



Comparative Analysis Of Optional Tax Regimes Under The Income Tax Act, 1961: Corporate And Non-Corporate Assesseees

Prof. (Dr.) Kuldeep Agnihotri^{1*}, Prof. (Dr.) Suhas Dhande²

^{1*}Director/Principal, ISBA Group of Institutes, Indore (MP)

²Principal & Professor, Chameli Devi Institute of Professional Studies, Indore (MP)

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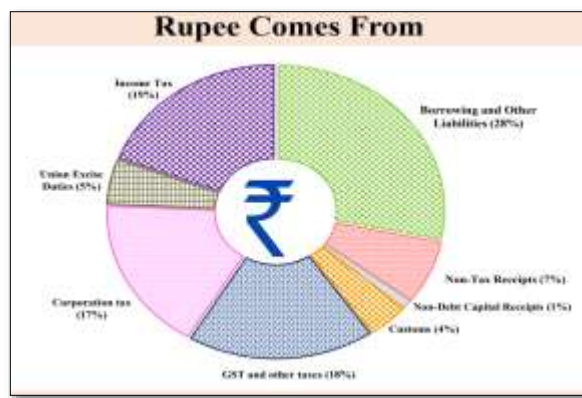
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ABSTRACT

In the present paper a study is conducted to analyse the impact of the alternative tax regime introduced for corporate and non-corporate assesseees and to do a comparative analysis of the regimes. The analysis is done by studying the returns filed by the assesseees and the data released by the government department on the revenue impact of tax incentives. The study attempts to understand that what was the tax saving for the assesseees by adopting alternative tax regime & what were the reasons of opting or non-opting for them. Further, it aims to compare the regimes from the corporate and non-corporate perspective. It also points out what can be done to further, to make these regimes more effective.

Introduction

Taxation is a very important aspect for any country to grow and develop. It forms as the major source of revenue for the government. The case is no different for India. Taxes, both direct and indirect account for about 63% of the total revenue of the government as per the latest Interim Budget 2024.¹



Thus, taxation policies are on the aspects in the forefront for the country's growth and development. In line with this, government actively makes various changes in the taxation structure of the country so as to encourage more and more investment and industrialisation that would lead to growth of the economy. The tax payer base in India, consists mainly of Individuals/HUFs, Firms and Corporates. Out of these mentioned categories, the alternative regimes of taxation have been introduced under section 115BAA, 115BAB and 115BAC of the Income Tax Act, 1961 (ITA) for corporate and individual/HUF assesseees. Thus, to analyse the impact of such regimes it becomes important to consider the sections 115BAA, 115BAB and 115BAC of the ITA.

So, this study aims to cover these three sections majorly and analyse their impact on the assesseees.

¹ <https://www.indiabudget.gov.in/doc/bh1.pdf>

Optional Regimes – In the recent years, government has brought in optional tax regimes for both corporate and non-corporate assesseees. The idea behind is to reduce the effective tax rates, and in turn disallow certain tax benefits and incentives that are available in the regular regime.

The 2019 taxation laws Ordinance passed on September 20, 2019 has incorporated Section 115 BAB, which offers a lower tax rate to new domestic manufacturing companies. This has been done to promote setting up of manufacturing industries. The tax rate for such companies is 15% (plus 10% surcharge and 4% cess) if the companies are setup on or after 01.10.2019 and before 31.03.2024.

Additionally, at the same time, another section 115BAA was introduced for the corporate assesseees that provided a tax rate of 22% (plus 10% surcharge and 4% cess). This can be opted by any domestic company. Effectively, domestic companies not eligible to opt for 115BAB, can claim section 115BAA of the ITA.

For both the alternative regimes, there are certain conditions to be fulfilled and certain deductions, to be forgone in order to become eligible for them.

Further, as mentioned above the optional regimes are brought in for non-corporate assesseees as well. The budget 2020 introduced a new alternative regime for the Individual and HUF assesseees under section 115BAC of the ITA. The regime provided for a lower tax rates if certain conditions are fulfilled and certain deductions are forgone.

So, it can be seen that for both corporate and non-corporate assessee two regimes of taxation are in operation.

