax morality are the main causes of tax evasion. Further they opined that excessive discretionary powers available with income tax authorities, harassment to tax payers, lack of integrity on the part of income tax officials, lack of processes are the factors which lead to corruption. They suggested the rationalization of tax rates, simplification of tax laws, extensive use of TDS system and proper processing of information available under the Annual Information Return for increasing tax compliance.

Lalit wadhwa and Dr.Virender Pal (2012) has surveyed the opinion of income tax professionals regarding tax evasion in India. As per their opinion income tax evasion is prevalent in India. They opined that high tax rates, corruption in public sector units, multiple tax rates and inefficient tax authorities are the main causes of tax evasion. They suggested that reduction in tax rates, simplifications of tax laws, remove loopholes in the tax system and some extent proper processing of information available the under the annual information return can be best tool for improving Indian tax compliance. Therefore there is a need for creating transparent, friendlier and less discriminatory administrative system. Further there is also a need to educate the people about Indian Tax law and create such an environment in which they pay their due taxes, do not evade the tax and feel proud in discharging their duty to pay the taxes.

Utkarsh K. Mishra (2014) was to examine the experience of Indian judiciary in dealing with tax avoidance and tax evasion preventive measures. As the discussion made above shows, it can be concluded that uncertainty still persists in relation to what transactions can be grouped under unacceptable tax avoidance scheme. Though, it did leave a room for discretion with judiciary to examine each case through the approach of purposive textualism. Hence the hypothesis is proved.

**III. RESEARCH DESIGN AND METHODOLOGY**

**A. Data Collection**

- Primary data is collected through personal interviews or through telephonic interviews. Collect data based on personal observation.
- Secondary data is collected through journals, research papers and websites.

1) **Mode of Data Collection**

Data can be obtained from different sources:
- Information collected through censuses or government departments like social security, electoral statistics, tax records
- Internet searches or libraries
- Progress reports
- News papers
- Journals and research papers.

**B. Analytical Tools of Data Analysis**

Before analyzing the data information has been presented systematically in the format of tables, graphs and charts which explains lot about the data and information which are collected for this research.
IV. DATA ANALYSIS & INTERPRETATION

A. Indian Agricultural land and Operated area

Table – 1
Indian Agricultural land and Operated area

<table>
<thead>
<tr>
<th>Sr. No.</th>
<th>Holding Type</th>
<th>Total Land Holdings</th>
<th>Area</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Marginal Holdings</td>
<td>67.1</td>
<td>Below 1 Hectare</td>
</tr>
<tr>
<td>2</td>
<td>Small Holdings</td>
<td>17.9</td>
<td>1 to 2 Hectares</td>
</tr>
<tr>
<td>3</td>
<td>Semi-Medium Holdings</td>
<td>10</td>
<td>2 to 4 Hectares</td>
</tr>
<tr>
<td>4</td>
<td>Medium Holdings</td>
<td>4.3</td>
<td>4 to 10 Hectares</td>
</tr>
<tr>
<td>5</td>
<td>Large Holdings</td>
<td>0.7</td>
<td>10 Hectares &amp; above</td>
</tr>
</tbody>
</table>

1) Analysis & Interpretation
As per the Analysis 67% Indian Farmers are Marginal which is followed by 18% of small farmers. Remaining ‘Semi-Medium, Medium and large’ are 10%, 4% and 1% respectively. As per the Analysis most of Indian farmers are Marginal farmers who is holding below 1 Hectare and small farmers holding 1 to 2 Hectare. Semi-medium farmers holding 2 to 4 Hectare. Medium and large farmers holding the land of 4 to 10 and above 10 hectares respectively.

B. Indian Income sector-wise

Table – 2
Indian Agricultural land and Operated area

<table>
<thead>
<tr>
<th>Sr. No.</th>
<th>Sector</th>
<th>2011-12 In Lakhs</th>
<th>2012-13 In Lakhs</th>
<th>2013-14 In Lakhs</th>
<th>2014-15 In Lakhs</th>
<th>% share</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Agriculture Sector</td>
<td>1.5</td>
<td>1.6</td>
<td>1.8</td>
<td>1.9</td>
<td>17.01</td>
</tr>
<tr>
<td>2</td>
<td>Industry Sector</td>
<td>2.7</td>
<td>2.9</td>
<td>3.2</td>
<td>3.4</td>
<td>30.02</td>
</tr>
<tr>
<td>3</td>
<td>Services Sector</td>
<td>3.9</td>
<td>4.6</td>
<td>5.3</td>
<td>6.11</td>
<td>52.97</td>
</tr>
</tbody>
</table>

1) Analysis & Interpretation
Services sector is estimated at 61.18 lakh Crore INR in 2014-15. Services sector accounts for 52.97% of total India’s GVA of 115.50 lakh Crore Indian rupees. With GVA of Rs. 34.67 lakh Crore, Industry sector contributes 30.02%. While, Agriculture and allied sector shares 17.01% and GVA is around of 19.65 lakh Crore INR for the FY 2014-15 the service sector has almost 53% of total income followed by industry and agriculture sector 30% and 17% respectively.

