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A STUDY OF TAX EVASION PRACTICES ADOPTED BY SALARIED INDIVIDUAL ASSESSEE IN E- FILING OF INCOME TAX RETURNS IN INDIA (WITH SPECIAL REFERENCE TO DEDUCTIONS UNDER CHAPTER VI-A)

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ABSTRACT

Since last 4-5 Assessment years, Income Tax return filling process has become electronic in India. E-filing of Income Tax returns has made return filling process very fast and easy for Government as well as for Assessee. But e-filling is not implemented as a full-fledged process in order to prevent tax evasion. Some deficiencies in Income Tax Return E-filing process made it vulnerable to evasion of tax on the part of Salaried individual assessee. Such Salaried individual assessee are huge in number. Although, they are liable to pay small quantum of tax revenue, their huge number may result in significant tax evasion, which may cause significant loss to revenue department. Therefore, it becomes difficult for Government to detect 100% of such tax evasion. Again, detection of tax evasion results in administrative costs by way of re-assessments, revisions, scrutiny etc. As, small quantum of tax revenue is involved in these cases, Income Tax Department generally avoid these category of assesses and focuses on

corporate assesses for detection of tax evasion.

The Government has also introduced lots of methods to detect evasion, such as linking of Permanent Account Number (PAN) number with AADHAAR number. But these techniques are deficient, therefore they are not prompt and are not able to detect tax evasion in a real sense.

The study focuses on such vulnerabilities in Income Tax return e-filling process, modus operandi of such tax evasion and suggest some remedies that may help to curb such tax evasion to the greater extent.

Keywords: Income Tax Returns, Deduction under Chapter VI-A, E-filing of Income Tax Returns.

Introduction:

Digitalization has significantly contributed in increasing the pace of development of Indian Economy. Processes at government offices have also been redefined because of digitalization. E-filling of Income tax returns is one of the examples of changing the way of functioning of government offices, making it more prompt and faster than before.

But digitalization also has some of its cons on the same side. Digitalization has its own disadvantages. Even if strategy formulation is best, worst implementation may fail the well-crafted strategy.

E-filing process of income tax returns bears some deficiencies. Taking benefit of such loopholes, taxpayers tries to evade tax by dodging the provisions of Income Tax Act. While filing Income Tax Returns electronically, assessee is not required to submit the proof of deductions he is claiming under the provisions of Chapter VI-A. Some assessee, especially salaried employees exploit this deficiency in e-filing process and claim fake deductions in order to reduce their tax liability.

The research study throws a light on possible threat of revenue loss that may cause to the Indian Income Tax Department, if such tax evasion on the part of Individual Salaried Assessee may go undetected at a huge extent.

Objectives:

1) To study the provisions of deductions available to salaried individual assessee under Chapter VI-A.

2) To study the process of e-filing of income tax returns.

3) To study the tax evasion practices adopted by salaried individual assessee while e-filing income tax returns.

4) To understand the impact of such tax evasion practices on revenue generation of Income Tax Department.

5) To suggest potential remedies to plug the deficiencies in process of e-filing of income tax returns in order to curb concerned tax evasion practices.

Hypothesis:

The existing process of e-filing of income tax returns is deficient and can be easily dodged by the assessee for claiming fake deductions by sidestepping the provisions of Chapter VI-A.

Research Methodology:

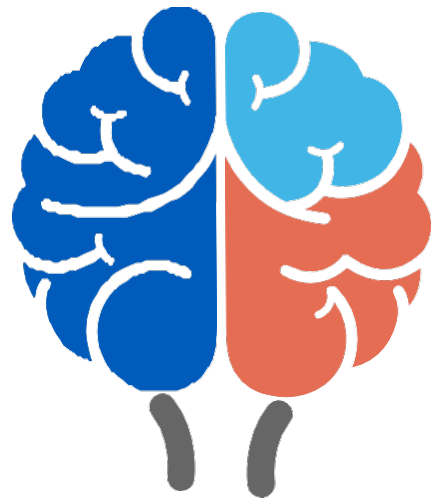
This is an analytical research paper based on Secondary data. Data has been collected from Annual Report published by Indian Income Tax Department.

The universe of this research work is Indian Salaried Class. The researcher has focused only on Salaried Individual Assessee, because they form a major chunk of taxpaying population of India. Absence of proper mechanism makes it difficult for the IT dept. to reach every person on one to one basis for assessment of their tax liability.