Review of literature

1. The author has analysed the alternative tax regimes brought in for the corporate assesseees. The paper explores this issue using empirical methods. The evolution of tax rates is tracked through reforms simplifying the tax system in the 1990s, the subsequent conundrum of zero tax companies leading to introduction of minimum alternate tax, and the persistence of lower effective tax rates for larger companies. (Supriyo De,2023)
2. The author has analysed the alternative tax regime applicable on the corporate assesseees. The study covers the corporate taxation and analyses the past history of corporate taxation in India since AY 2005-06 till AY 2021-22. The study is based on the secondary data. (Kaur Gurpreet, Rani Veenita, 2022)
3. This article focusses on the practical applications along with the theoretical aspects of the regime. It states that the new regime should be made more attractive as it restricts a lot of benefits that are otherwise available. They have also analysed why it is less workable for business assesseees. (Naveen Wadhwa, Tarun kumar ,2022)
4. In this article the author has described the alternative regime, circumstances under which it was introduced, and compared it with the existing regime. It lists the restrictions and conditions to be fulfilled if one opts for section 115BAC.It also covers the CBDT circular released on the regime. (CS Deepak P Singh , 2021)
5. In this article a comparative study is made in detail on both the old and new regimes. The author has also computed the impact of both regimes on different income levels in different circumstances by taking hypothetical examples for more understanding of the sections. (K.R. Dahiya 2021)
6. The author examined the corporate system in India and analyzed that the corporate tax rates were very high. The study suggested that the tax rates should be reduced which could improve the profitability of the companies, and ultimately the tax revenue in the coming years. The study also suggested that tax exemptions in the area of corporate system should also be decreased. (Jain and Jain (2017)

Research Gap –

While going through the studies already conducted the relevant field, it was observed that various studies were conducted on the alternative regime for Individuals/HUFs (Sec.115BAC of the ITA) and on the corporate tax regimes (Section 115BAA/115BAB of the ITA). Most of the studies are based on the secondary data.

It was observed that no study has been specifically conducted on the comparative analysis of the impact of the regimes on the corporate and non-corporate assesseees. Also, studies were mostly focussed on the secondary data.

So, this study aims to fulfil that gap by conducting a study on the comparative analysis of the impact of the alternative regimes on corporate and individual assesseees. The study also includes primary data analysis to further comprehend the findings.

Objectives

1. To study the optional regimes introduced vide the Income Tax Act,1961 for both the corporate and non-corporate assesseees, that is section 115BAA, 115BAB,115BAC.
2. To analyse the impact of the optional regimes on the corporate and non-corporate assesseees.
3. To do a comparative study of the impact of the optional tax regimes on corporate and non-corporate assesseees on their effective tax rates.
4. To provide suggestions to make the alternative regimes more efficient for the assesseees.

Hypothesis

1. H₀ – There is no significant impact of the alternative regimes on the corporate assesseees
H₁. There is significant impact of the alternative regimes on the corporate assesseees
2. H₀ – There is no significant impact of the alternative regimes on the non-corporate assesseees
H₁. There is significant impact of the alternative regimes on the non-corporate assesseees
3. H₀ – There is no significant difference in the impact of the alternative regimes on the corporate assesseees and non-corporate assesseees
H₁. There is no significant difference in the impact of the alternative regimes on the corporate assesseees and non-corporate assesseees

Limitations

1. In case of analysis of non-corporate assesseees only Individual and HUF are considered as they form major category of assesseees on which section 115BAC of the ITA is applicable.
2. In corporate assesseees only domestic companies are considered as alternative regimes are applicable only on them.

Research Methodology

Primary Data - For corporate analysis, 100 domestic companies are selected on random sampling basis. The income offered to tax and rate of tax opted were studied. Similarly, 100 non-corporate assesseees were selected on random sampling basis and returns filed by them were analyzed from the perspective of the preference for the alternative regime.

Secondary Data – For secondary data various reports released by the government in Union Budget in respect of the preference of the assesseees for the optional regime is studied. The data is also collected from various journals and magazines.

Analysis of tax rates and regimes applicable

Overview of the tax schemes applicable for AY 2024-25 and onwards.

