Tax INFORM

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DIRECT TAX

A. Recent Case Laws

Pr. Commissioner of Income Tax-1, Chandigarh v. M/s. V-Con Integrated Solutions Pvt. Ltd. (Special Leave Petition (Civil) Diary No. 13205/2025)

Erroneous order after inquiry not ground for remand; proper course is merit-based decision: SC.

Where the Assessing Officer ("AO") conducts inquiries and reaches a wrong conclusion, the same does not amount to a lack of investigation. In such cases, the remedy lies in addressing the error on merits under Section 263 of the Income Tax Act, 1961 ("Act"), by the Commissioner of Income Tax ("CIT"), rather than remanding the matter citing a failure of investigation.

In this case, the Revenue Authority challenged the judgment of the Punjab and Haryana High Court, which upheld the Income Tax Appellate Tribunal's ("ITAT") decision in favour of the Assessee. The Revenue argued that the AO, despite making inquiries, failed to make necessary additions, amounting to an error. The CIT sought to invoke powers under Section 263 of the Act to revise the assessment.

The Supreme Court held that there is a distinction between the failure or absence of investigation and a wrong decision/conclusion. A wrong decision/conclusion can be corrected by the CIT with a decision on merits and by making an addition or disallowance. Hence, the Special Leave Petition ("SLP") was dismissed.

Commissioner of Income Tax v. Maruti Suzuki India Limited (Civil Appeal No.11919/2018)

SC restores order of remand for verification as to when the Assessee's claim for duty drawback was accepted.

Duty drawback does not accrue merely upon export activity but only when the relevant claim is accepted by the appropriate authorities. Determining the year of such accrual requires a factual inquiry, and therefore, limited remand by the Income Tax Appellate Tribunal ("ITAT") to the Assessing Officer ("AO") for verifying this fact is appropriate.

In this case, the main dispute centered on whether duty drawback income had accrued during the Assessment Year ("AY") 1999–2000 and if it should be included in the taxable income. The ITAT had remanded the matter to the AO for the limited purpose of verifying when the claim was accepted. The Delhi High Court, however, set aside this remand, leading to the present appeal.

The Supreme Court partly allowed the appeal, restoring the ITAT's limited order of remand. It ruled that the question of accrual of income from duty drawback is a matter of fact and depends on whether the claim was accepted in the relevant year. The Court found no

justification for the High Court's interference and directed that the AO should verify the year of acceptance and make additions only if the claim was accepted in that year. The other connected appeals were disposed of in line with this decision.

Malabar Institute of Medical Sciences Ltd. v. Deputy Commissioner of Income Tax (ITA No. 11 of 2025)

Separate challenge to order of remand under Section 263 not needed to contest consequent order: Kerala HC.

An order passed under Section 263 of the Income Tax Act, 1961 ("Act"), which remands the case for fresh consideration on merits, cannot be treated as a "closed remand." Thus, the Assessee need not question the order under Section 263 of the Act in a separate proceeding.

In this case, the Assessee challenged the Income Tax Appellate Tribunal's ("ITAT") order dismissing its appeal as not maintainable. The original assessment was revised under Section 263 of the Act on the ground that the Assessing Officer ("AO") failed to conduct a proper inquiry regarding depreciation set-off under Section 115JB of the Act. The Commissioner of Income Tax ("CIT") set aside the assessment and remanded it to the AO, who passed a revised order. The Assessee filed an appeal against this decision, but the ITAT dismissed it, stating that the Assessee did not independently challenge the order under Section 263 of the Act.

The Kerala High Court allowed the appeal of the Assessee, holding that the remand under Section 263 of the Act was open-ended and required fresh consideration on merits. Since the revised assessment and appellate orders had been passed on merits, ITAT was wrong in rejecting the Assessee's appeal as not maintainable. The Court set aside the ITAT's order and restored the appeal for decision on merits.

Vidarbha Veneere Industries Ltd. v. Income Tax Officer (Income Tax Appeal No. 34 of 2022)

Bombay HC holds that Section 50C is applicable to transfer of leasehold rights.

Section 50C of the Income Tax Act, 1961 ("Act"), applies to transfers of leasehold rights in land or buildings, not just to transfers of freehold property. The term "capital asset" as defined under Section 2(14) of the Act includes any kind of property "held" by an Assessee, and this holding need not be ownership, and it can include leases or assignments. Hence, leasehold rights are subject to capital gains provisions, including the deemed valuation rule under Section 50C of the Act.

