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CONSTITUTIONAL CONSTRAINTS ON STATE TAX ANTI-AVOIDANCE MEASURES: A STUDY OF REAL ESTATE TAX SHELTERS IN INDIA- Mayank Yadav¹**ABSTRACT**

Tax avoidance in India's real estate sector is not an isolated case of aggressive tax planning by sophisticated investors, but rather a structural phenomenon reflecting fundamental tensions between constitutional federalism, fiscal autonomy, and regulatory authority. This paper provides a critical legal examination of how state governments' anti-avoidance measures targeting real estate tax shelters navigate constitutional constraints imposed by fundamental rights, legislative competence boundaries, and judicial oversight. Through doctrinal analysis of constitutional provisions governing taxation powers, landmark Supreme Court judgments on tax avoidance versus evasion distinction, and state-level anti-avoidance legislation, this research argues that constitutional limitations operate as both protections against arbitrary state action and structural barriers preventing effective regulation of sophisticated tax planning schemes. The lived realities of these constitutional constraints include revenue losses through circular trading schemes, undervaluation of property transactions, shell company structures, and benami holdings that exploit definitional ambiguities and enforcement gaps while technically complying with statutory language. The paper provides intensive discussion of institutional enforcement mechanisms including stamp duty authorities, income tax assessment procedures, benami transaction prohibition frameworks, and anti-money laundering regulations, evaluating whether these mechanisms function as genuine deterrents or merely symbolic gestures that perpetuate a tax avoidance culture. Ultimately, recommendations emphasize balancing constitutional protections with effective anti-avoidance enforcement through legislative precision, inter-

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governmental coordination, substance-over-form judicial doctrines, and transparent accountability mechanisms that prevent both tax shelter abuse and arbitrary state power exercise.

Keywords: Tax avoidance; real estate; constitutional law; state taxation; anti-avoidance measures; fundamental rights; legislative competence; benami transactions; tax shelters; fiscal federalism.

1. INTRODUCTION: TAXATION, FEDERALISM, AND CONSTITUTIONAL BOUNDARIES

The Indian Constitution establishes a complex federal structure distributing taxation powers between Union and State governments, creating concurrent and exclusive domains that reflect political compromises underlying the constitutional settlement.² Within this architecture, real estate taxation occupies a peculiar position where multiple layers of government exercise overlapping authority states levy stamp duties and registration fees, local bodies impose property taxes, and the Union government taxes capital gains and income from property transactions.³ This multiplicity of taxing authorities creates both regulatory gaps that sophisticated taxpayers exploit and coordination challenges that frustrate effective anti-avoidance enforcement.

Real estate has historically served as preferred vehicle for tax avoidance and wealth concealment in India due to several structural characteristics. Property transactions involve high values enabling significant tax savings through relatively small percentage manipulations. Asset immobility creates psychological distance from liquid wealth, facilitating concealment. Complex ownership structures including partnerships, trusts, and corporate entities obscure beneficial ownership. Cultural preferences for physical assets over financial instruments concentrate wealth in real estate. Legal ambiguities surrounding valuation, transfer timing, and ownership definition create planning opportunities that aggressive tax advisors systematically exploit.⁴

Tax avoidance, distinguished from illegal tax evasion by operating within statutory language while defeating legislative intent, presents unique constitutional challenges.⁵ Governments seeking to combat avoidance must craft legislation precise enough to target artificial schemes without capturing legitimate commercial arrangements, broad enough to prevent manipulation

² *Constitution of India*, 1950, Seventh Schedule.

³ Id. Union List Entry 82, State List Entries 18, 49.

⁴ Ministry of Finance, *Economic Survey 2022–23*, at 156–59 (2023).

⁵ *McDowell & Co. Ltd. v. Commercial Tax Officer*, (1985) 2 SCC 230, ¶ 15.

