Tax INFORM

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Circulars and Notifications:

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DIRECT TAX

A. Recent Case Laws

Procter and Gamble Home Products Pvt. Ltd. v. Income Tax Appellate Tribunal & Ors. [WP 1960/2023)

ITAT exceeded jurisdiction by reassessing finalised income classification: Bombay HC.

It was recently held that the jurisdiction of the Income Tax Appellate Tribunal (ITAT) under Section 254(2) of the Income Tax Act, 1961, is limited to rectifying mistakes apparent from the record and does not extend to a substantive review. Since the ITAT had previously determined the income receivable as “income from other sources”, the same cannot be reclassified as "income from house property".

In this case, the Petitioner, Procter and Gamble Home Products Pvt. Ltd., had let out portions of its building and shared its premises with PGHH under a cost-sharing arrangement. The Assessing Officer initially taxed the notional rent under "income from house property," which was upheld by the Commissioner of Income Tax (Appeals). However, the ITAT, in an earlier order, classified the income as "income from other sources." The Revenue filed a Miscellaneous Application challenging this classification, leading to a reconsideration by the ITAT, which then reclassified the income as "income from house property." The Petitioner challenged this reassessment, arguing that ITAT had no authority to alter its prior ruling.

The High Court ruled in favour of the Petitioner, setting aside ITAT’s order and holding that it had no jurisdiction to review its previous order. The Court remanded the matter back to the ITAT, directing it to decide only on the grounds that remained unresolved, specifically those related to the real income theory and expense deductions.

Principal Commissioner of Income Tax v. Shree Ganesh Developers [ITA 719/2018]

Bogus purchases’ total amount must be added to income: Bombay HC.

In cases of bogus purchases, the entire purchase amount should be added to the income of the Assessee, rather than merely estimating a profit percentage. Merely estimating a profit margin on such unverified purchases, despite the failure to prove the genuineness of purchases, would undermine the provisions of Section 69C of the Income Tax Act, 1961.

The Assessee filed its income tax return declaring INR 61,05,420, which was selected for scrutiny. Subsequently, the Assessing Officer (AO) passed an assessment order under Section 143(3) of the Act, assessing the income at INR 15,41,95,860 by adding INR 14,30,90,442 for alleged bogus purchases and INR 50,00,000 under Section 68 of the Act. The Assessee filed an appeal against this order before the Commissioner of Income Tax (Appeals) [CIT(A)]. CIT(A) deleted the additions except for purchases from M/s Neptune Trading Co. and Hari Om

Traders, for which only 12.5% of the purchases were upheld as additions. The Revenue Authority challenged this order before the Income Tax Appellate Tribunal (ITAT), arguing that CIT(A) erred in applying a 12.5% profit estimate instead of disallowing entire purchases. However, the Tribunal upheld the decision of CIT(A) in its entirety. Consequently, the Revenue Authority appealed against ITAT's order on substantial questions of law.

The Bombay High Court accepted the Revenue Authority's contention that ITAT erred in applying a profit margin approach without disallowing the entire purchases under Section 69C of the Act. The High Court ruled in favour of the Revenue Authority concerning purchases from M/s Neptune Trading Co. and Hari Om Traders, holding that the entire purchase amount must be added back as these entities failed to furnish bank statements during remand proceedings.

Vodafone Mobile Services Ltd. v. Deputy Commissioner of Income Tax [ITA 660/2018]

Delhi HC allows ARC deduction under Section 37, remands interest deduction issue for reassessment.

Expenses incurred on Asset Reconstruction Cost (ARC) are allowable as deductions under Section 37 of the Income-tax Act, 1961, if an expenditure is not capital in nature and is wholly and exclusively laid out for business purposes.

The Assessee, Vodafone Mobile Services Ltd., claimed deductions on ARC, asserting that it constituted business expenditure under Section 37 of the Act, while the Revenue Authority contended that the claim was not allowable. Additionally, another issue pertained to interest deductions under Section 36(1)(iii) of the Act concerning capital borrowed for installing cell site towers. The Income Tax Appellate Tribunal (ITAT) held that the installation constituted an "extension of an existing business," thereby making the interest on borrowed capital non-deductible until the assets were put to use. The Revenue Authority argued that under the unamended proviso to Section 36(1)(iii) of the Act, interest on capital borrowed for business expansion could not be deducted until the asset was operational. The Assessee challenged the ITAT's inconsistent findings regarding the operational status of the cell sites.

