

COMPARATIVE *BROAD* ANALYSIS OF INCOME TAX ACT 1961 VS NEW INCOME TAX BILL 2025

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1. Introduction of “accountability” provision for errant tax officials – refer hon’ble sc decision in cases of (incd suitable mechanism to enforce tax payer charter sec 240)
  - a) hon’ble Apex court in case of M/S AL-CAN EXPORT PVT. LTD.  
....APPELLANTVERSUSPRESTIGE H.M. POLYCONTAINERS LTD. & ORS.  
....RESPONDENT(S)CIVIL APPEAL NO. 7254 OF 2024(ARISING OUT OF SLP(C) NO. 29334 OF 2016) Judgment dated 19 july 2024 Per Justice J.B.Pardiwala
  - b) sage words of hon’ble SC in one of recent verdict (On need to fix accountability on errant officials): Vijay Rajmohan vs State 2022 SCC online SC 1377:
  - c) Hon’ble apex court in case of GENE CAMPAIGN & ANOTHER ... PETITIONERS VERSUS UNION OF INDIA & OTHERS ... RESPONDENTS 2024 INSC 545 WRIT PETITION (CIVIL) NO.115 OF 2004 (split verdict)
2. Sec 102 to 107 (parallel to sec 68 to 69D) unexplained income- not apply to regular business transaction as held in series of decisions of various courts to be put in statute and clarification that said provisions can not apply to income already offered to tax  
  
Sec 195- parallel to sec 115BBE (60% rate) either may be omitted or its application made subject to some stringent safeguards like sanction from higher authority etc to avoid high pitched and irrational tax assessments
3. For search provisions- misuse of APPRAISAL REPORT by investigation wing to be suitably regulated AND at some stage disclosure of reasons for search – sec 249 to be rationalized and misuse of statement u/s 132(4) to be suitably regulated (like taking confessions and surrenders) and importance of independent corroboration to documents/statement to be put in statute
4. Interplay of technology vs law – it has to be ensured that mere portal/utility etc do not override the provisions of the law
5. TDS /TCS- deductor/collector to be suitably incentivized by some rebate etc for faithful compliance
6. Concept of Carry back of losses – concept there in various foreign countries
7. Sanction/approval where taken to be provided along with relevant notice/order (not to be treated like “national secret) – suitable provision to be made in statute
8. Business income etc- concept of “real income” acknowledged in series of SC decisions to be given statutory recognition
9. Importance of regular books – qua trading transaction vis a vis disallowance & additions to be suitably clarified – to be made condition precedent to avoid aprobate and reprobate and to avoid high pitched tax assessment
10. Proceedings sheet (record of proceedings) e proceedings etc to be made suo motto available for transparent tax administration
11. Reopening not to be made to make scrutiny and verification of return (interplay of reopening vis a vis scrutiny) and reopening not to be made qua transactions already offered to tax (credited in profit and loss a/c and disclosed in income computation) and sanction to be given in transparent/fair manner and reopening not to be made for trading transaction sans regular books being doubted/rejected
12. Importance of independent inquiry at end of concerned AO vis a vis investigation wing /3<sup>rd</sup> party recommendations to avoid assessment being made on dictated manner