CORPORATE ASSESEESS

As per the provisions of Income Tax Act, 1961 the income of a domestic company is to be taxed at the rate of 30% for the AY 2024-25. The rate is reduced to 25% if the turnover for the PY 22-23 does not exceed 400 cr. Alongwith this, the companies are also required to compute Minimum Alternate Tax as per section 115JB, at the rate of 15% of the Book Profit computed as per the said section. If the MAT is higher than the regular tax, then MAT shall be payable. The excess shall be allowed as MAT credit that can be utilised in subsequent 15 years, when the regular tax payable exceeds the MAT.

Surcharge is applicable if the –

Total Income - >1cr. < 10cr.	7%
Total Income - >10cr.	12%

Also, there are two alternative tax regimes that have lower tax rates which can be claimed by the domestic companies.

Particulars	115BAA	115BAB
	Tax on income of certain domestic companies.	Tax on income of new manufacturing domestic companies.
Rate of tax	22%	15%
Surcharge	10%	10%
Effective rate	25.168%	17.16%
Income on which concessional rate of tax is applicable	The rate of tax (i.e., 25.168%) is notwithstanding anything contained in the Income-tax Act, 1961, but subject to the provisions of Chapter XII, other than section 115BA and 115BAB.	The rate of tax (i.e., 17.16%) is applicable in respect of income derived from or incidental to manufacturing or production of an article or thing or generation of electricity.
Rate of tax on income covered under Chapter XII	Such income would be subject to tax at the rates mentioned in the said sections in Chapter XII	Such income would be subject to tax at the rates mentioned in the said sections in Chapter XII.
	The applicable tax rate is 25.168% (i.e., tax@22% plus	The applicable tax rate is 25.168% (i.e., tax@22%, plus

Rate of tax on other income in respect of which no specific rate of tax is provided in Chapter XII	surcharge@10% plus HEC@4%).	surcharge @10% plus HEC@4%), if such income has not related to manufacturing or production of an article or thing or generating electricity. (Like House Property) In respect of such income, no deduction or allowance in respect of any expenditure or allowance shall be allowed in computing such income.
MAT	Not Applicable	Not Applicable
Conditions	No such condition	Company should be set up on or after 01.10.2019 and commence manufacturing on or before 31.03.2024
Deductions blocked	The company cannot claim the following deductions- 1. 10AA 2. Additional depreciation as per 32(1)(ia) at the rate of 20% 3. Deposit to tea/coffee/rubber development fund(33AB)/site restoration fund(33ABA) 4. Deduction in respect of payment for the scientific research to certain notified institutions and organisations (35) 5. Investment linked deductions(35AD) 6. Agricultural extension(35CCC)/ Notified skill development(35CCD) 7. Deduction under chapter VI-A except for 80JJAA and 80M	
Carry forward set off of losses	Any loss related to the above sections shall not be allowed to be set off or carry forward	
When to exercise	In any year on or before the due date of filing of return u/s 139(1). Once exercised shall be applicable for all the subsequent years.	In the first year on or before the due date of filing of return u/s 139(1). Once exercised shall be applicable for all the subsequent years.

So, based on the above these are the tax rates that are applicable to domestic companies.

NON-CORPORATE ASSESSEES(Individual/HUF) -

As per the provisions of income tax, in case of Individual/ HUF assessee the tax is calculated as per the slab rates. The rates of taxes are –

Income	Rate
0-2,50,0000	Nil
2,50,001-5,00,000	5%
5,00,001-10,00,000	20%
Above 10,00,000	30%

In case of resident individuals aged 60 or above, the basic exemption limit is 3,00,000. In case of resident individuals, aged 80 or above, the basic exemption limit is 5,00,000.

Surcharge as per the applicable rates is charged in case the income is above 50,00,000. Rebate under section 87A amounting to 12,500 or tax payable whichever is less, is allowed to resident individuals having income upto 5,00,000.

Additionally, the individual and HUFs have an option to opt for the alternative tax regime under section 115BAC. The tax rates in section 115BAC are much lower than the regular, however the certain deductions allowed under the regular regime are blocked in the alternative regime. With effect from AY 2024-25, section 115BAC, has become the default tax regime.