C. Indian Agricultural Sector for last 5 years

Table – 3
Indian Agricultural land and Operated area

<table>
<thead>
<tr>
<th>Sr. No.</th>
<th>Year</th>
<th>INR</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>2011</td>
<td>105604.0</td>
</tr>
<tr>
<td>2</td>
<td>2012</td>
<td>107919.5</td>
</tr>
<tr>
<td>3</td>
<td>2013</td>
<td>94476.5</td>
</tr>
<tr>
<td>4</td>
<td>2014</td>
<td>89067.1</td>
</tr>
<tr>
<td>5</td>
<td>2015</td>
<td>173979.9</td>
</tr>
</tbody>
</table>

1) Analysis & Interpretation
As we see above graph for the year 2011 to 2014 the agriculture has almost same GDP with the fraction of changes but for the last year 2015 it has upward movement almost double from 2014

GDP of agriculture and allied sectors in India was recorded at approx. 174 thousand Crore in FY15. According to the advanced estimates of Central Statistical Organization, agriculture and allied sector recorded a growth of 8.3 per cent in FY15

D. Distribution of population by income

Table – 4
Indian population by income

<table>
<thead>
<tr>
<th>Sr. No.</th>
<th>Class</th>
<th>Income Monthly</th>
<th>Ppl in Millions</th>
<th>In percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Super Rich</td>
<td>240000 and above</td>
<td>12</td>
<td>1</td>
</tr>
<tr>
<td>2</td>
<td>Rich Class</td>
<td>480000 to 240000</td>
<td>24</td>
<td>2</td>
</tr>
<tr>
<td>3</td>
<td>Upper Class</td>
<td>12000 to 48000</td>
<td>84</td>
<td>7</td>
</tr>
<tr>
<td>4</td>
<td>Middle class</td>
<td>4000 to 12000</td>
<td>240</td>
<td>20</td>
</tr>
<tr>
<td>5</td>
<td>Lower middle class</td>
<td>2400 to 4000</td>
<td>360</td>
<td>30</td>
</tr>
<tr>
<td>6</td>
<td>Poor class</td>
<td>1200 to 2400</td>
<td>360</td>
<td>30</td>
</tr>
<tr>
<td>7</td>
<td>Wretched</td>
<td>less than 1200</td>
<td>120</td>
<td>10</td>
</tr>
</tbody>
</table>

1) Analysis & Interpretation
30% of population belonging to lower-middle and poor class each which is folded by middle class of 20%. ‘Wretched, upper class, rich class and super-rich class are 10%, 7%, 2% and 1% respectively.
The majority of the Indians Income group is between 1200 to 4000 per month and they hardly maintain their basic necessities but some people show incorrect income to come into lower category group, almost 32% of income certificate are fake (source: Times of India) or show less income for various benefits provide by the government. By corruption Sub-divisional officers and Tehsildar or wrong show agricultural income.

**E. Land Valuation of Agricultural land**

<table>
<thead>
<tr>
<th>Sr. No</th>
<th>Areas</th>
<th>Circle Rate (per acres)</th>
<th>Market Value (per acres)</th>
<th>Differences</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Low</td>
<td>High</td>
<td>Low</td>
<td>High</td>
</tr>
<tr>
<td>1</td>
<td>Urban</td>
<td>100000</td>
<td>1200000</td>
<td>700000</td>
</tr>
<tr>
<td>2</td>
<td>Semi-Urban</td>
<td>350000</td>
<td>500000</td>
<td>250000</td>
</tr>
<tr>
<td>3</td>
<td>Rural</td>
<td>100000</td>
<td>250000</td>
<td>100000</td>
</tr>
</tbody>
</table>

1) *Analysis & Interpretation*

In the urban area difference between circle rate and market rate has highest almost 160%. Then semi-urban and rural area has 155% and 140% respectively.

Value of agricultural land in urban area between 1 lack to 12 lacks as per the government rate (Circle rate) but in the market value of same land belongs to 7 lack to 20 lack.

The data collection and revision were initially done by the revenue department and later, by the registration department. All the responses and suggestions would be taken into consideration as part of the government’s detailed exercise to find the market values to make land deals transparent and to check undervaluing by buyers who try to avoid paying higher registration duty.

**V. FINDINGS**

A large farmer on average has 45 times more land than a “marginal” farmer, as we already said, and 101.4 million or 56.4% rural households own no agricultural land, that why for large farmers and agricultural companies there is no need of tax exemption. Some people are misusing the tax exemption for making fake income certificates or converting there black money in to white by show this as agricultural income. By using this certificates they can apply for many government benefits and Schemes.

There is huge difference between government valuation of agricultural land and market price. That why at time of land dealing that extra cost has been follow as cash and no track of this money. Tax evasion has been causing reduction in country’s economic growth as an enormous volume of income is diverted to this unaccounted sector resulting in growing continuation of parallel economy of the country. All money related transaction are done through the banks that can restrict the flow of black money in the market. The direct effect of tax evasion is the loss of revenue, increase in inflation.

**VI. CONCLUSION**

There is need of enforce the tax on the agricultural income above on certain level of income because only large farmers and agricultural companies taking benefit of Tax Exemption. Proper system which track the agricultural income and also link with other income from other sources of the individual tax payer.

Updating of valuation of land as per the market value and selling & buying transaction only done through bank transaction. By showing wrong Agricultural income and the fake income certificates many people taking benefits government Schemes. There are lot of difference the between government valuation of agricultural land and market price it causes black money.

**REFERENCES**


