



Specific Deductions Available In Tax To Tax Payers: A Critical Analysis

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Abstract: There are many advantages of levying the taxes not only in economical context but also in other ways which empowers individuals on one hand and the society on the other hand. Therefore, the state comes with a proper system of imposing the taxes on the citizens and non-citizens so that the system works in the proper manner and no hindrances or chaos occurs. It is the duty of the state to make certain provisions. Tax, as we see it today, is not present day phenomenon but has been coming since very long time back that is the tax was also levied in the past India wherein certain laws and regulations were made in this regard as to make the wealth and atmosphere of the state better in every aspect whether in education, social, economical, salaries etc.

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Introduction:

The basic notion behind coming with the concept of levying tax is that the people of the welfare state must, to some an extent, contribute towards the development of the country also as it is considered to be the mutual benefit for the country whether at the domestic level or at international level as when India as country is represented outside; the tax imposed or levied is taken from the people of the country on the basis on their income and not blindly that a single rule is not applicable on all but as per their existence in terms of finance etc.; the rationale behind this concept is that it is very necessary to run the economy of the country and also to develop the nation in every sector whether of infrastructure, science and technology, agriculture, education or other.

Therefore, the liability of tax cannot be ruled out by just reading it or adducing it to the concept of a type of force or unlawful boundation by the state on its population; it is not so but it is, altogether, one of the most important contribution which is necessary to make the foundation of a nation strong so that a mutual development may be possible. The tax is levied with the authority of law and also within the permissible limits. There are many advantages of levying the taxes not only in economical context but also in other ways which empowers individuals on one hand and the society on the other hand. Therefore, the state comes with a proper system of imposing the taxes on the citizens and non-citizens so that the system works in the proper manner and no hindrances

or chaos occurs. It is the duty of the state to make certain provisions. Tax, as we see it today, is not present day phenomenon but has been coming since very long time back that is the tax was also levied in the past India wherein certain laws and regulations were made in this regard as to make the wealth and atmosphere of the state better in every aspect whether in education, social, economical, salaries etc. The research paper is well prepared to raise all the relevant debatable points related to the tax and deductions thereto while giving the special emphasis on the provisions of the law managing; the settled case laws of the tribunals and of the Apex court laying down the present situation in this regard, it would be dealing with the issues attached thereto and also would like to answer them while focusing on the main topic that is the specific deductions in tax where a person is given certain exemptions under the name of deductions which he is legally entitles to be given while imposing certain taxes on the other hand.

Historical Background Of Tax & Deductions:

Talking of tax in the present time automatically draws the attention of the tax payers in the pre independent period of India or the period when there was no such proper rules and regulations and also will include the time when there were the rulings of the different rulers in the states of divided India. The concept of tax India took from is the *Manu Smriti* where it was firstly discussed but the most authoritative text is *Kautilya's Arthashastra* wherein the tax has been largely discussed and in various

dimensions. According to Manu Smriti, it was the king who had the authority to levy the taxes and that also as per the rule of law and the Dharma and Shastras that was considered to be highest grade to attain and even today is considered. The taxes were sine-quanun to income and the expenditure thereto and also was recommended that there must be neither tax absence nor should be there exhorbitant taxes. Manu Smriti also emphasized on the point that there should be no excessive tax provisions and the tax should be taken with certain provisions of the exemptions provided to the citizens. Some of the examples of the taxes which were levied were traders and artizens tax, agriculture tax, taxes on profession, singers, services etc. Now while discussing the Kautilya's Arthashastra; it must be taken into consideration that it is the most authoritative and genuine text on economics which broadly talks about the various concepts of text and how the life of the people can be economically maintained while maintain the proper distribution of wealth and power in the state. Kautilya discussed the taxation broadly in his book which he documented in the Mauryan Empire.

