

ICAI

28th August, 2025

**RECENT DIRECT TAX
CASE LAWS
REPORTED TO
ITAT & HIGH COURT**

PRESENTED BY CA ROHAN R. PINGLE



CA Rohan R. Pingle, Partner - Motilal & Associates LLP



ITAT

❖ Jeevangani Films vs. JCIT ITA No. 382 (MUM) of 2025 AY- 2015-16

Date of Order – 06.03.2025 (Relevant Sections 269SS & 271D)

❑ Facts & Issue of the case:-

- The assessee, a partnership firm active in film production, distribution, and related services, engaged a vendor referred to as M/s “R”.
- For the financial year 2014-15, the assessee obtained a ₹ 15 lakh loan from an NBFC. Instead of receiving the amount directly, the NBFC disbursed it straight to M/s R via banking channels. Separately, the assessee paid ₹ 10 lakh to the same vendor from its own funds.



ITAT

❑ Facts & Issue of the case (contd.):

- The firm recorded the NBFC loan of ₹15 lakh as a journal entry in its books, acknowledging the liability.
- During penalty proceedings under section 271D, the Assessing Officer treated this liability entry as contravention of section 269SS (which prohibits accepting loans otherwise than by prescribed banking modes), and levied a penalty of ₹15 lakh.
- The Tribunal's key question: Does a loan recognized via journal entry but disbursed through banking channels fall under the prohibition of section 269SS?



ITAT

☐ Tribunal observed and held that:-

- There was no dispute over:
 - a) The ₹ 15 lakh loan was disbursed through proper banking channels and confirmed by both the NBFC and the vendor;
 - b) The assessee had a genuine liability and recorded the loan via journal entry;
- The Tribunal emphasized that section 269SS is designed to prevent **cash-based** loan or deposit transactions. Its scope is limited to actual **acceptance of money**, and **does not extend** to mere **book entries** that record liability



ITAT

□ Tribunal observed and held that (contd.):-

- The Tribunal held that the transaction was **outside** the purview of section 269SS, since no cash or other prohibited mode of acceptance occurred—it was a journal entry acknowledging an obligation.
- Consequently, the imposition of penalty under section 271D was **invalid**, and the appeal was **allowed** in favor of the assessee.

ITAT

❖ Dipak Parmar vs. ITO ITA No. 178/Srt./2024 AY: 2017-18 Date of Order – 19.11.2024
(Relevant Section 69A)

❑ Facts & Issue of the case:-

- The assessee, Dipak Parmar, filed his return for AY 2017–18 declaring income of ₹2,78,400.
- During the year, he paid ₹6,16,142 in cash towards credit card dues (held with RBL, SBI, Citibank).
- The Assessing Officer (AO) issued show-cause and statutory notices seeking explanation for the source of cash payments.



ITAT

☐ Facts & Issue of the case (contd.):

- The assessee **failed to respond** to any notices from the AO and CIT(A).
- The AO added ₹6,16,142 as "unexplained cash" under section 69A and applied the penal tax under section 115BBE.
- The CIT(A) confirmed the addition for lack of compliance and reasoning

ITAT

□ Tribunal observed and held that:-

- The assessee made cash payments totaling ₹6,16,142 for credit card bills.
- No explanation, documentation, or replies were filed at any stage.
- Section 69A triggers where an assessee is an owner of unexplained money and fails to satisfactorily explain its source.
- Since the assessee didn't provide any explanation, section 69A was correctly invoked.
- The Tribunal **upheld** both the AO and CIT(A)'s orders.
- It dismissed the appeal, confirming the addition of ₹6,16,142 as income under section 69A and the taxability under 115BBE.



ITAT

❖ J K Associate vs. ITO ITA No. 1200/Ahd./2024 AY: 2017-18 Date of Order – 05.12.2024
(Relevant Sections 68 & 69A)

❑ Facts & Issue of the case:-

- Assessee a partnership firm, had not filed its return for A.Y. 2017-18
- AO reopened the assessment under section 147 based on information that the firm purchased immovable property worth ₹1 crore in F.Y. 2016-17.
- In assessment under section 147 read with section 144B, AO added ₹1 crore as unexplained investment under sections 68 and 69A—treating contributions toward the property acquisition as unexplained capital
- Whether capital contributions made by partners, backed by their confirmations and genuineness, can be treated as unexplained investment under sections 68 & 69A in the hands of the firm.



ITAT

□ Tribunal observed and held that:-

- The firm produced detailed confirmations and records showing the capital contributions of 12 partners.
- ITAT held that once the partners' identity, genuineness, creditworthiness, and the mode of fund introduction were satisfactorily proved, the onus on the assessee stood discharged.
- If the AO doubted the source, any addition should be made in the hands of individual partners—not the firm.