In this case, the Assessee (in liquidation) had acquired leasehold rights in plots of land originally leased by the Maharashtra Industrial Development Corporation ("MIDC"). Upon transfer of these rights, the Income Tax Department invoked Section 50C of the Act, applying stamp duty valuation for arriving at the deemed consideration amount. The Assessee filed an appeal and challenged this, arguing that leasehold rights do not qualify as "land or building" under Section 50C of the Act.

The Bombay High Court dismissed the appeal, concluding that the mode of holding property, whether as an owner, lessee, or otherwise, does not exempt it from Section 50C of the Act. It clarified that the Section applies broadly to all forms of property "held" by the Assessee, including leasehold rights. The Bombay High Court also refused to follow the precedent set in Atul G. Puranik v. Income Tax Officer [(2011) 30 CCH 0239 MumTrib], holding that it failed to properly interpret the interplay between Sections 2(14) and 50C of the Act. Accordingly, the appeal was dismissed.

M/s. Sanmar Speciality Chemicals Limited v. Assistant Commissioner of Income-Tax (T.C.(A) No. 493 of 2013)

Madras HC allows deduction for contributions to an approved gratuity fund.

Section 40A(7)(b) of the Income Tax Act, 1961 ("Act"), allows deduction for contributions to an approved gratuity fund and is a specific provision that overrides the general provision of Section 43B of the Act, which mandates deductions based on actual payment. Assessee is entitled to claim the deduction under Section 40A(7)(b) without being restricted by Section 43B for contributions made to an approved gratuity fund supported by documentary evidence.

The Assessee had made a provision towards an approved gratuity fund managed by LIC and claimed a deduction in its returns for AY 2008-09. While the Assessing Officer ("AO") disallowed the deduction invoking Section 43B of the Act due to the alleged absence of actual payment, the Commissioner of Income Tax Appeals ("CIT(A)") allowed the deduction. However, the Income Tax Appellate Tribunal ("ITAT") reversed the CIT(A)'s decision, consequently leading to the Assessee filing an appeal before the Madras High Court.

The Madras High Court allowed the appeal, holding that contributions to an approved gratuity fund, even if made by way of a provision, are deductible under Section 40A(7)(b) of the Act without requiring actual payment under Section 43B. The Court noted that similar deductions were accepted for the previous and subsequent assessment years and found sufficient evidence supporting the approved status of the gratuity fund. Consequently, the Madras High Court set aside the order of the ITAT.

B. Notifications/Circulars

Circular No. 5/2025, dated March 28, 2025

In exercise of the powers under Section 119 of the Income Tax Act, 1961 ("Act"), the Central Board of Direct Taxes has directed that the Chief Commissioner of Income-tax ("CCIT") or Director General of Income-tax ("DGIT") [or in case there is no CCIT and DGIT, then Principal

Chief Commissioner of Income-tax ("PrCCIT")] may reduce or waive interest charged under Section 201(IA)(ii) or Section 206C(7) of the Act in the class of cases where:

- the payment is initiated by the taxpayers/deductors/collectors and the amounts are debited from their bank accounts on or before the due date, and
- the tax could not be credited to the Central Government before the due date because of technical problems, beyond the control of the taxpayer/deductor/collector.

The CCIT or DGIT or PrCCIT, as the case may be, examining an application for waiver of interest under this order, must pass a speaking order after providing adequate opportunity of being heard to the applicant and after verification of technical glitches from the bank/Directorate of Systems.

Even if the interest under said provisions has already been paid by the taxpayer, the same can be considered for waiver, and a refund may be given to the deductor if waiver is ordered.

It is made clear that no waiver application will be entertained beyond one year from the end of the financial year for which the interest is charged.

An application received for waiver of interest under Section 201(IA)(ii) or Section 206C(7) of the Act must be disposed of within a period of six months from the end of the month in which such application is received.

The order issued by the CCIT, DGIT, or PrCCIT, as the case may be, shall be final, and no petition against such order shall be entertained by the Board.

Click here to read the circular.

Notification No. 27/2025, dated April 4, 2025

Withdrawals under Clause (a) of Sub-section (2) of Section 80CCA of the Income Tax Act, 1961 ("Act"), made by individuals, will not be subject to tax deduction at source ("TDS") under Section 194EE (Payments in respect of deposits under National Savings Scheme, etc) of the Act. Essentially, individuals who withdraw amounts related to 80CCA after this notification are exempt from TDS under Section 194EE.