The basic understanding on which he based his study was that all the land in the state or the kingdom are of the kin fans the king has the ultimate authority on that, he can do whatever he wants to do with it and in any manner he thinks fit but there were some riders as to keep some checks and balances. He said that land revenue was the biggest part of the total revenue received; he also discussed many types of the taxes such as octroi, duties, tolls, custom duties, forest produce, mines & salt tax etc. He also covered the trade with foreign countries like China and Shilon including imported goods changing the fairy charges. Taxation during this period was not progressive but proportional suiting to fluctuating income; gambling was also legitimized but the tax was imposed thereto, yatravetan called tax was put on the pilgrims. In this age, the object of the tax was not to exploit the people but the king used to undergo a duty of protection and preservation of the sources and property of the people of the state by acting as a trustee of them and he was also answerable to all the people there. Tax was not considered to be materialistic that is the creation of man but was taken to be as related to dharma and therefore was not made compulsory. It was also the rule that if the king fails in his duty to protect the people and their property then there was no obligation on the people to pay the taxes as per the provisions established while giving the right to the citizens to claim their tax back from the state. There were also the provisions of the exemptions available to the citizens such as to poor, deceased, minor and students.

Therefore, this can be well settled that the tax is not something new or today's creation but has been

coming since long and that time also the exemptions were given to the people according to their status and needs; same phenomenon can be seen today in our system where the tax is imposed by the government on the people with the authority of law and that also provides for certain reliefs in the name of exemptions and deductions imparting the equality for all the citizens and non-citizens in the manner that can be traced out in the further discussion where the legislature has created many provisions as to enable the people to keep their heads cool from the heat of tax or to be able to understand that this is not a dictator's whip but the contribution towards the development of the nation which will not only maintain their life but also the upcoming generations.

By the word "deduction", it can be asserted or inferred that it is something which provides certain relief to the individuals in that thing with which it is attached. Why the law provides this deduction with the imposition of taxes and how it is given and to whom and in what manner, all these questions have answer that it is necessary to put ointment on the injury as to make it non-infectious; conclusion thereby is that while the government imposes the tax, it also becomes necessary and reasonable for the government to cope it up with certain kind of reliefs so that a harmony is created between the government and the people as to make the society progressive and peaceful in every aspect. Therefore, these deductions in paying off the taxes work as the game changer in the very field of tax by doing two simultaneous businesses: one is the payment of taxes to the government and the other is the benefit received by the payer in terms of the deductions; this is also useful and fruitful in making the people conscious and also encourages them to pay the tax to the government and not to steal tax or conceal it as to be saved by sanction.

Nature Of Deduction Under Various Provisions Of Law:

After discussing the introduction and the historical background of tax and deductions, now I would like to present the nature of deduction which is available to the people under the various heads of the provision of the law. The followings are the relevant provisions of law dealing with the concept of deductions.

Section 80c:

This section embodies the principle of deduction from the tax on the basis of payments made by either individuals or the members of the Hindu Undivided Family for the purposes provided under this section and the total deduction in the amount taxable can be claimed upto the tune of 1.50 lakh and not more than that. Some of the payments which are exempted are as follows:

1. Payment which is made for the purpose of life insurance whether of self, spouse or the children.

2. Payment which is contributed for the purpose of the provident fund.

3. All the money which is which towards the payment of education purposes of children maximum of two children.

4. Payment put into the purchasing of any residential property or to construct something.

5. Payments issued towards a fixed deposit with a minimum tenure of 5 years.

Section 80CCC, 80CCD, 80CCF and 80CCG also lays down the further distribution of the deduction.

Section 80d:

This section provides for the deduction in the taxable amount excluding the amount which is spent by the tax payer towards the health insurance policy of himself, spouse, parents, or children to a Central Government health plan wherein Rs. 15000 can be claimed in this case and if the age of the person is above 60 years then it exceeds to Rs. 20000. Both the individuals and the Hindu Undivided Family are eligible for this kind of deductions but the payment must be made by means other than the cash.

This section can also be further divided into Section 80DD & 80DDB wherein different situations have to be fulfilled in order to get the benefit provided by the law.