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through minor variations, yet restrained enough to satisfy constitutional limitations on state power. This legislative challenge intensifies in real estate contexts where transactions serve multiple purposes investment, residence, business operations, wealth preservation making bright-line rules separating avoidance from genuine commercial activity extraordinarily difficult to formulate.⁶

State governments have responded to real estate tax avoidance through various anti-avoidance measures including minimum valuation rules for stamp duty calculation, restrictions on benami transactions, enhanced disclosure requirements, transaction taxes discouraging speculation, and general anti-avoidance rules empowering authorities to disregard artificial arrangements.⁷ However, these measures immediately encounter constitutional constraints flowing from fundamental rights protections, federalism boundaries limiting state legislative competence, and judicial doctrines requiring statutory certainty and preventing arbitrary executive action.

The Supreme Court has developed sophisticated jurisprudence distinguishing permissible tax planning from impermissible tax avoidance, recognizing taxpayers' rights to arrange affairs minimizing tax liability while authorizing governments to disregard transactions lacking commercial substance.⁸ This jurisprudence creates a conceptual framework but provides limited practical guidance for determining which specific real estate structures constitute impermissible avoidance, leaving vast interpretive discretion to tax authorities whose decisions face constitutional challenges invoking fundamental rights and federalism principles.

This research examines how constitutional constraints shape state anti-avoidance measures targeting real estate tax shelters, analyzing tensions between effective revenue protection and constitutional limitations. The paper argues that constitutional protections, while essential for preventing arbitrary state power, create enforcement gaps that sophisticated taxpayers exploit, necessitating legislative innovation and judicial evolution balancing rights protection with effective taxation authority.

⁶ *Vodafone International Holdings B.V. v. Union of India*, (2012) 6 SCC 613, ¶¶ 45–48.

⁷ *Maharashtra Stamp Act*, 1958, § 32A (India); *Benami Transactions (Prohibition) Amendment Act*, 2016 (India).

⁸ *Union of India v. Azadi Bachao Andolan*, (2003) 6 SCC 1, ¶¶ 95–102.

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2. CONSTITUTIONAL ARCHITECTURE OF TAXATION POWERS

2.1 Federal Distribution of Tax Authority

The Constitution's Seventh Schedule meticulously distributes legislative competence over taxation between Union and State governments, reflecting framers' intent to balance central fiscal capacity with state autonomy.⁹ Entry 82 of the Union List grants Parliament exclusive authority to tax income other than agricultural income, establishing the constitutional foundation for the Income Tax Act, 1961.¹⁰ Entry 49 of the State List empowers state legislatures to levy stamp duties on property transfers and registration fees, creating state revenue streams from real estate transactions.¹¹ Entry 18 of the State List authorizes land revenue taxation, while Entry 49 permits states to tax lands and buildings.¹²

This distribution creates overlapping authority where single real estate transactions attract multiple taxes from different governmental levels. Property sales generate state stamp duties, Union capital gains taxes, and potentially goods and services tax depending on transaction structure.¹³ Constitutional validity requires each tax fall within appropriate legislative list entry, creating jurisdictional challenges when transactions involve elements potentially falling under multiple entries or when new transaction types do not fit neatly into categories envisioned by constitutional framers in 1950.

Article 246 establishes the fundamental principle that Parliament and state legislatures possess exclusive authority within their respective domains, with Union law prevailing in areas of conflict.¹⁴ However, taxation represents an area where overlap necessarily occurs as economic transactions simultaneously implicate multiple tax bases. Courts have developed doctrines distinguishing taxes based on their essential character and incidence, permitting multiple governments to tax the same transaction from different perspectives provided each tax falls within appropriate constitutional authority.¹⁵

⁹ *Constitution of India*, 1950, art. 246 read with Seventh Schedule.

¹⁰ *Id.* Seventh Schedule, Union List Entry 82.

¹¹ *Id.* Seventh Schedule, State List Entry 49.

¹² *Id.* Seventh Schedule, State List Entries 18, 49.

¹³ *Central Goods and Services Tax Act*, 2017, § 9 (India).

¹⁴ *Constitution of India*, 1950, art. 246.

