Election Code-Conducted Cash: The Revenue's Temptation and the Rule 112F Safe Harbour



The Poll-Season Frenzy

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When India enters election mode, money doesn't just talk—it takes long, unscheduled drives in luxury SUVs, often ending up at a police checkpoint. Picture this: the Model Code of Conduct is in full swing, poll banners are fluttering, and the Static Surveillance Team stands vigilant at a highway toll Naka. They flag down an Innova, look under the seats, and *voilà*—a neat bundle of ₹10 lakhs smiles back at them.

For the Income Tax Department's Investigation Wing, this is an instant dopamine hit. They rush to the police station, invoke Section 132A, and requisition the cash faster than a candidate can make a campaign promise. But in their overzealous pursuit to dig up the taxpayer's past six years of financial history, the Revenue frequently stumbles over its own rulebook. Rule 112F of the Income-tax Rules, 1962, serves as the ultimate legal speed breaker, reminding eager Assessing Officers (AOs) that an election-related cash seizure cannot be used as an open ticket to launch a historical tax excavation.

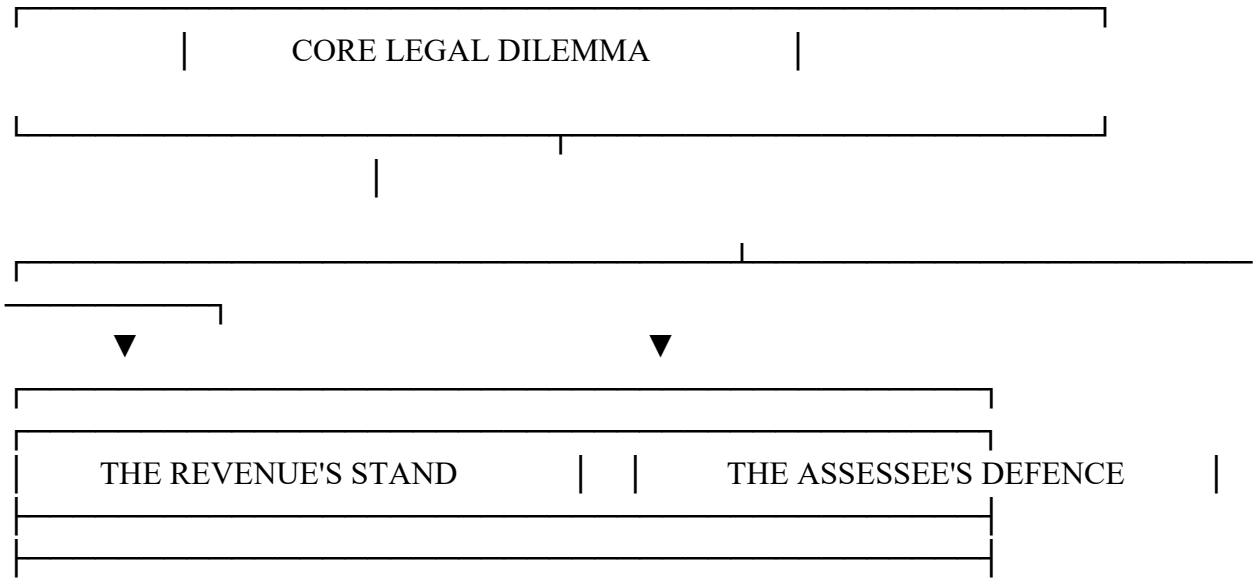
The Core Facts – A Toll Naka Checkpoint Drama

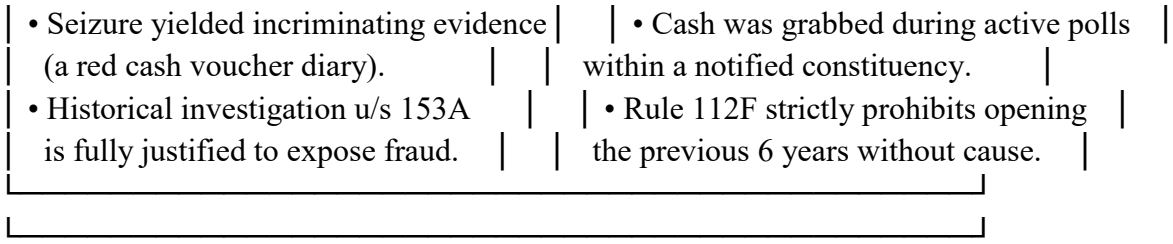
The operational mechanics of this legal framework are perfectly illustrated in the landmark ruling of ***Vijay Madan Varma v. ACIT*** **(ITAT Mumbai, May 23, 2025)**. The narrative unfolded as follows:

