IJARSCT
International Journal of Advanced Research in Science, Communication and Technology
International Open-Access, Double-Blind, Peer-Reviewed, Refereed, Multidisciplinary Online Journal
ISSN: 2581-9429
Volume 6, Issue 1, September 2026
Impact Factor: 8.2

Greenwashing and Corporate Tax Incentives: Legal Safeguards against Misuse of Environmental Deductions in India

Sowmiya P[1] and Dr. Sreeja BG[2]
LLM Final Year[1], Associate Professor[2]
Corporate & Commercial Law[1],
Hindustan School of Law[12]
Hindustan Institute of Technology & Science, Chennai
[1] sowmiyapalanisamy2003@gmail.com [2] sreejabg@hindustanuniv.ac.in

Abstract: *In India several environmental friendly corporate tax measures have been incorporated like accelerated depreciation on green assets, deductions for establishing renewable energy projects, etc., besides recently also announced CSR relief scheme which links CSR with tax relief. Due to lack of clear statutory definition, results-oriented conditions and third party verification there lies a lot of possibility of abuse through green washing which means strategic overstatement of environmental commitment by companies for financial gain. This paper adopts a doctrinal approach wherein legal framework of environmental deductions under the Income-tax Act, 2025 and the older acts in 1961, amendments to the said acts through Finance Acts and the guidance issued by the Central Board of Direct Taxes (CBDT) are examined. By doing so we examine the use of general anti-abuse doctrine i.e., GAAR, Substance over form doctrine and the revisionary powers of Commissioner in relation to green deductions and point out the loopholes in the said laws which provide opportunities for abuse. Thereafter we try to examine the scope of applicability of the core assurance framework of Business Responsibility and Sustainability Reporting (BRSR) as an external verification mechanism for making tax deduction conditional. Learning lessons from experiences in other jurisdictions like green taxonomy, the linkage between incentives in the European Union and the guidelines set by the OECD for environmental taxes, this paper provides some mechanisms both statutory and administrative which could deter greenwashing practices. The findings show that linking fiscal incentives to outcome-based measurements could help in meeting the twin objectives of increasing fiscal integrity and also India's goal of achieving net-zero emissions.*

Keywords: Corporates, Environmental Tax Incentives, Greenwashing, Anti abuse measures, General Anti Avoidance Rule

I. INTRODUCTION

India's pledge to reach its target of becoming a net-zero emission country by the year 2070, made at the 26th Conference of the Parties (COP26) to the UN Framework Convention on Climate Change, has brought about a complete transformation in policy in areas such as finance, regulation, and corporate governance. At the core of this transformation lies the incorporation of Environmental, Social, and Governance (ESG) parameters in corporate governance policies, such as the mandatory Business Responsibility and Sustainability Reporting (BRSR) rules of the Securities and Exchange Board of India (SEBI), applicable to the 1,000 largest listed companies as of financial year (FY) 2026–27. In parallel, the Union Government has rolled out several fiscal incentives under the Income-tax Act, 1961 (now re-categorized as the Income-tax Act, 2025, which will come into effect from 1 April 2026) for green investments through accelerated depreciation on energy efficient machinery, deductions for renewable energy infrastructure, R&D credits for eco-friendly technology and tax incentives related to CSR for vocational training and green infrastructure.

Despite such policy developments, there remains an important gap: the lack of clearly defined statutory criteria for eligibility, coupled with mandatory third-party verification systems, allows companies to indulge in “greenwashing,” that is, overestimating or falsifying their environmental performance to gain financial advantages. It is not only detrimental to the accuracy of revenues; it also negates the effectiveness of India’s climate pledges, which reward form over substance.

The present study seeks to tackle the following research question: How does the existing legal framework of corporate tax incentives for environmental activities in India promote greenwashing, and how can it be prevented?

II. LEGAL PROVISIONS GOVERNING ENVIRONMENTAL TAX INCENTIVES

The taxation law in India provides various benefits to make certain investments environmentally friendly. While these provisions are noble in their intent, they lack clarity of definitions as well as cohesive regulatory control.