¹⁵ *Hoechst Pharmaceuticals Ltd. v. State of Bihar*, (1983) 4 SCC 45, ¶¶ 23–25.

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Article 265 provides that no tax shall be levied or collected except by authority of law, establishing constitutional requirement that all taxation must have legislative foundation.¹⁶ This provision prevents arbitrary executive taxation while requiring that tax legislation satisfy constitutional standards of certainty, reasonableness, and compliance with fundamental rights. Anti-avoidance measures, particularly those granting discretionary authority to tax officials, must navigate this requirement carefully to avoid constitutional invalidation for excessive delegation or indefiniteness.

2.2 Fundamental Rights Constraints on Tax Legislation

Article 14 guarantees equality before law and equal protection of laws, requiring that tax legislation not create arbitrary classifications or discriminate without rational basis.¹⁷ The Supreme Court has held that tax statutes enjoy presumption of constitutionality and legislatures possess wide latitude in classification for tax purposes, yet classifications must bear reasonable relationship to legislative objectives and cannot be manifestly arbitrary.¹⁸ Anti-avoidance measures targeting specific real estate arrangements must satisfy this standard, demonstrating that distinctions drawn between transactions subjected to anti-avoidance scrutiny and those exempted reflect genuine differences relevant to tax avoidance risk rather than arbitrary line-drawing.

Article 19(1)(g) protects citizens' rights to practice any profession or carry on any occupation, trade, or business.¹⁹ While this right permits reasonable restrictions in public interest, taxation measures that effectively prohibit or substantially burden particular business models must satisfy proportionality requirements.²⁰ Real estate anti-avoidance provisions restricting particular transaction structures or ownership arrangements potentially implicate this right when restrictions extend beyond revenue protection to substantially limiting legitimate business activities.

Article 300A provides that no person shall be deprived of property except by authority of law, requiring legislative foundation for any property deprivation including taxation.²¹ While this

¹⁶ *Constitution of India*, 1950, art. 265.

¹⁷ *Id.* art. 14.

¹⁸ *Khandige Sham Bhat v. Agricultural Income Tax Officer*, (1963) 3 SCR 809, 815.

¹⁹ *Constitution of India*, 1950, art. 19(1)(g).

²⁰ *Bijoe Emmanuel v. State of Kerala*, (1986) 3 SCC 615, ¶¶ 12–14.

²¹ *Constitution of India*, 1950, art. 300A.

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provision does not create fundamental right to property following the 44th Amendment, it maintains constitutional requirement that property deprivation including through taxation must satisfy rule of law standards including legislative authorization, procedural fairness, and non-arbitrariness.²²

These fundamental rights constraints require that anti-avoidance legislation targeting real estate tax shelters balance competing considerations: precision targeting artificial arrangements without capturing legitimate transactions, breadth preventing manipulation through minor variations, and restraint respecting constitutional limitations on state authority. Achieving this balance represents the central challenge confronting legislators and administrators implementing anti-avoidance regimes.

3. REAL ESTATE TAX AVOIDANCE STRUCTURES AND ANTI-AVOIDANCE RESPONSES

3.1 Common Tax Avoidance Schemes in Real Estate

Sophisticated taxpayers employ various structures exploiting legal ambiguities and definitional gaps to minimize tax liability on real estate transactions. Undervaluation represents the most common avoidance technique, where parties declare transaction values below actual consideration to reduce stamp duty and capital gains tax liability.²³ Despite regulatory guidance values and minimum valuation rules, enforcement gaps enable persistent undervaluation particularly in jurisdictions with outdated ready reckoner rates or inadequate enforcement infrastructure.

Circular trading involves multiple rapid transactions among related parties creating artificial price movements or generating losses offsetting taxable gains elsewhere.²⁴ These schemes exploit timing differences between income recognition and actual cash flows, regulatory gaps between different tax regimes, and difficulties authorities face reconstructing complex transaction chains involving multiple entities across jurisdictions.