Section 80e:

This provision is a kind of social responsibility and protection provided by the law to the tax payers wherein they do not have to pay tax on the repayment of the loan taken for the higher education. The rationale behind this provision is that the education should not become burden for someone so as to be able to sustain in this advanced world. The important condition here in this concept is that the individual who is entitled to deductions he can himself take the loan or may sponsor is/her ward or child with that loan for the higher education.

Section 80EE¹ provides that only individual taxpayers are eligible for deductions under Section 80EE, with the interest repayment of a loan taken by them to buy a residential property qualifying for deductions. The maximum deduction permitted under this section is Rs 3 lakhs.

Section 80g:

Section 80G provides a kind of deduction of the amount which is ultimately used by the government for the welfare purposes such as charitable institutions; therefore, for this purpose the government encourages the taxpayers to contribute towards this step wherein all the persons liable to pay tax are also eligible for

this deduction. This deduction is subject to following concepts where it is decided whether to deduct all or some part:

1. **100% deductions without any limit:** Where the donations are made to the funds like National Defense Fund, Prime Minister's Relief Fund, National Illness Assistance Fund, etc. such deductions qualify for 100% deduction on the amount donated.

2. **100% deduction with qualifying limits:** Where the donations are made to local authorities, associations or institutes to promote family planning, such deductions qualify for 100% deduction but unlike above it is subject to certain qualifying limits.

3. **50% deduction without qualifying limits:** Where the donations are given to funds like the PMs Drought Relief fund etc., such deductions are eligible for 50% deduction.

4. **50% deduction with qualifying limit:** Where the donations are furnished to the religious organizations and other local authorities for the purposes apart from family planning and other charitable institutes, these are eligible for 50% deduction but subject to certain qualifying limits.

The qualifying limit which is provided under these provisions refers to 10% of the gross total income of a taxpayer.

This section is again divided into some sub-sections providing various different situations for the purpose of deductions:

Section 80GG: All the individuals who are not receiving any house rent allowance then they are entitled to deductions based on the rent paid to the owner by him/her to the extent of 25% of the salary or Rs 2000 whichever is less.

Section 80GGA: All the assesses are provided with deduction here but they must not be benefitted by any business or profession; donations for the purpose of enhancing the social/scientific/statistical research and also towards the National Urban Poverty Eradication Fund are eligible for tax benefits.

Section 80GGB: Under this section, only those Indian companies can claim the deductions which donates the money to the political parties or to the electoral trust.

Section 80GGC: This section carries out the idea enshrined in section 80GGB by providing the deductions to the assesses who contributes funds to a political party or trust. Local authorities and artificial juridical persons are not entitled to the tax deductions available under Section 80GGC.

Section 80IA: This section serves the interest of all the tax payers y providing them all the benefit of deductions where their benefit is occurring from any industrial activity which can be related to telecommunication, industrial parks, power generation or SEZs etc.

¹ Section 80EE, Income Tax Act, 1961.

The following are the subsections related to Section 80-IA.

Section 80 IAB: This section is a privilege only to those who are the real developers of the areas which are called Special Economic Zones, only those developers can claim deductions under this section. These SEZs need to be notified after 1/4/2005 in order for them to be eligible for tax deductions.

Section 80-IB: The deduction from the tax is available for all assesses who have profits from hotels, ships, multiplex theatres, cold storage plants, housing projects, scientific research and development, convention centres, etc.

Section 80-IC: This section can be availed by the people who earn the benefits from some states such as Assam, Manipur, Meghalaya, Himachal Pradesh, Uttaranchal, Arunachal Pradesh, Mizoram, Tripura and Nagaland.

Section 80-ID: The assesses who earn profits or gain from hotels and convention centres, they all are eligible to claim deduction but they are subject to their establishments being located in certain specified areas.

Section 80-IE: The assesses who have undertakings in North-East India are eligible for deductions under this Section but subject to certain conditions.