The Delhi High clarified that the usage of the terms "laid out" and "expended" in Section 37 of the Act is not limited to immediate expenditure but includes amounts set aside for a specific business objective, and held expenses incurred on ARC as deductible under Section 37 of the Act. However, on the issue of interest deduction under Section 36(1)(iii) of the Act, the Court found ITAT's reasoning contradictory, as it both stated that the cell sites were not in use and relied on the Directors' Report indicating that they were operational. Consequently, the matter was remanded to the Revenue for reconsideration.

Maruti Suzuki India Ltd. v. Deputy Commissioner of Income Tax [WP(C) 9786/2016]

Reassessment proceedings must be based on new and tangible material and not change of opinion: Delhi HC.

Reassessment proceedings under Section 147 of the Income Tax Act, 1961, must be based on new and tangible material that was not available during the original assessment and not merely on account of a change of opinion. Additionally, reassessment proceedings must be initiated within the statutory time limit under Section 149 of the Act, and the mere generation of a notice is insufficient; its actual issuance within the prescribed time is critical.

In this case, the Petitioner, Maruti Suzuki India Ltd., had originally disclosed all relevant facts regarding certain transactions and deductions claimed under Section 35(2AB) of the Act during assessment proceedings. The assessment was completed under Section 143(3), accepting the Petitioner's position. However, the Revenue Authority later initiated reassessment proceedings under Section 147 of the Act on the ground that certain deductions and capital gains had not been properly examined. The Petitioner challenged the reassessment, arguing that there was no fresh material justifying the reopening and that the Assessing Officer (AO) was merely revisiting the same issues based on a change of opinion. The Revenue Authority contended that reassessment was warranted due to alleged discrepancies noticed in later assessment years and additional reports that suggested underreported income.

The Delhi High Court ruled in favour of the Assessee, holding that reassessment proceedings were invalid as they were based on a mere change of opinion. It emphasised that once an issue has been examined and settled during the original assessment, it cannot be reopened without fresh, tangible material. The Court reaffirmed that reassessment powers under Section 147 of the Act cannot be used to circumvent the principle of finality and consistency in tax matters. Further, the High Court emphasised that for reassessment to be valid, the notice must be issued within the prescribed period, and the mere generation of a notice is insufficient. Consequently, the reassessment notice was quashed, and the original assessment order was upheld.

Cargill India Private Limited v. Central Board of Direct Taxes [WP(C) 399/2022]

Power to grant relaxation under Rule 9C is discretionary: Delhi HC.

The Central Government's power to relax conditions under Rule 9C of the Income Tax Rules, 1962, in relation to the carry-forward of losses under Section 72A of the Income Tax Act, 1961, is discretionary and must be exercised objectively. The purpose of Section 72A of the Act is to incentivise the revival of financially unviable industrial undertakings, and relaxation should only be granted in exceptional cases where genuine efforts to achieve compliance are demonstrated.

In this case, the Assessee, Cargill India Private Limited, had amalgamated four companies, inheriting their accumulated losses and unabsorbed depreciation amounting to INR 141 crores. Under Section 72A of the Act, the set-off and carry-forward of such losses required compliance with Rule 9C of the Rules, which mandates that the amalgamated company achieve at least 50% of the installed production capacity within four years and maintain it for one additional year. The Assessee sought relaxation of this requirement and an extension of three years beyond the prescribed period under Rule 9C of the Rules, citing challenges such as

power shortages, fuel cost fluctuations, and market conditions that prevented it from achieving the required production level at one of the amalgamated entities' plants. The Revenue Authority rejected the application, arguing that the conditions laid down under Rule 9C of their Rules were not satisfied and that the mitigating factors being claimed did not justify an exemption. Subsequently, the Assessee filed a petition before the Delhi High Court.