Section 115BAC – Tax Rates

Income	Rate
0-3,00,0000	Nil
3,00,001-6,00,000	5%
6,00,001-9,00,000	10%

9,00,001-12,00,000	15%
12,00,001-15,00,000	20%
Above 15,00,000	30%

Surcharge as per the applicable rates is charged in case the income is above 50,00,000. Rebate under section 87A amounting to 25,000 or tax payable whichever is less, is allowed to resident individuals having income upto 7,00,000.

If an assessee declares the income under the default tax regime that is section 115BAC, following deductions are not allowed to be claimed to the assessee-

1. Leave travel concession 10(5), House rent allowance 10(13A), Certain special allowances 10(14), Daily allowance 10(17)
2. Entertainment allowance 16(i), Professional Tax 16(ii)
3. Interest on self-occupied property under section 24(b)
4. Exemption for minor child under section 10(32)
5. 10AA
6. Additional depreciation as per 32(1)(ia) at the rate of 20%
7. Deposit to tea/coffee/rubber development fund(33AB)/site restoration fund(33ABA)
8. Deduction in respect of payment for the scientific research to notified institutions(35)
9. Investment linked deductions(35AD)
10. Agricultural extension (35CCC)
11. Deduction under chapter VI-A except for 80CCD(2), 80CCH(2), 80JJAA

Other conditions –

Certain losses not allowed to be set-off: While computing total income, set-off of any loss -

- carried forward or depreciation from any earlier assessment year, if such loss or depreciation is attributable to any of the deductions referred to in (1) above; or
- under the head house property with any other head of income; would not be allowed.

An assessee not having income under the head profits and gains from business or profession can opt in and out of the default regime in every assessment year on or before the due date of filing the return of income under section 139(1).

However, Individuals/HUFs having income from business or profession have an option to shift out/ opt out of the default tax regime under this section and the option has to be exercised on or before the due date specified under section 139(1) for furnishing the return of income for such previous year and once such option is exercised, it would apply to subsequent assessment years.

Thus, it can be clearly seen that both corporate and non-corporate assesseees if they declare their income under the concessional regimes, certain deductions and benefits are to be forgone.

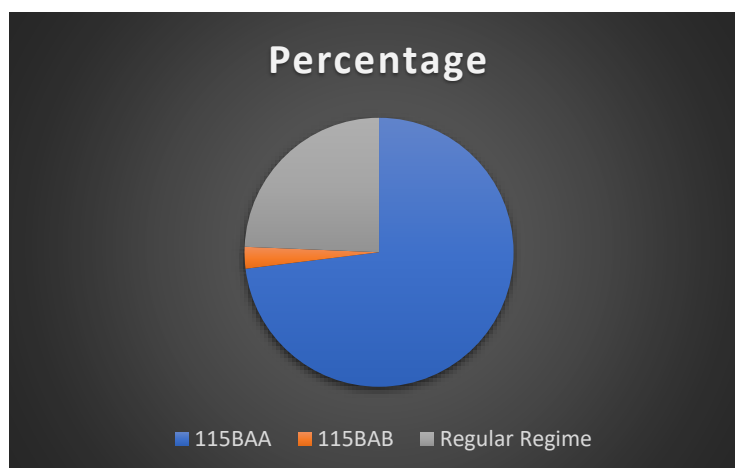
Analysis and interpretation

ANALYSIS OF PRIMARY DATA

CORPORATE ASSESSEES

As mentioned earlier, returns filed by 100 domestic companies were selected and analysed to observe the inclination towards the alternative tax regimes.

Out of the domestic companies analysed, around 76% opted for the alternative regimes under section 115BAA and 115BAB of the ITA.



Also, out of the 73% of assesseees opting for 115BAA, around 43% of the companies had an income in the range of 40 cr. to 1 cr., which was the highest income range out of the data collected.