Click here to read the notification.

INDIRECT TAX

Goods & Services Tax

A. Recent Case Laws

Central Board of Indirect Taxes and Customs v. M/s. Aberdare Technologies Private Limited & Ors. (Special Leave Petition (Civil) Diary No. 6332/2025)

Clerical errors should be allowed to be corrected unless there is a strong justification to deny correction: SC.

Human errors in filing returns under Goods and Services Tax ("GST") law, especially clerical or arithmetical mistakes leading to denial of Input Tax Credit ("ITC"), should be allowed to be corrected unless there is a strong justification to deny such correction. Software limitations cannot be a valid ground to deny the right to rectify errors, as the right to correct such mistakes is integral to the right to do business.

The Central Board of Indirect Taxes and Customs ("CBIC") filed a Special Leave Petition challenging the Bombay High Court's decision, which allowed the Assessee company to correct a bona fide error in its GST returns. The High Court ruled in favour of the taxpayer since no revenue loss was caused. The Revenue Authority sought to deny the correction, citing procedural timelines.

The Supreme Court dismissed the Special Leave Petition, upholding the Bombay High Court's decision as just and fair, given there was no loss of revenue. The Supreme Court advised the Revenue Authority to reconsider the rigidity of correction timelines under GST law and noted that genuine business errors must be accommodated to prevent unjust hardship to taxpayers.

M/s. Safan Fasteners v. Assistant Commissioner & Ors. (Writ Petition No. 9359 of 2025 (T-Res))

Karnataka HC rules blocking of ITC without pre-decisional hearing as invalid.

Blocking a taxpayer's Electronic Credit Ledger ("ECL") without giving a prior hearing leads to violation of the principles of natural justice. Even though Rule 86A of the Central Goods and Services Tax Rules, 2017 ("CGST Rules") does not expressly mandate a pre-decisional hearing, a requirement must be read into the rule because blocking Input Tax Credit ("ITC") entails serious civil consequences. Authorities must independently form "reasons to believe" based on tangible material and not rely on external reports.

In this case, the Revenue Authority blocked the ITC of the Assessee without any prior hearing or independent inquiry by the concerned authorities and the same was challenged before the Karnataka High Court. The Assessee contended that the action was arbitrary and reflects a premeditated conclusion, based merely on a field report of another officer, without any proper

investigation or recording of an independent opinion as required under Rule 86A of the CGST Rules.

The Karnataka High Court allowed the writ petition and quashed the orders blocking the ITC. The Court held that before blocking the credit, the authority must conduct an independent inquiry and form a reasoned belief based on objective material. Borrowed satisfaction from another officer's findings is not sufficient. It reiterated that drastic powers like blocking ITC must be exercised with utmost care, caution, and fairness. Accordingly, the Court directed the immediate unblocking of the Assessee's ITC.

M/s. Sane Retails Private Limited v. State of Bihar & Ors. (Civil Writ Jurisdiction Case No.470 of 2024)

Physical receipt not mandatory for ITC if goods delivered directly to consumers: Patna HC.

Physical delivery of goods is not mandatory to claim Input Tax Credit ("ITC") under Section 16(2)(b) of the Central Goods and Services Tax Act ("CGST Act")/ Bihar Goods and Services Tax Act, 2017 ("BGST Act") if goods are delivered directly to the end customer as per the dealer's instructions. CGST Act permits "deemed receipt" based on documentary evidence, such as tax invoices and e-way bills, even if the goods are not physically received by the dealer.

The petitioner was a trader in consumer goods who had instructed suppliers to deliver goods directly to end customers to avoid logistical inefficiencies. Despite producing documents such as tax invoices, e-way bills, payment proofs, and correspondence demonstrating genuine transactions, the Tax Authorities denied ITC solely on the ground of non-receipt of goods at the premises of the petitioner, subsequently leading to the filing of writ petitions before the Patna High Court. The petitioner argued that taxes were duly paid by suppliers to the government and that the business model followed was valid under Goods and Services Tax ("GST") law.