The Delhi High Court upheld the rejection of the Assessee's application, noting that even during the extended three-year period, the Assessee failed to achieve the requisite production capacity and found the decision of the Revenue Authority to be neither arbitrary nor unreasonable. The Court reiterated that the purpose of Section 72A of the Act is to facilitate genuine business revival, not merely to provide a tax advantage. Since the Assessee failed to meet the objective criteria under Rule 9C of the Rules, the petition was dismissed.

B. Notifications/Circulars

Circular No. 2/2025, dated February 18, 2025

The Central Board of Direct Taxes (CBDT), in the exercise of its powers under section 119(2)(b) of the Income Tax Act, 1961, has extended the due date of filing of report of the accountant as required to be filed under Sub-section (8) of Section 10AA read with Sub-section (5) of Section 10A of the Act, for Assessment Year (AY) 2024-25 from the specified date under Section 44AB of the Act to March 31, 2025.

Click here to read the circular.

Circular No. 3/2025, dated February 20, 2025

The Central Board of Direct Taxes (CBDT) has issued a circular, providing guidelines on income-tax deduction from salaries under Section 192 for Financial Year (FY) 2024-25. This circular incorporates amendments from the Finance (No. 2) Act of 2024, Finance (No. 1) Act of 2024, and Finance Act of 2023, including revised tax rates, surcharge rates, and provisions related to the New Tax Regime under Section 115BAC. Where no amendments have been made, Circular No. 24/2022 will continue to apply.

As per the amendment vide Finance (No.2) Act, 2024, the provisions related to Surcharge (under the Old Tax Regime) applicable in the case of every individual are as follows:

Sl.No	Total Income	Surcharge Rate on the amount of income tax under old tax regime
A.	More than Rs. 50 lakhs ≤ Rs. 1 Crore (including the income by way of dividend or income under sections 111A or 112 or 112A)	10%
B.	More than Rs. 1 Crore ≤ Rs. 2 Crore (including the income by way of dividend or income under sections 111A or 112 or 112A)	15%
C.	More than Rs. 2 Crore ≤ Rs. 5 Crore (excluding the income by way of dividend or income under sections 111A or 112 or 112A)	25%
D.	More than Rs. 5 Crore (excluding the income by way of dividend or income under sections 111A or 112 or 112A)	37%
E.	More than Rs. 2 Crore (including the income by way of dividend or income under sections 111A or 112 or 112A), not covered under C and D above	15%

As per the amendment vide Finance (No.2) Act, 2024 in respect of section 115BAC, the rates of income tax (under the New Tax Regime) for the FY 2024-25 are as follows:

Sl.No.	Total Income	Rate of Tax
1.	Up to Rs.3,00,000	Nil
2.	From Rs.3,00,001 to Rs.7,00,000	5 per cent
3.	From Rs.7,00,001 to Rs.10,00,000	10 per cent
4.	From Rs.10,00,001 to Rs.12,00,000	15 per cent
5.	From Rs.12,00,001 to Rs.15,00,000	20 per cent
6.	Above Rs.15,00,000	30 per cent

Form 16 (TDS Certificate) has been amended under the Income-tax (Fifth Amendment) Rules, 2023, and further modified by the Income-tax (Eighth Amendment) Rules, 2024, effective October 15, 2024.

Form 24Q (TDS Statement for Salaries) has been updated to include a new column for reporting "other tax deducted at source or collected at source" under Section 192(2B) and amendments to provide a more detailed breakdown of salary components and deductions.

Click here to read the circular.

INDIRECT TAX

Goods & Services Tax

Recent Case Laws

Radhika Agarwal v. Union of India & Ors. [WP(Cr) 336/2018]

SC upholds the constitutional validity of Sections 69 and 70 of the CGST Act.

The Supreme Court upheld the constitutional validity of the arrest provisions under the Customs Act, 1962, and the Central Goods and Services Tax Act, 2017 (CGST Act). The GST Acts, in pith and substance, pertain to Article 246-A of the Constitution, and the powers to summon, arrest and prosecute are ancillary and incidental to the power to levy and collect goods and services tax.