Section 80P: Section 80P provides the deduction to the cooperative societies for their income but that is subject to certain conditions; they are given 100% deductions in income where the cooperative societies deals in cottage industries, fishing, banking etc.

Section 80TTA: When a person has certain amount of money deposited in the account and the interest is incurring on that amount; in case of individuals and Hindu Undivided Families, it permits upto Rs 10,000 every year on the interest.

Section 80U: This section relieves those persons who are disabled by certain means and they cannot be put into the same category as others are but are given the special treatment in case of deductions. The people who are normally disabled are entitled to Rs. 75000 per year and who are severely disabled are entitled to Rs. 1.25 Lakh per year. Certain disabilities of them are autism, mental retardation, cerebral palsy, etc.

Judicial Trend In India:

In *Intertec, New Delhi v. DCIT, New Delhi*², an assessee has claimed deduction u/s.80-IC of Act only in respect of Pantnagar unit. Further, it is observed that income from house property comprises of rent received from letting of factory building, which forms part of block of assets. Income earned by assessee under head 'interest income' and 'consultancy income'. Deduction u/s.80IC of Act will exclude interest

income, consultancy income and income from house property. It was noted by the Ld. A.O. that Ld. CIT (A) XXII, New Delhi, had dismissed the appeal of the assessee on 29.12.2009. Ld. A.O. held that assessee failed to bring on record any evidence to justify the claim of deduction u/s 80-IC, on the items of income booked under the heads-interest, consultancy and house property and the assessee was not eligible to claim deduction u/s 80-IC as per provisions of Income-tax Act, 1961.

In *M/s Liberty India v. Commissioner of Income Tax*³, The issue for consideration is: whether profit from Duty Entitlement Passbook Scheme (DEPB) and Duty Drawback Scheme could be said to be profit derived from the business of the Industrial Undertaking eligible for deduction under Section 80-IB of the Income-tax Act, 1961 (1961 Act). Department is allowing deduction on profit of Rs. 100 under Section 80-IB of the 1961 Act. In the circumstances, we hold that Duty drawback receipt/DEPB benefits do not form part of the net profits of eligible industrial undertaking for the purposes of Sections 80I/80-IA/80-IB of the 1961 Act.

In *Commissioner Of Income-Tax v. Rane (Madras) Ltd*⁴, in respect of the receipts from job works, exchange fluctuation on forward contract entered into by the assessee, interest on deposits for obtaining electricity connection and the interest received from the customers for delayed payments, the assessee would be entitled to the relief under Sections 80E and 80-I of the Act and in respect of other interest, receipts on deposits and also on selling agency commission received by the assessee, the assessee is not entitled to the deduction under Sections 80E and 80-I of the Act.

In *CIT v. Ritesh Industries Ltd*⁵, the question before the Delhi High Court was that "Whether the amount of "duty drawback" can be regarded as income derived from an industrial undertaking so as to entitle the assessed a deduction under section 80-I of the Income Tax Act, 1961? The court decided in favor of the revenue officer and against the assessee.

In *The Commissioner of Income Tax v. Nameel Leathers and Uppers*⁶, It was held that even though losses should be deducted from the profit available for the purpose of computation of relief under Section 80HHC of the Act.

³ *M/s Liberty India v. Commissioner of Income Tax (2009) 183 Taxman 349(SC).*

⁴ *Commissioner of Income-Tax v. Rane (Madras) Ltd 1999 238 ITR 377 Mad.*

⁵ *CIT v. Ritesh Industries Ltd (2004) 192 CTR Del 81.*

⁶ *The Commissioner of Income Tax v. Nameel Leathers and Uppers 2005 273 ITR 350 Mad.*

² *Intertec, New Delhi v. DCIT, New Delhi 2016 Indlaw ITAT 3736.*

In *Commissioner of Income Tax v. Sterling Foods, Mangalore*⁷, The Supreme Court of India held that the assessee is entitled to import entitlements, which it can sell. The sale consideration therefrom cannot, in our view be held to constitute a profit and gain derived from the assessee's industrial undertaking.