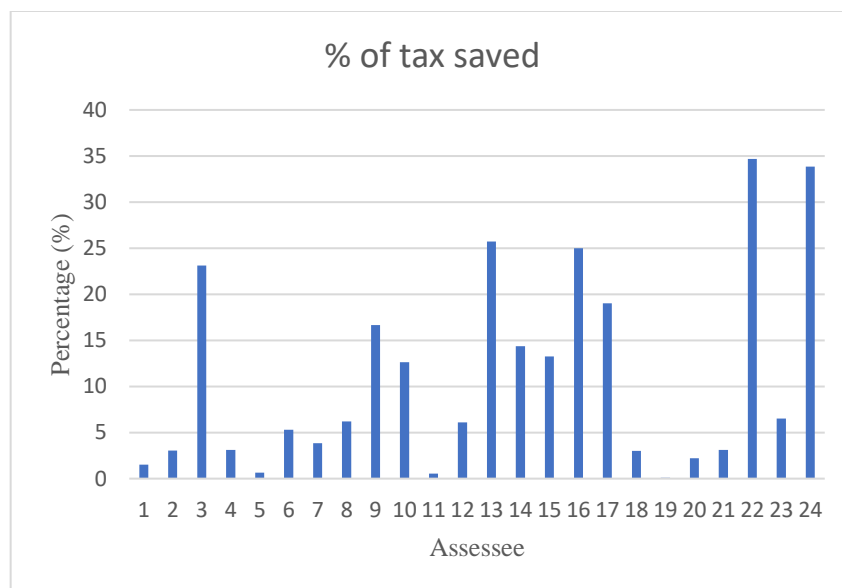
Thus, it can be observed that higher income companies are more inclined towards the alternative regime.

NON-CORPORATE ASSEESSEE

As mentioned above, 100 individual/HUF assesseees were selected and the returns filed by them were analysed to understand their inclination towards the alternative regime under section 115BAC of the ITA.

Out of the assesseees selected, it was observed that only 24% of the assesseees opted for section 115BAC of the ITA. The average difference in incomes under both regimes was INR1,46,195 for those assesseees who opted for alternative regime.

Further, the percentage of tax saved by the assesseees by opting for 115BAC of the ITA was around 10.97% of the regular income.



*Note- (The percentage of tax is computed as per the following formula –
 Tax as per regular provisions – Tax as per Income u/s 115BAC = Difference in Tax i.e Tax Saved
 Percentage of tax saved – Tax saved / Income as per regular provisions * 100)*

SECONDARY DATA ANALYSIS

CORPORATE ASSESSEE –

In the receipt budget 2023-24², the revenue department has analysed various tax incentives offered to the assesseees and had released a “statement of revenue impact of tax Incentives under the central tax system for FY 2020-21 and FY 2021-22”

The department has highlighted that the effective tax rates for the entire base of companies was 22.20% as opposed to the 22.54% as reported in FY 2019-20. Further, companies with profit before taxes (PBT) of INR 500 crore or more accounted for a total 53.52% of total corporate income tax liability and had an effective tax rate of 19.14%. This highlights that larger companies have shifted to the alternative tax regimes. The department also observed a reduction in MAT liability that again highlights that more and more companies are shifting towards the alternative regime.

An analysis in the table below, shows that 20.47% of the companies having 61.35% of the total income have opted for the section 115BAA, and 0.36% opted for 115BAB of the ITA. Thus, as per the analysis by the revenue department the data depicts an encouraging trend towards adoption of the new concessional tax rates.

² <https://www.indiabudget.gov.in/budget2023-24/doc/rec/allrec.pdf>

Receipt Budget, 2023-24							
Table 5.1: Comparison of companies opting for the concessional tax regime and those under earlier tax regime (Financial Year 2020-21)							
S. No.	Slabs of Total Income (in crores)	Number of Companies (under 115BAA)	Number of Companies (under 115BAB)	Number of Companies (under earlier tax rate of 30% plus surcharge and cess)	Total Income (under 115BAA) (in crores)	Total Income (under 115BAB) (in crores)	Total Income (under earlier tax rate of 30% plus surcharge and cess) (in crores)
1	Less Than Zero and Zero	69,718	2,269	507,694	-	-	-
2	0-1	94,726	1,095	231,563	17,086.42	171.73	24,655.94
3	1-10	24,086	132	16,957	77,903.02	418.52	51,162.16
4	10-50	5,758	12	3,365	124,743.04	179.87	72,888.96
5	50-100	1,043	-	608	72,638.16	-	42,349.08
6	100-500	1,119	-	622	230,990.20	-	132,004.85
7	>500	308	-	204	669,490.46	-	427,711.70
Total		196,758	3,508	761,013	1,192,851.30	770.13	750,772.69

Source: Receipt Budget, 2023-24, Government of India.