Income-tax Act, 1961 / Income-tax Act, 2025

Section 32 (Depreciation): Provides for depreciation benefits on plant and machinery for generation, transmission or environmental protection. The Income Tax Rules of 1962 (or 2026 Rules for the 2025 Act) give increased depreciation for plant and machinery like solar power generators, wind mills and biogas plants at rates like 40% written down value, among others. However, the definition of ‘environmental protection’ is unclear.

Section 80-IA (Infrastructure): Offers a 100% profits-based deduction for enterprises involved in building, up-keeping, or managing infrastructural assets such as renewable energy plants (solar, wind, biomass). Qualification rests upon the definition of “infrastructures,” which keeps expanding through Finance Act notifications without mentioning any specific environmental criterion.

Section 35 (Scientific Research Deduction): Allows weighted deductions (up to 200%) for expenditures incurred on research, which includes scientific research. The definition of “scientific research” is quite wide, including activities which may not result in any environmental benefits.

Section 115BBG (Taxation of Carbon Credit Income): Imposes tax at the concessional rate of 10% on the income resulting from the sale of carbon credits, but denies deduction for related expenditures. Although the above tax provision is concerned with taxation, it fails to lay down any rule regarding the accounting classification (Inventory/Intangible) of the carbon credits and their verification.

Proposed CSR-linked Tax Relief Measures (Budget 2026): The Union Budget 2026 proposed income tax relief (of 30% of qualifying expenditure) for expenditure made by companies towards vocational training and green infrastructure through their CSR spending. However, there is ambiguity regarding the eligibility, verification criteria and linkage with section 135 CSR provisions.

Finance Act Amendments

The Finance Acts are amended every year to make changes in depreciation rates, cess exemption (such as clean energy cess), and green incentives. These changes are often done on a reactionary basis without an environmental taxonomy or outcome-based conditionality.

CBDT Circulars and FAQs

CBDT issues circulars and frequently asked questions (FAQs) that provide clarity on the eligibility criteria, classification, and compliance rules for the green assets. The Circular No. 1/2026 provided clarification on solar power assets as per Section 32, but it did not cover grey areas such as hybrid energy sources.

Accounting Standards

Ind AS 16 (Property, Plant and Equipment): Governs capitalisation and depreciation of green CAPEX. **Ind AS 38 (Intangible Assets):** Applies to carbon credits and emissions allowances, though classification (inventory vs. intangible) remains contentious.

Research Objectives

The study pursues three primary objectives

1. To study the provisions of laws that have been made with regard to green tax incentives for corporates.
2. To study the application of the existing anti-abuse provisions such as General Anti-Avoidance Rule (GAAR), doctrine of substance over form, and revisionary power of the commissioner of income tax under Section 263 in order to combat greenwashing.
3. To discuss the feasibility of using the core assurance framework of BRSR introduced by SEBI as an external verification process for tax eligibility.

Literature Reviews:

With regard to the impact of the environmental protection tax (EPT) on corporate ESG greenwashing, this study takes the implementation of the Environmental Protection Tax Law (EPTL) as the quasi-natural experiment through using sample data from A-shares listed in Shanghai and Shenzhen Stock Exchanges during 2015-2022. The findings from applying the Difference-in-Differences model to investigate the impact and mechanisms of EPT on corporate ESG greenwashing are as follows: (1) The EPT helps restrain the phenomenon of ESG greenwashing by the firms, and the effect is more evident among non-state-owned enterprises, non-labor-intensive enterprises, low-competition industries, and enterprises located in the east-central regions of China. (2) In terms of mechanisms, reducing information asymmetry and facilitating green transformation are two key ways. (3) The effect of the EPT on restraining ESG greenwashing increases when the ESG rating is higher. Jia, H., & Liu, J. (2025)[1].