Review of Literature:

Hyderabad Case dated 27-07-2017

In this case, near about 200 employees of Info. Tech. sector have been sued for claiming fake deductions under Section 80D and 80DD by manipulating their Income Tax Returns.



As per the investigating officer, “Under Section 80 D and 80 DD of the Income Tax Act, refund can be claimed on medical grounds. The two accused approached IT employees and offered to process their claims to get tax refund by stating that their family members are patients of chronic illness. Each one of them got a rebate ranging from Rs 50,000 to Rs 1 lakh. The accused took around 10 per cent commission from the IT employees. ***The total loss to the I-T department in these cases is Rs 1.36 crore. This is said to be only the tip of the iceberg.*** There could be several practitioners across the city and many employees resorting to this type of fraud.” *(“Income Tax: I-T department busts refund scam, 200 techies return tax amount | Hyderabad News - Times of India,” 2017)*

Details of deductions under Chapter VI-A

The details of various expenditures and payments that are eligible for deductions under the provisions of various Sections covered under Chapter VI-A are as below:

Deductions from Gross Total Income

Deductions in respect of certain payments

1) **Section 80C:** In respect of Life Insurance Premium, Public Provident Fund, Pension Fund etc.
2) **Section 80CCC:** In respect of contribution to certain pension funds.
3) **Section 80CCD:** In respect of contribution to pension scheme of Central Govt.
4) **Section 80D:** In respect of medical insurance premium.
5) **Section 80DD:** In respect of maintenance including medical treatment of a dependent disabled.
6) **Section 80DDB:** In respect of amount paid for medical treatment etc. of specified disease or ailment.
7) **Section 80E:** In respect of interest on loan taken for higher education.
8) **Section 80EE:** For interest on loan borrowed for acquisition of self-occupied house property by an individual.
9) **Section 80G:** In respect of donations to certain funds, charitable institutions etc.
10) **Section 80GG:** In respect of rent paid.
11) **Section 80GGA:** In respect of donations for scientific research and rural development.
12) **Section 80GGB:** In respect of contributions given by companies to political parties
13) **Section 80GGC:** In respect of contributions given by any person to political parties.

Deductions in respect of certain incomes

1) **Section 80JJA:** In respect of employment of new employees.
2) **Section 80RRB:** In respect of royalty on patents.
3) **Section 80QQB:** In respect of royalty income etc. of authors of certain books other than text books.

Deductions in respect of other income

1) **Section 80TTA:** In respect of interest on deposits in savings account.

Other Deductions

1) **Section 80U:** Deduction in the case of a person with disability.

Modus Operandi of Tax Evasion Practice

Under Section 80D and 80DD of the Income Tax Act refund can be claimed on medical grounds.

Fraud

The two accused approached IT employees and offer to process their claims to get tax refund by stating that

their family members are patients of chronic illness. Each one of them got a rebate ranging from ₹50000 to

₹100000. The accused took around 10% commission from the employees.

Quantum of Revenue Loss to Income Tax Dept.

The total loss to Income Tax Dept. in this case is ₹1.36 crore and it is said by the Income Tax Department that it is just a tip of the iceberg.

Modus Operandi adopted by the

Assessee for Tax Evasion: Stage 1:

At the first instance, employer is liable to deduct tax at source on income distributed by way of salary, if the employee is covered under the tax bracket.

As per the provisions of Section 192 of Income Tax Act, the employer is liable to deduct tax at source on income distributed by way of salary, if the employee is covered under the tax bracket and is liable to pay tax. Therefore, employer is liable to collect all the details and documentary proofs of investments and payments made by the Assessee during the Financial year which is eligible for deduction under the provisions of Chapter VI-A i.e. under the provisions of Section 80C to 80U. The employer is liable to collect such evidences and compute the tax liability payable by the Assessee and deduct the tax at source accordingly on a monthly basis. If there are any revision in salary by way of bonus, increment etc., then employer is liable to revise his calculation of tax liability of an Assessee and deduct the tax at source as per the revised tax liability.

At this stage, employee who wants to evade tax, does not provide any documentary proof for payments or investments made by him that are deduction under the provision of

Chapter VI-A. Therefore, in such cases, employer deducts tax at source on full amount of salary paid by him to the employee Assessee.