ITAT

□ Tribunal observed and held that (contd.):-

- This principle aligns with established jurisprudence that section 68/69A additions cannot be sustained once credibility of creditors/contributors is established.
- The Tribunal **allowed the appeal**, setting aside the ₹1 crore addition in the hands of the firm.
- Specifically, it ruled that contributions by partners, duly supported by confirmations and proof, cannot be treated as unexplained investment under sections 68/69A when proper documentation exists.



ITAT

❖ Bishwanath Prasad vs. CIT(A) ITA No. 163 to 166/Patna/2023 AY: 2017-18 to 2020-21 Date of Order – 29.08.2024 (Relevant Sections 270A & 270AA)

❑ Facts & Issue of the case:-

- The cases pertain to four assessment years following a **search action** at the assessee's premises.
- For AY 2017-18, the assessee filed a return under section 139(1), declaring an income of ₹8,35,425. After the search notice under section 153A, he filed a revised return declaring ₹13,97,271.
- The Assessing Officer completed the assessment under section 153A based on the revised return and imposed **penalty under section 270A**, citing under-reporting of income.
- The assessee made a **belated application under section 270AA** seeking immunity from the penalty, which the AO rejected without providing any hearing.



ITAT

❑ Tribunal observed and held that:-

- The Tribunal noted that once the revised and assessed incomes are the same, **no under-reporting** arises under section 270A(2)
- It also emphasized the procedural lapse: AO **neither granted hearing nor passed any order** on the immunity application under section 270AA within the statutory period
- The Tribunal **allowed the appeals** for all four years
- Deleted the penalty under section 270A, since **there was no under-reporting**—returned and assessed incomes matched.
- Granted **immunity under section 270AA**, as immunity conditions were met, and AO failed in statutory duty to hear and reject the application timely.

ITAT

❖ Vidjayane Durairaj-Vidjayane Velradjou vs. ITO (2024) 625 ITA No. 1457 of 2024 AY: 2017-18

Date of Order – 04.12.2024 (Relevant Section 54F)

❑ Facts & Issue of the case:-

- The assessee sold an immovable property during the relevant year and received part of the sale consideration in **cash**, subsequently depositing it into both his and his **wife's bank accounts**.
- He purchased a **new residential property**, not in his own name, but in his wife's name, using part of those proceeds.
- He claimed **capital gains exemption under section 54F**, despite the new property being in his wife's name.
- The AO disallowed the exemption on the ground that the property was **not purchased in the name of the assessee**.



ITAT

□ Tribunal observed and held that:-

- Both the assessee and wife were assessed under a notice under section 148; her return accepted by the AO.
- The AO's concern regarding the property purchase in the wife's name did **not impair the eligibility for section 54F exemption**.
- The Tribunal allowed the appeal and directed the AO to grant the full exemption under section 54F.
- The purchase of a new residential property in the **wife's name is permissible** for section 54F exemption.
- The **intention to invest** the sale proceeds in specified assets matters—not the registered ownership of the new property.



ITAT

❖ K M Educational & Rural-development trust vs. ITO (2024) 617 ITA NO. 1326 of 2024 AY: 2018-19

Date of Order – 04.12.2024 (Relevant Sections 12A/12AA, 139(4A))

❑ Facts & Issue of the case:-

- The Trust—a charitable institution registered under section 12A/12AA—filed its income-tax return **late**, but **within the extended time** allowed under section 139 (4A).
- Despite timely filing in accordance with section 139 (4A), the CPC/AO **denied exemption under section 11**, on the ground that the return was belated.
- **Issue before the Tribunal:** Whether the Trust's eligibility for exemption under section 11 is lost if the return is filed within the time allowed by section 139 (4A), even though it is technically belated.



ITAT

❑ Tribunal observed and held that:-

- The Tribunal relied on relevant **CBDT Circulars** clarifying that, for trusts registered under section 12A/12AA, a return filed within the time limit set by section 139(4A) is **sufficiently valid**, and such late filing **does not disqualify** the trust from claiming exemption under section 11.
- The AO's interpretation conflicted with the statutory objective of section 139(4A) and circular guidance.
- The Assessing Officer is **not entitled to deny** the exemption under section 11 if the return is filed within the extended corridor of section 139(4A).
- The **appeal was allowed**.
- The Tribunal held that the Trust is **entitled to claim exemption under section 11**, as it filed its return within the extended time allowed by section 139(4A), and such filing **meets legal requirements**.



ITAT

❖ Aruva Foundation vs. CIT ITA No. 398 & 399 (Ind) of 2024 AY: NA (2025) Date of Order – 11.12.2024
(Relevant Sections 2(15), 11(4A), 13(8), 12AB & 80G)

❑ Facts & Issue of the case:-

- Aruva Foundation was incorporated under Section 8 of the Companies Act, 2013, aiming to sell and market products developed by weaker societal sections.
- It received provisional registration under Sections 12AB (charitable purpose registration) and 80G (donation deduction).
- The Foundation later applied for **final** registration under both sections.