The mechanism tests indicate that the EPT creates governance pressure but fails to generate more resources, leading to a higher chance of greenwashing to fulfill compliance requirements. According to the empirical findings, the EPT leads firms to resort to ESG greenwashing, which contributes to an increase in ESG greenwashing by about 13.16% on average. In addition, the impact of the EPT on ESG greenwashing is stronger for large firms and firms from regions characterized by highly developed economies and strict regulations according to Jiang, C., Li, X.-Z., Xu, Q., & Liu, J, (2024)[2]

The Environment Protection Act, 1986" punishes any violation of environment-related regulations. "The Advertising Standards Council of India" mandates that in advertisement regarding environment claims it should be explicit, clear and not misleading. The "Central Consumer Protection Authority" has published the "Guidelines for Prevention and Regulation of Greenwashing or Misleading Environmental Claims 2024" which is a path-breaking move in the legal framework on "green washing" in India. The Guidelines mandate verifiable proof and third-party certification in case of environmental marketing claims. Violation of such guidelines is punishable with hefty fines and even imprisonment. Technology can prove instrumental in dealing with green washing by providing the necessary means and resources and hence ensuring proper effort towards environmental sustainability. This research paper throws light on the emerging trend of Greenwashing as a misleading form of advertising and its effect on sustainability and future steps to counter the problem through technology by Divya, K. (2025)[3].

Research Problem

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[1] Jia, H., & Liu, J. (2025). The Impact of Environmental Protection Tax Towards Corporate ESG Greenwashing. *Sustainability*. https://doi.org/10.3390/su17219559.

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[3] Divya, K. (2025). A STUDY ON GREENWASHING AS A NEW MISLEADING ADVERTISING TECHNIQUE AND ITS IMPACT ON SUSTAINABILITY- A LEGAL ANALYSIS. *ASET JOURNAL OF MANAGEMENT SCIENCE*. https://doi.org/10.47059/ajms/v4i5/03

ISSN: 2581-9429 Volume 6, Issue 1, September 2026 Impact Factor: 8.2

Despite the move towards sustainability in Indian government policies, there is no strong legal framework to prevent companies from indulging in greenwashing in relation to corporate tax benefits for environmental activities. The criteria for determining what constitutes an environmental activity is unclear, and no independent verification of this is required.

Research Gap

Existing scholarship on ESG and taxation in India focuses on disclosure mandates (BRSR), CSR compliance, or the macroeconomic effects of environmental taxes. There is limited doctrinal analysis of how India's corporate tax provisions—specifically deductions, accelerated depreciation, and proposed CSR reliefs—interact with greenwashing risks, and how anti-abuse rules (GAAR, revision powers) can be leveraged or reformed to prevent misuse. Comparative studies on green-taxonomy-linked tax incentives (e.g., EU) remain underexplored in the Indian legal context

III. METHODOLOGY

The present research uses a doctrinal legal research method that involves an extensive analysis of legal primary sources (statutes, regulations, guidelines, case law), as well as secondary legal materials (policy documents, academic reviews, industry studies). The analytical approach includes statutory interpretation techniques (textual, purposive and harmonious), anti-abuse doctrines, and comparative policy analysis (EU green taxonomy, OECD environmental taxation).

IV. GREENWASHING IN TAX CONTEXT: CONCEPTUAL AND DOCTRINAL ANALYSIS

Defining Greenwashing

The current study adopts a doctrinal legal research approach, which includes an in-depth analysis of primary legal materials (legislation, rules, guidelines, and case law), as well as secondary legal literature (policies, reviews, industrial reports). The methodology applied includes statutory interpretation approaches (textual, purposive and harmonious), anti-abuse doctrines, and comparative policy analysis (EU green taxonomy, OECD environmental taxation). Doctrine Application of Anti-Abuse Rules

GAAR (General Anti-Avoidance Rules): The tax administration may disallow the benefits when the arrangement would be considered an "impermissible avoidance arrangement" lacking economic substance or intended mainly for tax avoidance under Sections 95-102 of the Income Tax Act, 1961 (and in the 2025 Act). In the case of environmental considerations, the application of GAAR will come into play where a corporation arranges the transaction in such a way that it earns green deductions with no actual effect on the environment (for example, installing solar panels purely for depreciation purposes with no intention of operating them).

Substance Over Form and Beneficial Ownership: The courts have always upheld the concept of taxation based on economic substance rather than form. For example, in the situation where a corporation attempts to earn deductions on "green" assets owned by SPVs which are not under operational control, the concept of substance over form can be applied.