Employer deducts TDS & deposits the same to Income Tax Dept. on full salary of employee – Employee provides no proof for deductions at this stage.

Stage 2:

As per the provisions of Section 139, states the persons that are compulsorily required to file Income Tax Returns on or before the due date as stipulated in Section 139(1). The due dates stipulated as are below:

Sr. No.	Different Situations	Due date of submission of return
1	Where the assessee is required to furnish a report under the provisions of Section 92E pertaining to international or specified domestic transaction(s)	**30 November** of the Assessment Year
2	Where the assessee is a company [not having international or specified domestic transaction(s)]	**30 September** of the Assessment Year
3	Where the assessee is a person other than a company [not having international or specified domestic transaction(s)]	
	3.1 In case where accounts of the assessee are required to be audited under any Law	**30 September** of the Assessment Year
	3.2 Where the assessee is a "Working Partner" in a firm whose accounts are required to be audited under any Law.	**30 September** of the Assessment Year
	3.3 In any other case	**31 July** of the Assessment Year

Thus, as per the provisions of Section 139(1) as given above, every Assessee is liable to file his Income Tax Return on or before the due dates discussed above.

Such process of filing Income Tax Returns has become electronic since last 4-5 Assessment Years. Under electronic filing system, no documentary proof is required to be submitted along with return to Income Tax Department regarding the investments and payments made by the Assessee.

Therefore, at the time of e-filing of ITR, employee submit the ITR claiming excessive (fake) deductions under Chapter VI-A, because no proof/document needs to be provided for such deductions, as the return filing process is electronic.

Stage 3:

Once the return is filed by the Assessee within the time limit as stipulated above, Income Tax Department processes every return electronically. Now, while electronically processing the Income Tax Returns, hardly 1-2% returns file by Individual Salaried Assessee get caught under the Scrutiny Assessment under Section 143(3), and remaining Income Tax Returns (I.e. 97-98%) are processed electronically under the summary Assessment under Section 143(1).

Scrutiny Assessment under the provisions of Section 143(3) requires an Assessee to visit personally at Income Tax Department and provide all documentary proofs for the deduction claimed by him under the provisions of Chapter VI-A. But summary Assessment is an electronic Assessment. Under summary Assessment, Income Tax Returns are directly processed without any human intervention. Thus, under summary Assessment, the Assessee who has submitted a false claim of deductions under Chapter VI-A, can easily dodge the e-filing process. The reason being, as discussed earlier, summary Assessment is an electronic process with no human intervention, and large part of Salaried Individual Returns are processed under this Assessment.

If Income Tax Return is processed under Scrutiny Assessment, then there are chances that an assessee claiming fake deductions can be caught by Income Tax Department. But only 1-2% of total Income Tax Returns filed by Individuals are covered under Scrutiny Assessment. Therefore, in case of the remaining returns which are processed under Summary Assessment, tax evasion by way of fake deduction cannot be detected easily.

Stage 4:

Once Income Tax Return is processed electronically under Summary Assessment under the provisions of Section 143(1), the refund of excess tax paid by an employee (which is in fact deducted by an employer by way of tax deducted at source and deposited with Income Tax Department on behalf of an employee), is processed by Income Tax Department.

As the return is processed electronically under summary assessment, assessee (i.e. an employee) is not required to submit any documentary proof for deductions claimed by him/her under Chapter VI-A in Income Tax Return.