In *Ajanta Pharma Ltd v. CIT*, the Apex Court made a distinction between the computation of 'eligible profits' that could be deducted from the book profits and the 'amount of deduction allowed' under Section 80HHC (which is a certain percentage of the eligible profits) for the purpose of the gross total income⁸.

These are the case laws which try to clear the situation of the deductions which are available to persons under different provisions of law.

Benefits And Reasons For Deduction:

The motive behind the deductions provided by various provisions is to encourage the people to pay tax and not to run from the liability thinking it to be the punishment but it is to relieve the people under certain categories where they do not need to pay the complete but are entitled to benefits by the government as have been discussed under many provisions of the Income Tax Act, 1961 which completely undertakes imposition of tax on the people according to the conditions mentioned therein. Now if the rule would have been this that all the people will be taxed without any exception and rationale then it would have become tranny of the system that there would have been unhappiness and anger against the government. There must be some rationale before imposing the taxes on the population of the country so that a clear and reasonable rule may be made and that is not possible without the provisions of the deductions as there are categories of people who are not even able to have two times meal then how they will be able to give the tax therefore, they have to be excluded from the tax as was done in the pre independence period. There are some people who are under certain special circumstances and are not able to give tax to the government or some of them are indulged into the businesses where the income is not such that the tax can be given and if taken then there will be no means to live and survive in the society therefore, it is the duty of the government to create a welfare state and make rules which do not affect the persons incapable to give tax.

Other reasons and benefits of the deductions may be that there are certain occupations which are of the

kind where no guarantee can be attached as to their success and therefore government sometimes provides for the complete deduction as we already discussed those particular sections in the above discussion such as fishery or agriculture etc. The benefits of the deduction results in many ways such as the savings to the taxpayers and the relief which they get from the side of the authorities; it also strengthens the relationship between the locals and the government as to the confidence. The Supreme Court in *Haji Aziz and Abdul Shakoor Bros. Ltd. v. CIT*, held that expenses that were allowable by way of deductions must have been incurred for the purpose of the business i.e. to enable a person to carry on the business and to earn profit⁹.

Conclusion:

Having all the discussion of background into account and also regarding the various research done in this research paper, it is time to draw the conclusion as to meet the result whether the deduction should be allowed or not. The finding of this paper rests upon the fact that the deductions which are available to the taxpayers are really helpful for them in terms of various aspects such as to savings, relief, and much more. The concept of deduction is one which not only provides the benefit to the taxpayers but also makes him enthusiastic and honest towards the government as to pay timely tax and in a transparent manner. The different heads provided under the provisions for deductions are very inclusive and emanate the real intention of the government to develop a welfare state where no chaos and instability is there. The deductions in tax are kind of incentives which are very useful for the taxpayers in the long run as they give them a kind of financial relief and support by enabling them to save certain amount of money from being taxed. On the other part, deductions cannot be asked or claimed in every case but is limited to the heads provided under the Act, 1961 which specifically categorizes as to what are the occupations or businesses, transactions where the deductions can be claimed as to what an extent unlike all is left to the taxpayer. It is that amount which the government fixes for this purpose not the one which the taxpayers uses for the purposes which are excluded from tax; there may be some amount which is exempted but if the limit is exhausted then the government charges the same tax as is provided under the law.

Therefore, it is suggested that the taxpayers should rationally consider the terms of the rules and regulations before claiming the deductions provided to them as there may be certain faults at the part of the

⁷ *Commissioner of Income Tax v. Sterling Foods, Mangalore* (1999) 4 SCC 98.

⁸ Sanjay Kumar, Minimum Alternative Tax: Is there Alternative?, *The NUJS Law Review*, NUJS Kolkata.

⁹ Mrinal Chandran, The Color of Bad Money, *NLSIU-Student Advocate (SA)*, Page 5.

taxpayers in understanding the concept of deductions. So, it is made pertinent that it is the state which gives or provides the relief by way of exemption or deduction not the individual himself.

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