In this case, Sections 69 and 70 of the CGST Act were challenged, which grant powers of arrest and summons respectively. The Petitioners contended that these provisions were being misused by tax authorities to exert undue pressure on taxpayers, often leading to arbitrary arrests without sufficient legal justification violating their fundamental rights. Further, they contended that while Article 246-A of the Constitution grants the Parliament and State Legislatures the authority to levy and collect GST, it does not expressly empower them to criminalise violations under the tax regime. Whereas, the Revenue Authority argued that the arrest provisions are necessary for preventing tax evasion and ensuring compliance with GST and Customs laws.

The Supreme Court affirmed the legality of Sections 69 and 70 of the CGST Act, dismissing the petitioner's claim that these provisions went beyond the Parliament's legislative authority. It clarified that arrest powers should only be exercised in instances involving cognisable and non-bailable offences, with strict procedural safeguards in place to prevent misuse. The Court emphasised that "reasons to believe" must be substantiated with concrete evidence, ruling out arrests solely for investigation or tax recovery. Additionally, it recognised the right of individuals facing potential arrest under these laws to seek anticipatory bail. While judicial review of arrests remains limited, courts can intervene in cases of bad faith or procedural irregularities. The judgment seeks to maintain a balance between enforcement measures and individual freedoms, ensuring that arrests in tax-related matters remain an exception rather than a common occurrence.

M/s. Jaya Traders v. Additional Commissioner Grade-2 & Anr. [Writ Tax No. 1022 of 2021]

Deliberate undervaluation of goods justifies seizure under GST law: Allahabad HC.

Seizure of goods under Section 129 of the Central Goods and Services Tax Act, 2017 (CGST Act), is justified when there is deliberate undervaluation intended to evade tax. If the undervaluation is intentional and designed to circumvent e-way bill requirements or reduce tax

liability, the authorities are empowered to seize the goods and impose penalties. The onus is on the Assessee to conclusively prove the actual physical movement of the goods.

In this case, the Assessee transported pan masala and scented tobacco from Assam/West Bengal to Delhi via Kanpur without an e-way bill, citing that the goods were valued below the INR 50,000 threshold. However, upon interception at Kanpur, the truck driver admitted that the goods were loaded from Kanpur itself. Further scrutiny revealed that the goods were manufactured in Kanpur, contradicting the documents claiming their origin from Assam/West Bengal. The tax authorities concluded that the undervaluation was intentional to evade GST compliance. The Petitioner argued that the seizure was illegal, contending that under Section 129 of the CGST Act, goods cannot be detained solely on grounds of undervaluation.

The Allahabad High Court dismissed the petition, holding that when undervaluation is a deliberate strategy to evade tax, seizure is justified. The Court ruled that since the Petitioner failed to provide evidence of actual movement from Assam/West Bengal, the proceedings cannot be said to be illegal or arbitrary.



X'SS Beverage Co. v. State of Assam & Ors. [WP(C) 5347/2022]

Carbonated fruit drinks are to be classified under CTH 2202 99 20 and attract 12% GST: Gauhati HC.

Fruit pulp or fruit juice-based beverages should be classified under CTH 2202 99 20, attracting a 12% Goods and Services Tax (GST) rate, rather than CTH 2202 10 90, which carries a GST rate of 28%. The classification is to be determined by the nature of the beverage, particularly by the presence of the fruit juice to an extent that it attributes the essential character to the beverage, not merely as a flavouring agent. It is the dominant nature of the product which determines the classification.

In this case, the Assessee was engaged in the manufacture and sale of carbonated fruit drinks and ready-to-serve fruit drinks, including products like XSS Orange, Thirst Clear Lemon, XSS Cola, and XSS Nimboo Paani. The tax authorities issued Show Cause Notices (SCNs) rejecting the Assessee's claim for classification under CTH 2202 99 20 (attracting 12% GST) and instead sought to classify the products under CTH 2202 10 90 (attracting 28% GST). The authorities argued that the drinks contained carbonated water and should be categorised under 'water' or 'aerated water.'

The Gauhati High Court ruled in favor of the Assessee, classifying its fruit pulp or fruit juice-based drinks under CTH 2202 99 20, attracting 12% GST, instead of CTH 2202 10 90, which carries a 28% GST rate. The Court emphasised that classification should be based on the dominant nature of the product, particularly whether fruit juice or pulp provides its essential character rather than being a mere flavouring agent and rejected the tax authorities' argument of classifying it as 'aerated water' due to the presence of carbonated water. The Court thereby set aside the impugned SCNs.