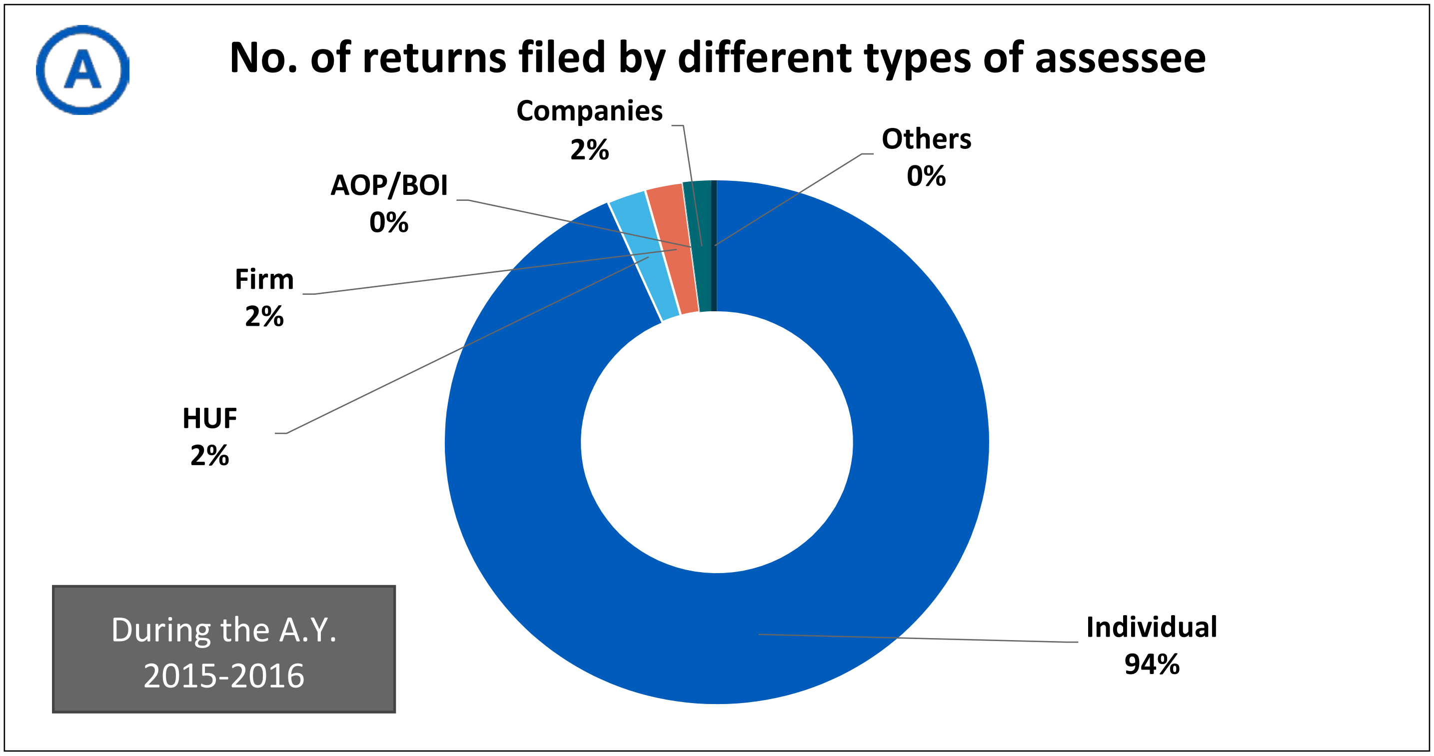
Step 5:

Once the refund is processed by Income Tax Department, money gets credited to bank account of assessee within 10-15 days by way of Electronic Clearing System.In such a way, these taxpayers (i.e. Salaried Individual Assessee) used to evade large amount of Income Tax by claiming excessive (fake) deductions.

Data Analysis:

Out of the total number of ITRs filed every year, highest number of returns are filed by individual assessee **[See Figure A]** and out of such individual assessee highest percentage is of salaried person [See Figure B]. In case of salaried individual assessee, employer is liable to deduct tax payable by the employee by way of TDS and deposit same to the Income Tax Department immediately.

As revenue is recovered in advance, Income Tax Department usually does not consider such cases for scrutiny assessment u/s 143(3). Such deficiency in strict e-filing framework allows room for adopting tax evasion practices by claiming excessive fake deduction in order to lower their tax liability and thereby claim higher refunds.