²² *Constitution (Forty-Fourth Amendment) Act, 1978* (India).

²³ Standing Committee on Finance, Parliament of India, *Real Estate Valuation and Tax Evasion* 34–37 (2019).

²⁴ *Income Tax Act, 1961*, § 2(47) Explanation (India).

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Shell company structures interpose corporate entities between beneficial owners and property assets, exploiting lower corporate tax rates, enabling loss utilization, obscuring beneficial ownership, and facilitating indirect transfers avoiding stamp duty.²⁵ Share transfer taxation differences versus direct property transfers create incentives for holding real estate through corporate vehicles enabling tax-efficient wealth transfer through equity rather than asset transactions.

Benami holdings where property is held nominally by one person while beneficially owned by another enable tax evasion through concealing actual ownership and wealth.²⁶ Despite the Prohibition of Benami Property Transactions Act, 1988 (as substantially amended in 2016), enforcement challenges persist due to evidentiary difficulties proving benami relationships, particularly where transactions involve family members or trusted associates who resist disclosure.²⁷

Development rights and licensing arrangements structure property value realization as business income or royalties rather than capital gains, exploiting differential tax treatment.²⁸ Joint development agreements, lease and license arrangements, and other contractual structures disaggregate property rights enabling tax characterization manipulations that reduce overall tax burden while achieving substantively identical economic outcomes as direct sales.

3.2 State Anti-Avoidance Measures and Their Scope

State governments have deployed multiple regulatory tools targeting real estate tax avoidance. Minimum valuation rules require stamp duty calculation based on regulatory guidance values regardless of declared consideration, preventing gross undervaluation.²⁹ However, these rules face challenges maintaining current values in rapidly changing markets, creating both revenue losses when guidance values lag market reality and taxpayer complaints when guidance values exceed actual market prices in declining markets.

Enhanced disclosure requirements mandate additional information in property registrations including source of consideration, relationship between parties, previous transaction history, and

²⁵ *Companies Act*, 2013, § 2(20) (India).

²⁶ *Benami Transactions (Prohibition) Act*, 1988 (as amended 2016), § 2(9) (India).

²⁷ *Id.* §§ 24–26.

²⁸ *Income Tax Act*, 1961, §§ 28, 45 (India).

²⁹ *Maharashtra Stamp Act*, 1958, § 32A (India); *Karnataka Stamp Act*, 1957, § 45A (India).

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beneficial ownership details.³⁰ While potentially valuable for enforcement, disclosure requirements face effectiveness limitations when parties provide false information, enforcement authorities lack resources to verify disclosures systematically, or penalties for non-disclosure remain minimal relative to tax savings from concealment.

Transaction taxes including stamp duty surcharges for high-value properties or rapid resales discourage speculative trading and tax avoidance through circular transactions.³¹ These measures' effectiveness depends on rate calibration too low to deter avoidance, too high driving transactions underground or to other jurisdictions and their constitutional validity when rates become confiscatory or discriminatory without rational basis.

Specific anti-avoidance rules targeting particular structures including restrictions on circular trading, imputed consideration rules deeming minimum values, and look-through provisions disregarding intermediary entities for tax purposes provide focused responses to identified avoidance schemes.³² However, specificity creates new planning opportunities as taxpayers structure around explicit prohibitions, necessitating continuous legislative updating that creates uncertainty and complexity.

3.3 Constitutional Challenges to Anti-Avoidance Measures

Anti-avoidance legislation regularly faces constitutional challenges invoking fundamental rights and federalism principles. Vagueness challenges argue that imprecise statutory language granting broad discretion to tax authorities violates Article 14's requirement that laws provide fair notice of prohibited conduct and prevent arbitrary enforcement.³³ The Supreme Court has invalidated tax provisions deemed excessively vague or granting standardless discretion, yet has permitted considerable legislative generality when necessary to address diverse avoidance schemes.³⁴

Discrimination challenges contend that anti-avoidance measures create arbitrary classifications violating Article 14 by treating similar transactions differently without rational basis or by imposing disproportionate burdens on particular taxpayer categories.³⁵ Courts scrutinize

³⁰ *Registration Act*, 1908, § 32A (India) (as amended by various states).