Revisionary Powers of the Commissioner (Section 263): **The Commissioner can revise** assessment orders which are "erroneous and prejudicial to the interests of the revenue." This provision has been used increasingly to counter claims of excessive greensness, especially when depreciation rates are claimed on marginal green assets (for instance, energy-efficient heating ventilation and air conditioning (HVAC) systems for commercial purposes, not manufacturing).

Trends in Case Law and Tribunals;

Though there is no direct case law on greenwashing, there are tribunals' decisions on claims regarding "energy efficiency" and depreciation where interpretation differences arise. For example, in ACIT v. Gujarat Alkalies & Chemicals Ltd. (2023), the tribunal rejected a claim for accelerated depreciation of pollution control apparatus because it did not satisfy the "wholly and exclusively" test for environmental protection.

ISSN: 2581-9429 Volume 6, Issue 1, September 2026 Impact Factor: 8.2

V. INTERPRETIVE GAPS AND AMBIGUITIES IN THE INCOME-TAX ACT, 2025

Ambiguities in “Environmental” or “Green” Assets Definition

The Income-tax Act, 2025 (in line with its predecessor in 1961) fails to provide a statutory definition of “environmental protection” or “green asset.” While Rule 5 of the Income-tax Rules, 2026 specifies eligible assets (e.g., solar power generators, wind mills), hybrid systems, energy storage systems, or circular economy infrastructure (such as waste-to-energy plants) remain ineligible. Such ambiguity allows companies to claim deduction for green assets with little environmental benefits.

No Output-Based Criteria

The existing provisions of law allow input-based criteria such as capital investments in certain assets instead of outcome-based criteria such as emission reduction. Accelerated depreciation can be claimed on solar panels without evidence of energy generation or carbon reduction.

Fragmentation across Income-tax Act, Companies Act (CSR) & SEBI’s BRSR Regulations

The incentives for environmental protection activities are spread over various statutes including Income-tax Act, the Companies Act, 2013 (CSR) and SEBI’s BRSR regulations. Such fragmented approach results in silos in terms of compliance where a company complies with one regulatory framework but fails in another one.

Risk Areas

- **Accelerated Depreciation on Borderline Assets:** Energy-efficient lighting, HVAC systems, or “green” buildings with minimal ecological impact.
- **CSR Spend Misclassification:** Labelling non-green CSR projects (e.g., education, healthcare) as “green infrastructure” to access proposed tax reliefs.
- **Carbon Credit Accounting:** Classifying carbon credits as inventory (to defer tax) vs. intangible assets (to claim amortisation), without verified emissions reductions.

VI. BRSR CORE ASSURANCE AS A VERIFICATION MECHANISM

Overview of SEBI’s BRSR and BRSR Core Framework

The mandatory BRSR reporting framework by SEBI for the top 1,000 listed companies starting from FY 2026-27 necessitates complete ESG reporting in nine principles (such as environmental sustainability and human rights). The sub-set of BRSR Core (which is mandatory for top 150 listed entities from FY 2026-27 onwards and subsequently for the top 1,000 listed entities in FY 2028-29) involves mandatory assurance of key performance indicators (KPIs), including energy consumption, carbon footprint, and water use.

Value-Chain Assurance and Impact on Unlisted Suppliers

Starting from FY 2026-27, listed entities will have to ensure that the ESG information pertaining to the value chain, including unlisted suppliers/vendors, is assured.

Proposal: Third-Party Assured Alignment with BRSR of High-Value Green Deductions

In this article, it is suggested that high-value green deductions, such as deduction beyond a certain threshold value (₹10 crore), be made contingent upon third-party assurance which aligns with BRSR Core metrics. For example, when the corporation applies for accelerated depreciation for solar installations, it can provide assurance related to power generation and carbon reduction verified by a SEBI-registered auditor.

Legal Viability and Constitutional Issues

The proposal requires legislation under Income-tax Act, 2025 (for example, inserting Section 32A or modifying Section 32). The proposal cannot be legally challenged successfully on constitutional grounds such as Article 14 of equality or Article 19(1)(g) of freedom of trade, because the proposed condition would be general in nature and in public interest.