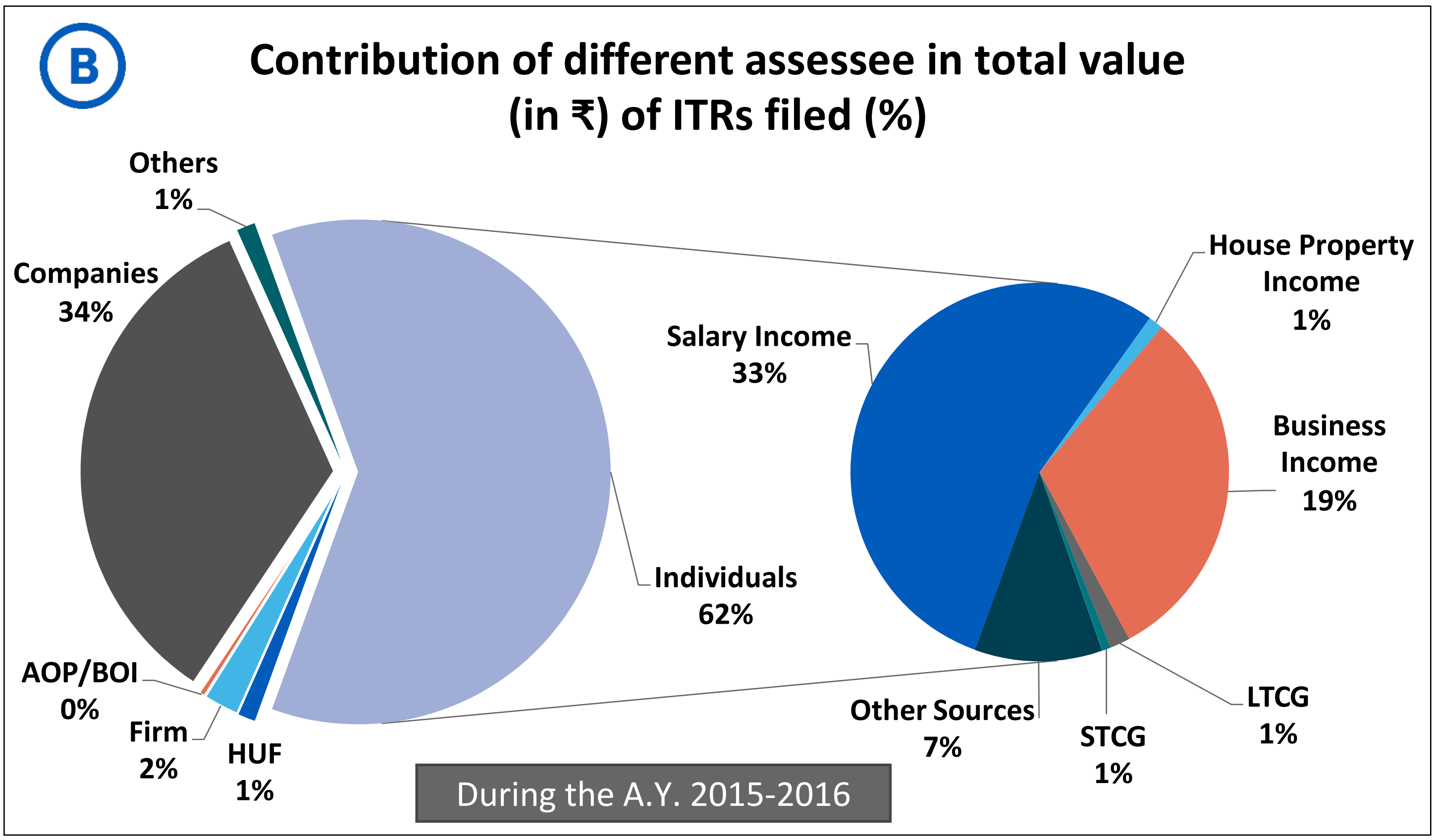


Source: Report Published by Directorate of Income Tax

From **Figure B**, it can be observed that out of total assessee in India, individuals constitute high percentage total value of Income Tax Returns filed during the Assessment Year 2015-16. If we consider the pie of Individual assessee, then it is observed that the salaried individuals are the higher contributories in filling higher value of income tax returns in the Assessment Year.

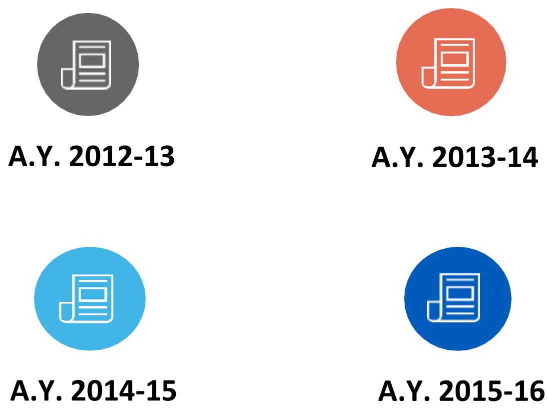
If tax evasion by way of claiming fake deduction without generating appropriate proof of expenditure or investment made by each and every salaried individual assessee is considered in real sense, it could be huge and may result in tremendous loss to Income Tax Department.