- **The Interception:** During the 2019 General Parliamentary Elections, a Static Surveillance Team intercepted the assessee's vehicle at the Anand Nagar Toll Naka in Mulund (East), discovering ₹10 lakhs in cash along with a red cash voucher diary.
- **The Impounding & Requisition:** The Quick Response Team (QRT) took custody of the assets at the local police station. The Income Tax authorities subsequently executed a requisition under Section 132A on April 30, 2019, drawing a proper Panchnama.
- **The Assessment Onslaught:** Armed with the seized diary, the AO recorded statements under Section 131, alleging unrecorded cash receipts totaling ₹26.87 lakhs for AY 2019-20 and ₹17 lakhs for AY 2020-21.
- **The Six-Year Reach:** Using the Section 132A requisition as a jurisdictional launchpad, the AO issued notices under Section 153A, opening up the previous six assessment years to historical scrutiny.

The Legal Issues Stacked Before the Bench

The ITAT Mumbai Bench was called upon to untangle a foundational conflict between the Revenue's general assessment powers and election-specific safe harbours:





The pivotal issues boiled down to:

1. Whether an election-season cash interception automatically triggers the mandate of Rule 112F read with the third proviso to Section 153A.
2. Whether the absence of a mandate-specific certificate signed by the Investigating Officer (and approved by the DGIT) renders the historical reopening under Section 153A completely void ab initio.

Deconstructing Rule 112F and CBDT Circular No. 10/2012

Introduced to curb infructuous litigation, Rule 112F functions as a statutory shield. It explicitly states that when a search (u/s 132) or requisition (u/s 132A) occurs within a constituency undergoing an active election process prior to the close of polling, the AO is **precluded** from opening the standard six-year historical window.

To override this restriction, **CBDT Circular No. 10/2012** dictates that the Investigating Officer must formally certify three distinct criteria, backed by the explicit approval of the Director General of Income Tax (DGIT):

- The asset is directly connected to the ongoing election process.
- The search/requisition was conducted within the designated territorial limits during the election window.
- **Crucially:** Clear evidence exists requiring comprehensive investigation for years other than the current assessment year.

  If no such formal certificate is generated, the law presumes the seizure is an isolated, election-centric event. Consequently, the taxman is legally bound to confine their assessment exclusively to the single relevant year in which the asset was seized.

The Tribunal's Conclusions – Statutory Discipline Rules

The Tribunal firmly ruled in favor of the taxpayer, establishing a strict precedent for administrative accountability:

- **Rule 112F is Absolute:** It is undisputed that the vehicle was intercepted during an active parliamentary election period. Therefore, the case sits squarely inside the boundaries of Rule 112F.
- **Fatal Procedural Lapses:** The Revenue admitted that no statutory certificate had been executed by the Investigating Officer or approved by the DGIT.
- **The Final Verdict:** Because the department skipped this mandatory procedural checkpoint, the AO possessed zero jurisdiction to issue historical notices under Section 153A. The entire multi-year assessment chain was declared bad in law and entirely quashed.

The Interplay with Modern Regimes – Post 01-04-2021 Searches

A critical question arises: **Does this specific Rule 112F protection apply to searches and requisitions initiated after April 1, 2021?**

No, the old machinery of Rule 112F does not apply to post-01-04-2021 searches. The Finance Act, 2021 completely dismantled the old search assessment framework by sun-setting Section 153A and Section 153C. For searches executed between April 1, 2021, and August 31, 2024, assessments were redirected through the newly revamped reassessment regime under **Sections 147 to 151A**.