Shree Ramdoot Metloys Private Limited & Anr. v. Assistant Commissioner of State Tax, Directorate of Commercial Taxes & Ors. [WPA 31048/2024]

Denial of tax benefits due to GST portal-related issues must not override principles of fairness and due process: Calcutta HC.

Rejection of a Goods and Services Tax (GST) refund claim without ensuring proper communication to the taxpayer amounts to a violation of principles of natural justice. If the taxpayer is unable to identify the system-generated application as required due to technical limitations of the common portal, procedural fairness requires that they be given a reasonable opportunity to respond before rejecting the refund.

In this case, the Petitioner had applied for a refund of Integrated Goods and Services Tax (IGST) paid on exported goods under Rule 96 of the CGST Rules, 2017. However, the refund was

withheld under Rule 96(4)(c) of the CGST Rules due to an alleged mismatch between the shipping bill details and the petitioner's outward supply statements in Form GSTR-1. A system-generated refund application (Form GST RFD-01) was automatically created, but the Petitioner was unaware of it and did not respond to the subsequent show cause notice, leading to the rejection of the refund through Form GST RFD-06. The Petitioner argued that the structure of the GST portal made it difficult to identify the refund application, and thus, they were denied an opportunity to respond.

The High Court ruled in favour of the Petitioner, setting aside the refund rejection order on grounds of procedural irregularity. The Court emphasised that while the authorities complied with the electronic notification requirement under Rule 96(5A) of the CGST Rules, they failed to account for practical difficulties in accessing system-generated applications. It directed the Petitioner to submit a response within two weeks, after which the proper officer must decide the refund claim within four weeks. The ruling reinforces that denial of tax benefits due to portal-related issues must not override principles of fairness and due process.

M/s. Lotus Pharmaceuticals v. Assistant State Tax Officer & Ors. [WP(C) 6367/2025]

Taxpayers cannot be penalised for bonafide error in DRC-03 intimation: Kerala HC.

Bonafide errors in tax filings should not result in undue financial burdens on taxpayers. Imposition of tax beyond what is legally due would violate Article 265 of the Constitution.

In this case, the Assessee voluntarily paid the entire tax due from it and intimated the same by submitting DRC-03 after discrepancies were identified by the Revenue Authority for the Financial Year (FY) 2018-2019. However, while submitting the form, the Assessee inadvertently mentioned FY 2019-20 instead of FY 2018-19. Subsequently, due to this error, the Tax Authority disregarded the payment and passed final orders confirming the tax liability of the Assessee along with interest and penalties. Further, the application for rectification was also rejected. The Assessee therefore challenged the same before the Kerala High Court.

The Kerala High Court ruled in favour of the Assessee, set aside the order rejecting rectification and directed the Tax Authority to reconsider the Assessee's rectification petition. The Court further observed that if the intimation in DRC-03 contained a bonafide error in the financial year mentioned therein, and if there was in fact no such liability for the said financial year, it was always open to the proper officer to have rejected the said application immediately, which would have enabled the taxpayer to identify the mistake and correct it.

Customs

Notifications/Circulars

Circular No. 04/2025-Customs, dated February 17, 2025

To enhance efficiency and reduce the administrative load on businesses, the Central Board of Indirect Taxes and Customs (CBIC) has decided to introduce a project named “Ekal Anubandh”, wherein trade will be encouraged to use single All-India Multi-purpose Electronic Bond with end-to-end automation. As a first step, single All-India Multipurpose Bond for importers or exporters in lieu of the transaction-wise Bonds are being submitted across different ports, thus offering significant potential to save both time and costs in trade procedures.

Click here to read the circular.

Circular No. 05/2025-Customs, dated February 17, 2025

The Central Board of Indirect Taxes and Customs (CBIC) has issued a Circular in relation to the automation of customs refund applications and processing via the ICEGATE Portal. Applicants can now electronically file refund claims under Section 27 of the Customs Act, 1962, and other relevant provisions.

Click here to read the circular.

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