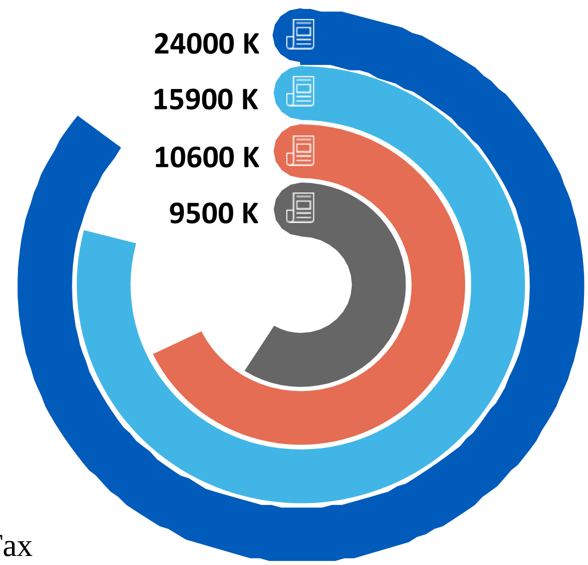
Figure C shows that the number of assessee filing income tax electronically are increasing every year. This means, if tax evasion made by such growing category of taxpayers remained untapped, it may incur huge losses for Income Tax Department.



Source: Report Published by Directorate of Income Tax

No. of income tax returns filed electronically over past 4 assessment years





Source: Report Published by Directorate of Income Tax

Limitations of the Study:

1) During this research, researchers find themselves unable to collect statistical data for actual quantum of revenue loss caused to Income Tax Department on account of tax evasion by such Individual Salaried Assessee. This is because, no secondary data is published by any reliable source providing exact information about such statistics.

   And, even if we think of the option of collecting primary data through structured questionnaires, there are high chances of getting biased data from respondents. Therefore, we have decided to consider the secondary data published by Income Tax Department of India in their official report regarding e-filing of tax returns.

2) Research study is based on secondary data collected from the official publication of Income Tax Department for the Assessment Year 2015-2016. This is the only latest report published by the Income Tax Department in December 2017, related to Statistics of Income Tax Returns. Therefore, we have considered this report of Assessment Year 2015-2016 for our study.

3) In this research paper, the research study is focused only on Individual Salaried Assessee in India. This is because, even if these categories of taxpayers in India pays

very little quantum of tax being an individual Assessee as compared to corporate Assessee but if a whole category is considered together, they contribute very significantly in total value of Income Tax Returns filed by all the Assessee in India. Therefore, usually it becomes very difficult for the Income Tax Department to detect tax evasion at an individual Assessee's level.

Conclusion:

1) During the research study, we have observed that the Assessee try to evade tax by following illegal methods such as by claiming fake deductions under the provisions of Chapter VI-A. Such Assessee tries to lower their income by way of claiming fake deductions in order to dodge the higher income tax slab. Thus, these Assessee tries to fit their taxable under the lower income tax slab in order to save more tax by indulging themselves in illegal practices such as claiming fake deductions.

   Thus, the hypothesis gets accepted at this stage that the Income Tax Return E-filing process has some deficiencies which allows taxpayers to evade tax by claiming fake deductions.

Suggestions:

1) While claiming deduction under the provisions of Section 80G i.e. deduction in respect of donations to charitable trusts, institutions etc., Assessee is required to mention all the details such as PAN number of the done, amount of donation paid etc. Thus, because of such additional details are mandatorily filled while claiming deduction under Section 80G, assessee cannot easily claim fake deductions under the provisions of Section 80G. Such arrangements of providing additional details (For Example, Insurance policy Number, Name of the Insurer, Type of policy opted for, Amount of premium paid etc.) should also be made in respect of provisions of other Sections under Chapter VI-A.

   This development in Income Tax Return e-filing utility, will make it mandatory for every Individual Assessee to provide all the details of expenditure, investment made by him to prove its genuineness at the time of e- filing of return. Thus, it may help to curb tax evasion by way of fake deductions to the greater extent.

2) The above suggestion can be achieved by upgrading Income Tax Return e-filing

utilities by their full integration with AADHAR database, reflecting the actual data of eligible investments in ITR e-filing utilities, which will stop manipulating the amount of actual investments.

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