

RECENT DEVELOPMENTS INCOME TAX SEARCH ACTIONS AND REOPENING U/S 148/148A FOR BOGUS DEDUCTIONS AND EXEMPTIONS -SOME THOUGHTS & REFLECTIONS KEEPING IN FOCUS TO SEC 80GGC ("CONTRIBUTION" TO POLITICAL PARTIES)

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1. Text of section 80GGC of Income tax act 1961

Deduction in respect of contributions given by any person to political parties.

80GGC. In computing the total income of an assessee, being any person, except local authority and every artificial juridical person wholly or partly funded by the Government, there shall be deducted any amount of contribution made by him, in the previous year, to a political party or an electoral trust :

Provided that no deduction shall be allowed under this section in respect of any sum contributed by way of cash.

Explanation.—For the purposes of [sections 80GGB](#) and 80GGC, "political party" means a political party registered under section 29A of the Representation of the People Act, 1951 (43 of 1951).

2. Notably above provision was inserted by Election and Other Related Laws (Amendment) Act of 2003 w.e.f 11.09.2003 which is thus explained by Late Shri Arun Jaitley in his speech

“In order to incentivise contributions to be made by cheque, a procedure had been streamlined in this Bill that contributions can be made by cheque as far as individuals are concerned, partnerships are concerned, and HUFs are concerned. **This is private money of individuals. There is no limit imposed on it.** But as far as companies other than Government companies are concerned, because it is also shareholders’ money, there is an upper cap of five per cent imposed under the Companies’ Act. More than five per cent of profits cannot be contributed.

Whatever is the amount so contributed in order to incentivise donations by cheque, an Amendment is being proposed to the Income Tax Act wherein a suitable deduction as an admissible expenditure for the amount so contributed would be available to the donor under the Income Tax Act. This is intended so as to incentivise persons to give donations to political parties by cheque”

3. Recent reopening action u/s 148/148A by income tax department on allegation “that a search and seizure action was conducted in **November, 2024** on Registered Unrecognised Political Parties (RUPPs). During the search proceedings, it was found that bogus donations were made by taxpayers to RUPPs and the same was then routed through multiple layers and cash was returned to the donors after deduction of their commission.”

Question is whether it is valid and can pass muster of law? Answer should be no because it is purely based on suspicion , conjecture , surmises and allegations. Further it lacks valid actionable material to justify the extreme “reopening” action which is done in very casual mechanical fashion. Lack of relevant incriminating material connecting assessee case/contribution with stated allegation , lack of supply of relevant relied upon material and lack of cross examination , lack of supply of sanction u/s151, VIOLATION OF SEC 151A (faceless mode) are

all fatal to reopening action as held in chain and series of decisions of various hon'ble courts (SC/HC /ITAT ETC).

4. Present search action on more than 150 sites: as per press release dated 14.07.2025 "Income Tax Department Cracks Down on Bogus Claims of Deductions & Exemptions" relevant gist of this press release is "Analysis reveals rampant misuse of deductions under sections 10(13A), 80GGC, 80E, 80D, 80EE, 80EEB, 80G, 80GGA, and 80DDDB. Exemptions have been claimed without valid justification. Employees of MNCs, PSUs, government bodies, academic institutions, and entrepreneurs are among those implicated. Taxpayers are often lured into these fraudulent schemes with promises of inflated refunds in return for a commission. ...The Department is now poised to take stern action against continued fraudulent claims, including penalties and prosecution wherever applicable. The ongoing verification exercise across 150 premises is expected to yield crucial evidence, including digital records, that will aid in dismantling the networks behind these schemes and ensure accountability under the law. Further investigations are currently underway. Taxpayers are again advised to file correct particulars of their income and communication coordinates and not be influenced by advice from unauthorized agents or intermediaries promising undue refunds."
 5. ECONOMIC TIMES (ET) NEWS COVERAGE:

"Meanwhile, many taxpayers who claimed deductions under Section 80GGC of the Income Tax Act, 1961, have received notices from the I-T Department. In response, the department has introduced a new facility on its portal. This feature provides guidance for taxpayers who have received notices under Section 158BC of the Income Tax Act, 1961, on how to respond.