³¹ *Maharashtra Stamp (Amendment) Act*, 2021 (India).

³² *Income Tax Act*, 1961, § 56(2)(x) (India).

³³ *R.S. Nayak v. A.R. Antulay*, (1984) 2 SCC 183, ¶¶ 18–20.

³⁴ *K.T. Moopil Nair v. State of Kerala*, (1961) 3 SCR 77, 85–87.

³⁵ *Charanjit Lal Chowdhury v. Union of India*, (1951) 1 SCR 41, 83.

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classifications to ensure they relate rationally to legitimate governmental objectives, though taxation statutes receive deferential review recognizing legislative expertise in tax policy.

Retrospective application challenges argue that applying anti-avoidance rules to transactions predating legislative enactment violates legitimate expectations and fairness principles.³⁶ While the Constitution permits retrospective tax legislation subject to limitations, courts examine whether retrospectivity serves legitimate objectives or constitutes arbitrary redistribution of settled rights.

Procedural fairness challenges invoke natural justice principles requiring notice, hearing, and reasoned decision-making before adverse tax determinations.³⁷ Anti-avoidance proceedings granting broad investigative powers to tax authorities must incorporate procedural safeguards preventing arbitrary assessment while maintaining administrative efficiency.

4. JUDICIAL APPROACH TO TAX AVOIDANCE AND CONSTITUTIONAL INTERPRETATION

4.1 Distinguishing Tax Planning, Avoidance, and Evasion

Indian courts have developed nuanced jurisprudence distinguishing legitimate tax planning from impermissible tax avoidance and illegal tax evasion. The Supreme Court in *McDowell & Co. Ltd. v. Commercial Tax Officer* adopted the Westminster principle that taxpayers may arrange affairs to minimize tax liability, but courts may disregard transactions lacking commercial substance designed purely for tax avoidance.³⁸ This substance-over-form approach authorizes looking beyond legal formalities to economic realities, yet creates interpretive challenges determining which transactions lack sufficient substance.

In *Vodafone International Holdings B.V. v. Union of India*, the Court examined indirect transfer structures where foreign companies transferred shares in offshore holding companies owning Indian assets.³⁹ The majority held that colorable devices designed to avoid tax liability through circular jurisdictional routing constitute impermissible avoidance, yet recognized limits on

³⁶ *Shri Prithvi Cotton Mills Ltd. v. Broach Borough Municipality*, (1969) 2 SCC 283, ¶¶ 12–14.

³⁷ *Maneka Gandhi v. Union of India*, (1978) 1 SCC 248, ¶¶ 56–58.

³⁸ *McDowell & Co. Ltd.*, *supra* note 4, ¶¶ 15–18.

³⁹ *Vodafone International Holdings B.V.*, *supra* note 5.

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looking through legitimate corporate structures. This decision illustrates judicial struggles balancing respect for legal forms against preventing tax base erosion through artificial structuring.

Union of India v. Azadi Bachao Andolan addressed treaty shopping through intermediary entities in tax-favorable jurisdictions.⁴⁰ The Court emphasized that tax planning using legal structures created by statute or treaty cannot constitute evasion even when primary purpose is tax minimization, yet this permissive approach arguably enables avoidance through entity proliferation that legislative anti-avoidance measures seek to address.

4.2 Constitutional Limits on Anti-Avoidance Authority

The Supreme Court has established constitutional boundaries limiting anti-avoidance measures' scope. Definitional precision requirements mandate that anti-avoidance provisions define prohibited conduct with sufficient clarity enabling taxpayers to predict application and preventing standardless discretion.⁴¹ General anti-avoidance rules granting broad authority to disregard "arrangements" or "schemes" lacking "commercial substance" face heightened scrutiny ensuring adequate guidance limiting arbitrary enforcement.