DOI: 10.48175/IJARSCT-38213

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VII. COMPARATIVE INSIGHTS: EU GREEN TAXONOMY AND OECD ENVIRONMENTAL TAX GUIDANCE

EU Model: Tax Incentives Linked to Taxonomy-Aligned Activities

"Environmentally sustainable" economic activities are classified by the European Union Sustainable Finance Taxonomy Regulation (2020/852) on the basis of six categories (such as climate change mitigation). Member states provide tax benefits such as reduced corporate tax rates and faster depreciation in relation to these taxonomies and reporting.

OECD Principles on Environmental Taxation and Anti-Abuse Design

The OECD's *Tax Incentives for Investment in Green Technologies* (2025) recommends: (i) clear eligibility criteria tied to measurable outcomes; (ii) sunset clauses to prevent perpetual subsidies; and (iii) anti-abuse rules to deter greenwashing.

Lessons for India

- **Outcome-Based Clawbacks:** Deductions should be reversible if verified outcomes (e.g., emissions reductions) are not achieved.
- **Harmonised Definitions:** Align tax definitions with BRSR metrics and EU-style taxonomy.
- **Administrative Coordination:** CBDT–SEBI–MCA data-sharing for cross-verification of green claims.

VIII. FINDINGS

1. Current Indian tax law lacks precise green definitions and outcome-based safeguards.
2. Anti-abuse doctrines (GAAR, Section 263) are underutilised in the environmental context.
3. BRSR Core assurance offers a ready-made verification infrastructure.
4. Comparative models (EU, OECD) demonstrate feasibility of taxonomy-linked incentives.

IX. . SUGGESTIONS AND POLICY RECOMMENDATIONS

Statutory Amendments

- **Embed Outcome-Based Conditions:** Amend Section 32 to require verified emissions reductions or energy generation for accelerated depreciation claims.
- **Introduce Clawback Clauses:** Insert provisions allowing tax authorities to recover deductions if environmental outcomes are not achieved within a specified period.

Administrative Safeguards

- **Mandate Third-Party ESG Assurance:** Require assurance reports for green deductions above ₹10 crore, aligned with BRSR Core metrics.
- **Harmonise Tax Definitions:** Align Income-tax Act definitions with BRSR KPIs and EU taxonomy criteria.

Institutional Coordination

- **CBDT–SEBI–MCA Data-Sharing:** Establish a shared database for cross-verification of green claims, CSR spend, and BRSR disclosures.

X. CONCLUSION

The issue of greenwashing in corporate tax claims poses a problem to India in terms of its financial integrity and net-zero ambitions as it permits the deduction of costs in case of mere compliance to the green norms without any real impact on ecology. Although there exist some doctrinal bases such as GAAR, substance-over-form approach and Section 263 of the Income-tax Act for addressing the said malpractice, their use is limited and inadequate for countering greenwashing. What makes the situation worse is that incentives are granted in terms of inputs rather than outputs. According to the current provisions of the Income-tax Act, the deduction can be claimed for capital investment in the form of solar panels, energy-saving devices, and so on, but not for the reduction of emissions and energy production. The lack of definition of the concepts of "environmental protection" and "green assets" exacerbates the problem. Statutory reforms need to include both an outcome-based conditionality as well as third-party verification. For high value green deductions exceeding ₹10 crores, there is a need for assurance reports on the basis of SEBI's BRSR Core metrics which can confirm actual performance related to carbon reductions and water savings. Since the BRSR reporting system is already mandatory for the 1,000 top-listed companies from FY 2026-27 onwards, there is no additional effort involved in putting in place a verification regime for green deductions and CSR. Some examples include the EU Taxonomy Regulation (2020/852) where incentives are linked to activities that align with taxonomy and there is mandatory assurance. There are also OECD principles that emphasize eligibility criteria based on measureable outcomes, sunset provisions and abuse prevention. For India's statutory framework, there is a need to amend Section 32 and make it mandatory to show outcome-based assurance report for accelerated depreciation, along with clawback provision in case of failure in achieving the stated outcomes and also bringing alignment between tax definition of green assets and CSR and BRSR Key Performance Indicators (KPIs).

END NOTES

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