NON-CORPORATE ASSESSEES – INDIVIDUALS /HUFs

During the analysis of the returns filed by the individual assessee, it was observed that more than 50% of them offer income under the head salaries. Also, in case of individuals and HUFs, the chapter VI-A mainly consists of payment based deductions and not income linked deductions. The revenue observed that the maximum tax expenditure amounting to INR 74937.58 cr. is on account of claim under section 80C of the Act. The department has presented an analysis of the revenue impact of the major tax expenditures incentives for the FY 2020-21 and 2021-22. Total revenue impact on various sections has increased from INR 1,28,244.23 cr. to INR 1,43,890.03 cr. i.e 12.20% increase.

Thus, highlighting the fact that more incentives have been claimed by the assesseees.

Presented here is the Table seven of Annexure 7 of Receipt budget 2023-24

Table 7: Revenue Impact of major tax Incentives for individual/ HUF taxpayers financial years 2020-21 and 2021-22			
S. No.	Nature of Incentive	Revenue Impact (In Rs. Crore) [2020-21]	Projected Revenue Impact (In Rs. Crore) [2021-22]
1	Deduction on account of certain investments and payments (section 80C)	74,937.58	84,079.96
2	Deduction on account of contribution to certain pension funds (section 80CCC)	282.89	317.40
3	Deduction on account of contribution to the New Pension Scheme (section 80CCD)	4,810.89	5,397.82
4	Deduction on account of health insurance premium (section 80D)	6,444.96	7,231.25
5	Deduction on account of expenditure for medical treatment of a dependent who is disabled (section 80DD)	930.36	1,043.86
6	Deduction on account of expenditure for medical treatment of specified diseases (section 80DDB)	1,152.72	1,293.35
7	Deduction on account of interest on loan taken for higher education (section 80E)	982.14	1,101.96
8	Deduction on account of interest on loan for residential house property (section 80EE)	332.11	372.63
9	Deduction on account of donations to charitable trusts and institutions (section 80G)	1,541.03	1,729.04
10	Deduction on account of rent paid for housing accommodation (section 80GG)	1,361.69	1,527.82

Receipt Budget, 2023-24				37
S. No.	Nature of Incentive	Revenue Impact (In Rs. Crore) [2020-21]	Projected Revenue Impact (In Rs. Crore) [2021-22]	
11	Deduction on account of donations for scientific research or rural development (section 80GGA)	10.97	12.31	
12	Deduction on account of contributions given to political parties (section 80GGC)	740.03	830.31	
13	Deduction of profits of undertakings engaged in development of SEZs and Industrial Parks, generation of power, and providing telecommunication services (section 80-IA)	65.15	73.10	
14	Deduction of profits of undertakings engaged in development of SEZs pursuant to SEZ Act, 2005 (section 80-IAB)	4.95	5.55	
15	Deduction of profits and gains from housing projects (section 80-IRA)	148.24	166.33	
16	Deduction of profits of industrial undertakings derived from housing projects, production of mineral oil, development of scientific research, integrated business of handling, storage and transportation of food grains and of industrial undertakings located in Jammu & Kashmir and in other backward area (80-IB)	18.98	21.30	
17	Deduction of profits of undertakings set-up in North Eastern States, Sikkim, Uttaranchal and Himachal Pradesh (section 80-IC)	23.66	26.55	
18	Deduction of profits from business of collecting and processing of bio-degradable waste (section 80JJA)	3.52	3.95	
19	Deduction in respect of employment of new workmen (section 80JJAA)	12.78	14.34	
20	Deduction of royalty income of authors of certain books other than text books (section 80QQB)	8.03	9.01	
21	Deduction of royalty income on patents (section 80RRB)	0.40	0.45	
22	Deduction on account of interest in savings account (section 80TTA)	1,422.43	1,595.97	
23	Deduction in case of a person with disability (section 80U)	508.95	568.80	
24	Rebate u/s 87A	29,950.00	33,603.90	
25	Higher exemption limit for senior citizens	1,941.66	2,178.54	
26	Higher exemption limit for super senior citizens	610.11	684.54	
Total		128,244.23	143,890.03	

Source: Receipt Budget, 2023-24, Government of India.