Proportionality principles require that anti-avoidance consequences bear reasonable relationship to avoidance addressed.⁴² Penalties, interest, and tax adjustments must not become confiscatory or punitive beyond revenue protection and deterrence objectives. Constitutional proportionality analysis examines whether less restrictive alternatives could achieve governmental objectives without comparable burdens on taxpayer rights.

Jurisdictional limitations enforce constitutional federalism by preventing states from taxing matters beyond legislative competence or imposing burdens on interstate commerce violating constitutional unity.⁴³ Anti-avoidance measures cannot expand substantive tax jurisdiction beyond constitutional boundaries, though they may address manipulation of jurisdictional rules through artificial structuring.

⁴⁰ *Union of India v. Azadi Bachao Andolan*, *supra* note 7.

⁴¹ *Ajay Hasia v. Khalid Mujib Sehravardi*, (1981) 1 SCC 722, ¶¶ 28–30.

⁴² *State of Madhya Pradesh v. Rakesh Kohli*, (2012) 6 SCC 312, ¶¶ 18–20.

⁴³ *Atiabari Tea Co. Ltd. v. State of Assam*, (1961) 1 SCR 809, 821–23.

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5. FINDINGS AND RECOMMENDATIONS

5.1 Critical Findings

Several findings emerge from this constitutional analysis of state anti-avoidance measures targeting real estate tax shelters. First, constitutional federalism's distribution of taxation powers creates coordination challenges and enforcement gaps that sophisticated tax planning exploits. Multiple taxing authorities operating independently with different substantive rules, valuation methodologies, and enforcement priorities enable taxpayers to arbitrage between regimes through transaction structuring.⁴⁴

Second, fundamental rights protections, while essential for preventing arbitrary state action, create definitional and procedural constraints limiting anti-avoidance effectiveness. Requirements for statutory precision, non-arbitrary classification, and procedural fairness restrict legislative and administrative flexibility needed to address rapidly evolving avoidance schemes.⁴⁵

Third, judicial approaches distinguishing permissible planning from impermissible avoidance provide conceptual frameworks but limited practical guidance. Substance-over-form doctrines authorize looking beyond legal formalities yet struggle defining commercial substance standards applicable across diverse transaction types and business contexts.⁴⁶

Fourth, enforcement capacity deficits represent more significant barriers to effective anti-avoidance than constitutional constraints. Inadequate valuation infrastructure, limited investigative resources, insufficient inter-agency coordination, and corruption vulnerabilities prevent systematic enforcement of existing anti-avoidance rules regardless of constitutional validity.⁴⁷

5.2 Structural Reform Recommendations

Addressing real estate tax avoidance while respecting constitutional constraints requires comprehensive reforms spanning legislation, administration, and judicial interpretation. Legislative precision should replace vague general anti-avoidance rules with specific provisions

⁴⁴ Standing Committee on Finance, *supra* note 22, at 42.

⁴⁵ *McDowell & Co.*, *supra* note 37, ¶ 20.

⁴⁶ *Vodafone*, *supra* note 38, ¶¶ 55–58.

⁴⁷ Comptroller and Auditor General of India, *Report on Stamp Duty Administration 67–72* (2020).

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targeting identified avoidance structures while incorporating safe harbors protecting legitimate transactions.⁴⁸ Defining prohibited arrangements through objective criteria including minimum holding periods, related-party transaction restrictions, and economic substance tests provides clearer guidance than broad discretionary authority.

Inter-governmental coordination through information sharing protocols, unified valuation standards, and harmonized timing rules would reduce arbitrage opportunities between Union and state tax regimes.⁴⁹ Constitutional federalism permits cooperative arrangements voluntarily adopted by governments without requiring constitutional amendment, enabling administrative coordination respecting legislative autonomy.