Under this intermediary regime, search cases were automatically treated as cases where "information suggests escapement of income." The traditional safety nets of Rule 112F were rendered obsolete because the statutory anchor—the third proviso to Section 153A—no longer existed for new operations. The AO gained the power to reopen prior years if the seized material crossed the requisite monetary thresholds (e.g., escaping income exceeding ₹50 lakhs under Section 149), bypassing the specific election-season carve-outs entirely.

Page 7: The New Horizon – Block Assessments Post 01-09-2024

Does this election-season immunity apply to the new Block Assessment regime introduced after September 1, 2024?

No, the classic Rule 112F framework does not carry over to the new block assessment mechanism. The Finance Act, 2024 brought back the concept of "Block Assessments" by introducing **Chapter XIV-B (Sections 158B to 158BI)** for all searches and requisitions initiated on or after **September 1, 2024**.

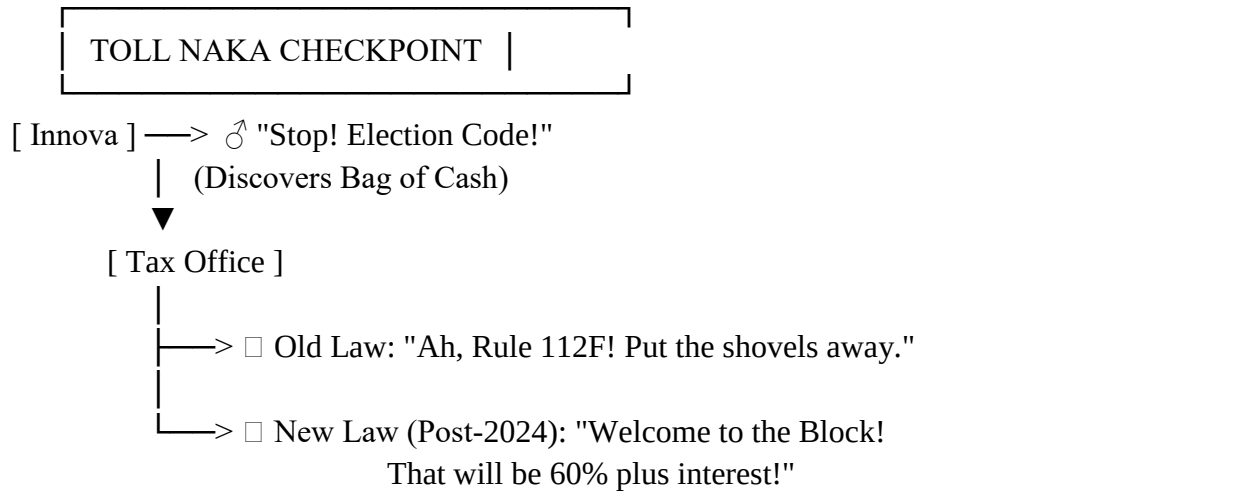
Feature	Old Search Regime (Pre-2021)	New Block Regime (Post 01-09-2024)
Assessment	Separate assessment orders for each of	One single consolidated tax assessment

Format	the 6 preceding years.	order for the entire 6-year block.
Election Protections	Protected by **Rule 112F**, confining the inquiry to a single year if no certificate exists.	**No equivalent provision.** Chapter XIV-B mandates a block review for all valid searches.
Tax Rate Penalty	Standard slab rates or Section 115BBE rates depending on the asset source.	A flat, severe tax rate of **60%** under Section 158BFA on all undisclosed block income.

Under Chapter XIV-B, once a search or requisition is lawfully triggered, the AO is statutorily required to assess the entire block period. There is no parallel provision to Rule 112F in the new law to truncate the block period for election-related seizures. The only remaining defense for a taxpayer under the modern regime is to establish that the initial interception or subsequent Section 132A requisition lacked a valid legal foundation or lacked a proper "reason to believe."

- "Next time you drive through an election toll plaza with business cash, remember: the taxman doesn't care who you are voting for, he just wants his 60% share of the ticket!"
- "Rule 112F taught the Revenue a timeless lesson: you cannot use an election-day speeding ticket to audit a driver’s lifetime mileage!"

The Election Checkpoint Realignment



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