Conclusion-

By going through the above analysis, it can be observed that tax policies have significant effect on business growth. In a recent innovative policy reform, India's corporate income tax system was revamped with the option of availing lower rates in lieu of giving up complex deductions. India's tax rate reforms are taken in order to simplify the tax system. In the initial years, there was a dilemma of dealing with zero tax companies, thus, leading to instituting the minimum alternate tax (MAT), and the continuance of lower effective tax rates for larger companies.

This provided the rationale for moving towards a simpler tax regime with lower tax rates but fewer deductions. In theory such a move should lower the cost of investment and bring gains from procedural simplicity.

CORPORATE ASSESSEES

Based on the analysis of both the primary and secondary data collected for the corporate assesseees, it can be seen that companies are inclined towards opting the alternative tax regimes. The government reports highlighted that larger companies have opted more for the simplified lower optional rates while smaller ones appear reticent in switching to the optional lower tax regime. The reports highlighted the reduction in the effective tax rates depicting a move towards the optional lower tax regime under section 115BAA and 115BAB of the ITA.

NON-CORPORATE ASSESSEES

After considering both the primary data and the government analysis, it can be observed that the individuals and HUFs are not much inclined towards the alternative regime. The percentage of tax saved by the assesseees by opting for section 115BAC of the Act is also very less. Also, while going through the income levels and data related to the deductions under chapter VI-A, it can be understood that higher income assesseees are not much benefitted by section 115BAC. The major benefit was only to those assesseees who were not availing the benefits or deductions under chapter VI-A. The analysis by the department has pointed out that major incentives taken by individuals are 80C, 80D, etc. Also, as per the government receipt budget, the tax revenue forgone due to these incentives is showing a rising trend. Thus, an interpretation can be formed that more assesseees would be claiming such incentives and thus opting out of the alternative tax regime under section 115BAC of the ITA.

It appears that forgoing such deductions and opting for alternative regime, is not favoured by the assesseees as it may be leading to an overall increase in the tax cost even though the rates are lower in the alternative regime. Overall, it may be concluded that corporates are more inclined towards the optional regimes rather than the non-corporate assesseees.

The reason for the same may be that the deductions blocked in case of the corporate assesseees are not of the nature that every company claims. For eg – 35AD, 80-IAC, of the ITA etc. sections are quite specific to the kind of business done by the company. There may be quite a lot of companies who anyways do not claim such benefits and thus, forgoing them does not make much of a difference in their income levels.

However, in case of individuals and HUFs, the major tax saving comes from the chapter VI-A deductions like 80C, 80D, 80E, of the ITA etc. as also overserved from the government reports. These payments are basic to

their day to day activities like medical insurance premium, children's tuition fees, life insurance premium, PF contribution, house loan deductions, etc. Forgoing them leads to a huge impact on the total income, thus leading to higher tax amounts, even after reduction of the tax rates. Thus, the assesseees are reluctant to opt for the alternative regime.

Suggestions

Based on the above analysis certain suggestions can be provided in order to make the optional regimes more lucrative. As now, 115BAC of the ITA is made the default regime, it appears that government is focusing towards conversion of the old tax regime of deductions to new tax regimes with lower rates and blocked incentives

1. In case of corporate assesseees, the sunset clause in section 115BAB of the ITA should be increased further in order to promote manufacturing industries as it is the need of the hour for India.
2. In respect of corporate assesseees it can be observed from both primary and secondary data, the percentage of section 115BAB of the ITA is much lesser than that of 115BAA of the ITA. Thus, the government should identify more options for making section 115BAB of the ITA favourable as it will majorly impact the manufacturing sector.
3. In case of non-corporate assesseees, more benefits should be provided as still assesseees are not much willing to opt for section 115BAC of the ITA due to blocked incentives.
4. The schemes should be simplified and made easy to operate for the assesseees.

Thus, basis the data studied and analysed; it can be said that bringing in alternative tax regimes is a positive step in the tax regime of India. However, if government works towards some of the areas as mentioned above, more assesseees may get benefitted by it and also aid in the growth and development of the economy.

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