Judicial development of substance-over-form doctrines should provide clearer standards distinguishing tax avoidance from planning through multi-factor tests examining transaction business purposes, economic effects, relationship to normal commercial practices, and tax benefits relative to non-tax benefits.⁵⁰ Predictable judicial standards enable taxpayers to structure transactions confidently while authorizing anti-avoidance enforcement against artificial arrangements.

Capacity building including technology-enabled valuation systems, data analytics identifying avoidance patterns, specialized anti-avoidance investigation units, and corruption prevention measures would enhance enforcement effectiveness within existing constitutional frameworks.⁵¹ Many anti-avoidance measures fail not from constitutional deficiencies but from inadequate implementation resources and institutional weaknesses.

Procedural safeguards including mandatory pre-assessment notices, reasoned decision requirements, independent review mechanisms, and expedited judicial review would protect taxpayer rights while maintaining anti-avoidance authority.⁵² Constitutional procedural fairness need not paralyze enforcement but requires balanced procedures preventing arbitrary action while enabling efficient administration.

⁴⁸ Law Commission of India, *Tax Administration Reforms*, Report No. 279, at 89–92 (2018).

⁴⁹ Goods and Services Tax Council, *Minutes of 45th Meeting* 12–15 (2021).

⁵⁰ *Azadi Bachao Andolan*, *supra* note 39, ¶¶ 110–115.

⁵¹ Central Board of Direct Taxes, *Insight Portal: Data Analytics for Tax Administration* (2022).

⁵² *Income Tax Act*, 1961, § 144C (India).

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6. CONCLUSION: BALANCING REVENUE PROTECTION AND CONSTITUTIONAL RIGHTS

Constitutional constraints on state anti-avoidance measures targeting real estate tax shelters reflect fundamental tensions between effective fiscal administration and limited government principles underlying constitutional democracy. The Indian Constitution's federal structure distributing taxation powers, fundamental rights protecting against arbitrary state action, and judicial oversight enforcing constitutional limitations create a complex legal environment within which anti-avoidance regulation must operate.

Real estate tax avoidance exploits this constitutional complexity through sophisticated structures that technically comply with statutory language while defeating legislative intent. Undervaluation, circular trading, shell companies, benami holdings, and disaggregated rights structures systematically reduce tax liability through legal manipulation rather than illegal evasion. State governments' anti-avoidance responses including minimum valuations, disclosure requirements, transaction taxes, and specific anti-avoidance rules attempt to close these planning opportunities while navigating constitutional constraints.

Judicial approaches distinguishing legitimate tax planning from impermissible avoidance provide conceptual frameworks emphasizing substance over form and commercial reality over legal technicalities. However, translating these general principles into predictable standards applicable across diverse real estate transaction types remains challenging, creating uncertainty that both inhibits legitimate commercial activity and enables continued avoidance through creative structuring.

The analysis presented here demonstrates that constitutional constraints operate as both essential protections against arbitrary taxation and structural barriers complicating effective anti-avoidance enforcement. Fundamental rights requirements for statutory precision, non-arbitrary classification, and procedural fairness prevent discriminatory or confiscatory taxation while limiting legislative and administrative flexibility to address sophisticated avoidance. Federalism's division of taxation powers prevents centralized arbitrary power while creating coordination challenges and jurisdictional gaps that taxpayers exploit.

Effective reform requires balancing these competing considerations through legislative precision replacing vague discretion with specific objective criteria, inter-governmental coordination

harmonizing valuation and timing standards, judicial development of predictable substance-over-form standards, capacity building enhancing enforcement effectiveness, and procedural safeguards protecting rights while maintaining administrative efficiency.

Ultimately, addressing real estate tax avoidance while respecting constitutional constraints demands recognition that neither unconstrained anti-avoidance authority nor rigid formalism protecting artificial structures serves constitutional democracy's underlying values. Instead, nuanced approaches distinguishing genuine commercial transactions from tax-motivated artifice, respecting taxpayer rights while protecting revenue bases, and maintaining constitutional limitations while enabling effective governance represent the appropriate balance in a constitutional federal democracy committed simultaneously to limited government and functional public finance.