The Patna High Court quashed the denial of ITC to the petitioners, and interpreted "receipt" widely, observing that requiring physical receipt at a specific location could unjustly hinder legitimate business models and that compliance with tax payment and documentation is sufficient. Relying on the Explanation to Section 16(2)(b) of the CGST Act and CBIC Circular No. 241/35/2024-GST, the Court recognized the legality of the "bill-to-ship-to" model and the concept of deemed receipt, where receipt of goods could occur at a location other than the dealer's premises or even at a later stage. The Court held that once tax is paid, and statutory conditions are met, ITC cannot be denied on mere technicalities.

TATA Steel Ltd. v. State of Jharkhand & Ors. (W.P. (T) No. 2900 of 2024)

Proof of payment not required for export of goods to claim ITC: Jharkhand HC.

Refund of accumulated Input Tax Credit ("ITC") of Compensation Cess cannot be denied based on extraneous grounds not supported by the Central Goods and Services Tax Act ("CGST Act"), CGST Rules, or binding Central Board of Indirect Tax and Customs ("CBIC") circulars. Proof of payment within 180 days is required only for the export of services and not of goods. Rejection of refund applications must strictly align with statutory provisions and prescribed CBIC circulars, and not on arbitrary technical objections.

The Assessee exported goods under a Letter of Undertaking without payment of tax, resulting in an accumulation of ITC of Compensation Cess. Subsequently, it filed a refund claim, which was rejected by the Tax Authorities, citing alleged deficiencies such as non-furnishing of proof of payment within 180 days, export proof within 90 days, and certain declarations and undertakings. Thereafter, the Assessee filed an appeal, but the same was rejected, leading to a writ petition being filed before the Jharkhand High Court.

The Jharkhand High Court quashed the order rejecting the refund claim and ruled that proof of receipt of payment is only needed for the export of services and not of goods. The Court further held that as reconciliation of Shipping Bills and export invoices was provided by the Assessee, the same was sufficient. Therefore, the Court quashed both the refund rejection and appellate orders, directing the Tax Authorities to refund the amount with interest within 12 weeks from the date of receipt/production of copy of the High Court order.

Daiichi Sankyo Company Limited v. Malvinder Mohan Singh & Ors. (O.M.P.(EFA)(COMM.) 6/2016)

Court auctioneer not liable to pay GST on auction sale: Delhi HC.

Court appointed auctioneer is not a "manager" contemplated under Section 92 of the Central Goods and Services Tax Act ("CGST Act") tasked with a duty to manage the business of Objector and hence cannot be made liable under Section 92 of the CGST Act to pay Goods and Services Tax ("GST") to the Tax Authorities. The liability for paying GST remains that of the seller or buyer, as the case may be, under the GST Act and Rules.

In this case, in enforcement proceedings following an arbitral award, the "Fortis" trademark was sold via public auction, where Fortis Healthcare Ltd. ("FHL") emerged as the sole bidder. FHL sought direction from the Court clarifying that the court auctioneer should be responsible for paying GST on the transaction under Section 92 of the CGST Act, apprehending non-payment by the seller, RHC Healthcare Management Services Private Limited ("RHCHM"). FHL raised concerns about the GST liability due to RHCHM's allegedly cancelled registration, seeking pre-emptive directions from the Court to address potential GST compliance issues.

The Delhi High Court turned down FHL's request, clarifying that the auctioneer appointed by the Court was only tasked with overseeing the auction process and was not managing the affairs of RHCHM. Consequently, the Court found that Section 92 of the CGST Act had no relevance to the situation. It further emphasized that the obligation to ensure GST compliance rests with the parties involved in the transaction, either the seller or the buyer, as per statutory provisions. Considering it premature to pass any advance orders concerning GST liabilities, the Court directed all parties to adhere to all GST laws applicable to the sale.

B. Notifications/Circulars

Notification No. 2/2025-Central Excise, dated April 7, 2025

This amendment revises the specific rates of central excise duty on petrol and diesel. Effective from April 8, 2025, the excise duty on petrol is set at Rs. 13 per litre, and the excise duty on diesel is set at Rs. 10 per litre.

Click here to read the notification.

Circular No. 248/05/2025-GST, dated March 27, 2025

This circular was issued to clarify key aspects of the GST amnesty scheme under Section 128A of the Central Goods and Services Tax Act ("CGST Act"). This scheme provides relief for interest/penalty on tax demands for the period July 2017 to March 2020. The circular addresses eligibility for payments made via GSTR-3B, mandates DRC-03 for post-November 2024 payments, and outlines procedures for cases with partial-period coverage in demands.

Click here to read the circular.

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