Earlier this week, on Monday, the **Income Tax Department** launched large-scale search operations across the country targeting individuals and entities accused of facilitating fake tax deductions. Officials raided over 200 premises linked to people who were allegedly helping taxpayers to falsely claim deductions under various heads, including political donations, tuition fees, and medical expenses. A major focus of these operations was on deductions claimed under Section 80GGC, which allows contributions to registered political parties to be deducted from taxable income."
 6. Some immediate /striking questions
 - a) Whether validity of search action u/s 132 in cases of political parties be subject matter of challenge before high court ? Yes (refer recent decisions on validity of sec 132 search action : Hon'ble Allahabad high court in case of PADAM Swarup Aggarwal vs PDIT 477 ITR 453; **Hon'ble Gauhati High court in case of PAWAN KUMAR GARG VS UOI 465 ITR 31**,and Hon'ble Bombay high court in cases of Balkrushna Gopalrao Buty & Ors. Vs. The Principal Director (Investigation), Nagpur & Ors. Judgment dated 23rd April 2024 in Writ Petition No.1729 of 2024 (475 ITR 323) AND **Echjay Industries Pvt Ltd. VS Vs. 1 Mr. Rajendra) Director of Income Tax-II (Investigations) WRIT PETITION NO. 122 OF 2009 PRONOUNCED ON : 10th MAY 2024 (476 ITR 367)**)
 - b) What is the provision in which action ought to be taken to disallow deduction? As per section 158BA(1), 158BC(1)(a),158BD , only block assessment is possible if search ACTION u/s 132 is taken on/ after 01.09.2024; and sec 148/148A can not resorted to ;
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- c) On whom onus lie to prove that deduction claimed is BOGUS and how that onus has to be discharged?
Onus lies on revenue to establish the fact that given donation/deduction is BOGUS and mere allegation can not be good enough (refer SC 131 ITR 597 KP Varghese etc; refer **BHC Ashok Kumar Rungta vs ITO 2024:BHC-OS:16349-DB 474 ITR 160** ; *Hon'ble Patna high court decision in case of Narayan Kumar vs PCCIT Civil Writ Jurisdiction Case No.9206 of 2023 (16.04.2024)* assessee cannot be asked to prove negative) and said onus can only be discharged if revenue brings on record some direct, cogent and corelated material in form of some incriminating document /evidence , and statement relevant to assessee case etc and not mere their generalised allegations applied in mechanical manner (refer SC in 103 ITR 437 lakhmani mewaldass applied by DHC in CNB FINWIZ LTD vs DCIT W.P.(C) 14082/2018 (20.05.2025) & SANJAY KAUL vs ITO (30.05.2025) & Cal HC in cases of **PRINCIPAL COMMISSIONER OF INCOME TAX 2 KOLKATA VS M/S PURPLE SUPPLIERS PVT LTD ITAT/84/2025 (04.07.2025)**;
PRINCIPAL COMMISSIONER OF INCOME TAX CENTRAL 2 KOLKATA VS PEARL TRACOM PVT LTD Judgment on : July 1, 2025 ITAT/240/2024 ON VALIDITY OF REOPENING ACTION U/S147/148 HELD (layering and nature of transaction aspect) ; ITAT/57/2025 PRINCIPAL COMMISSIONER OF INCOME TAX-18, KOLKATA VS PRASANT DESAI (10.06.2025) (reopening on layering allegation) PRINCIPAL COMMISSIONER OF INCOME TAX 2, KOLKATA VS M/S ALOSHA MARKETING PRIVATE LIMITED ITAT/296/2024 DATE : 16th June, 2025. (reopening on alleged bogus penny stock). |
- d) Whether principle of natural justice are to be abided like supply of relevant relied upon material and cross examination? Yes reference is made to Hon'ble Apex court decision in case of UOI vs Rajeev Bansal case 03rd oct 2024) Civil Appeal No 8629 of 2024 (2024 INSC 754 (469 ITR 46) ; Hon'ble Patna high court in case of Ankit Agarwal vs The Principal Chief Commissioner of Income Tax Civil Writ Jurisdiction Case No.5202 of 2024 Date : 18-04-2025; Hon'ble Patna high court decision in case of Narayan Kumar vs PCCIT Civil Writ Jurisdiction Case No.9206 of 2023 (16.04.2024); HON'BLE RAJASTHAN HIGH COURT IN CASE OF Multimetals Limited Versus Deputy Commissioner Of Income Tax [2025:RJ-JP:12407-DB] D.B. Civil Writ Petition No.9007/2022; Hon'ble Delhi high court in case of DHC in VIVO MOBILE INDIA PRIVATE LIMITED VS ASSISTANT COMMISSIONER OF INCOME TAX & ANR. Date of Decision: 14th February, 2025; Hon'ble Gujarat high court decision in cases of AMITKUMAR CHANDULAL RAJANI PROP. OF S.R.JEWELLERS Versus INCOME TAX OFFICER, ITO WARD 2(1)(1), RKT & ANR. Date : 20/01/2025 SPECIAL CIVIL APPLICATION NO. 2930 of 2022 and leading decision of Coordinate Delhi bench in case ITO vs B.C.Enterprises ITA No.4972/Del/2024 (CO 08/DEL/2025) AY 2018-2019 04.04.2025 and Coordinate B bench decision in case of B.C. Enterprises, in C.O. No.:- 7/Del/2024 (07.05.2025)
On cross examination ; reference is made to hon'ble ITAT in series of decisions recently in case of ITO vs B.C.Enterprises C.O. No.08/Del/2025 ITA o.4972/Del/2024 (04.04.2025) subsequently

followed in case of same assessee vide order dated 30.05.2025 in C.O. No.: 7/Del/2024, same is view of ***Hon'ble apex court recent ruling in case of Civil Appeal No.7425 of 2019***

(Commissioner of Income Tax Vs. M/s Reliance Industries Ltd.) held on issue of cross examination etc Reported at 460 ITR 162; Hon'ble Delhi high court in case of PCIT vs Pavitra Realcon Pvt Ltd (ITA 579/2018) order dated 29 May 2024; ***Hon'ble P&H high court in case of PCIT vs DSG Papers Pvt Ltd 461 ITR 4;*** Hon'ble Punjab & Haryana high court in case of Pr. Commissioner of Income Tax (Central), LudhianaAppellant Versus M/s DSG Papers Pvt. Ltd., Patiala (Assessment Year 2013-2014)Respondent ITA-38-2023 (O&M) Neutral Citation No.2023:PHHC:143650-DB Decided on: 09.11.2023 (461 ITR 4); Hon'ble ***Allahabad high court in case of PCIT vs PNC Infratech Ltd 461 ITR 92 ;*** Hon'ble madras high court recent decision in case of SKM Animal feeds and foods india pvt ltd vs ACIT WP 2225/2023 (writ against asst order) ***recent decision in case of SKM Animal Feeds and Foods (India) Pvt Ltd vs ACIT 464 ITR 213)*** also refer ***Hon'ble MADRAS HIGH COURT DETAILED DECISION IN CASE OF SARAVANA SELRATHNAM RETAILS PVT LTD VS CIT-A 463 ITR 523***

- e) Whether revenue is duty bound to supply sanction u/s151 to assessee? Yes refer DHC in case of *of Tia Enterprises Pvt Ltd vs ITO reported in 468 ITR 5 (Del)*; *Hon'ble Supreme Court and Special Leave Petition (SLP) of the revenue was dismissed which is reported in 468 ITR 10 (SC)*; *DHC in Gudwala & Sons 462 ITR 33 ; CBDT guidelines of 01.08.2022 & 28.06.2024 (non supply is held FATAL to reopening action)*
- f) What is the provision in which disallowance shall be made: Only disallowance which can be made in enhancement of total income (normal income) due to stated disallowance and no action u/s 68 to 69D/115BBE unexplained income can be taken;
- g) Whether revenue is bound to make independent inquiry and examination u/s 133(6)/131 during asst ?Yes refer Chhatishgarh high court in *Surender Kumar Jain 472 ITR 346*;
- h) Whether some tax payers filing updated return is valid basis to draw adverse inference against other tax payers ? NO This is totally alien to concept of legal tax asst as view of one tax payer can not be made as binding on others.
- i) Whether if assessee declares the said amount in return u/s148 accepted as such can penalty be levied ? No refer Ker HC in *Ambadi Krishna Menon 471 ITR366*
- j) Whether mere disallowance in asst be good enough to levy penalty in such cases?No refer Mad HC in *Balaji Jacob 430 ITR 259*

7. **Conclusion :** Mere one sided view made by revenue on basis of search operation can not be basis to finally infer that some tax evasion has taken place as there is growing tendency on part of revenue officials to pre-empt the issue based on *initial* search action which has been deprecated in various hon'ble court decisions that search action is to gather information and not to conclude the tax assessment and importance of fair and justified tax

assessment in light of article 265 of constitution of india must be strictly adhered as highlighted by hon'ble apex court in locus classicus of UOI vs Rajeev Bansal 469ITR 46.