ITAT

□ Facts & Issue of the case (contd.):-

- The CIT (Exemption) denied the final registration:
 - Argued that the Memorandum of Association showed commercial intent (trading activities).
 - Also refused 80G approval, stating denial under 12AB automatically disqualified it.
 - Further claimed the 80G application was filed late.
- Whether the presence of commercial activities/objectives in the Foundation's charter allowed CIT (Exemption) to **deny final registration under Section 12AB**.
- Additionally, whether rejecting 12AB registration necessarily leads to rejection of 80G approval.



ITAT

□ Tribunal observed and held that:-

- Section 2(15) (charitable purpose definition) tolerates commercial activities up to 20% of total operations.
- Section 11(4A) permits charitables to undertake business activity if conditions are met.
- Section 13(8) states exemption denial applies only for the specific year the commercial ceiling is breached—not for registration under 12AB.
- Even if commercial objectives exist, CIT (Exemption) cannot **deny registration under Section 12AB**; registration can only be denied when actual activities breach the allowed limits in a given year.



ITAT

□ Tribunal observed and held that (contd.):-

- The Tribunal emphasized the CIT's jurisdiction (at the 12AB stage) does **not extend to speculating** on future activities or potential breaches. Any assessment of commercial activity exceeding limits must happen through the Assessing Officer during annual assessments.
- The Tribunal directed the CIT (Exemption) to grant final registration under Section 12AB.
- Since a fresh application was filed within the extended deadline (extended till 30 June 2024), the Tribunal remitted the matter back for proper reconsideration.



ITAT

❖ ITO vs. Shree Banke Bihari Infracon (P.)Ltd. (2024) 115ITR(T) 223(Raipur-Trib.) ITA No. 95 of 2020 AY: 2013-14 Date of Order – 18.03.2024 (Relevant Section 68)

❑ Facts & Issue of the case:-

- The assessee company (Shree Banke Bihari Infracon Pvt. Ltd.) reportedly received significant amounts in its bank accounts, which the Assessing Officer (AO) characterized as unexplained cash credits.
- The AO contended that these deposits—claimed by the assessee as share capital or share premium—were not bona fide and thus assessable as income under Section 68.



ITAT

☐ Facts & Issue of the case (contd.):

- Consequently, the AO invoked Section 68 to add these amounts to the taxable income of the assessee.
- Whether the amounts received by the company and held in bank accounts can be treated as **legitimate share capital/share premium**, or whether they must be regarded as **unexplained cash credits** liable to be taxed under Section 68.

ITAT

□ Tribunal observed and held that:-

- The Tribunal emphasized that for amounts to be accepted as share capital or premium, appropriate **documentary evidence** must be provided, such as:
 - Board resolutions for allotment,
 - Share application forms and allotment letters,
 - Certified copies of share certificates, and
 - Records of share application money receipts.
- The AO must also verify that share certificates were duly issued and that the share capital was truly received and reflected in the company's records.



ITAT

□ Tribunal observed and held that (contd.):-

- A mere entry in bank statements without supporting documentation is **insufficient** to establish the genuineness of the transaction.
- The Tribunal held that the assessee failed to provide adequate **evidence or justification** to establish that the credits were genuine share capital or premium.
- Accordingly, the Tribunal **upheld** the AO's addition under **Section 68**, confirming the treatment of the amounts as **unexplained cash credits**.



ITAT

❖ Bando (India)(P)Ltd. vs. DCIT (2024) 114 ITR(T) 275 (Delhi-Trib.) ITA No. 7743 of 2028 AY: 2014-15 Date of Order – 11.07.2024 (Relevant Section 43A)

❑ Facts & Issue of the case:-

- The assessee, Bando (India) Pvt. Ltd., reported foreign exchange fluctuation losses in its profit & loss account, in line with accounting standards, but no actual remittance or payment was made.
- The Assessing Officer invoked **Section 43A**, treating the paper loss as disallowable, on the premise that no real financial outflow had occurred.
- Whether **Section 43A**, which deals with exchange gains/losses on specified foreign currency liabilities, applies to **unrealized accounting losses** that are not backed by actual payment or remittance.



ITAT

□ Tribunal observed and held that:-

- Section 43A pertains to **actual foreign exchange fluctuation** on the basis of **real** foreign currency liabilities or assets.
- Mere accounting entries (book entries) without any real outflow or remittance **do not qualify** under Section 43A.
- Compliance with relevant accounting standards to record such fluctuations **does not trigger** Section 43A unless the transaction is real.



ITAT

□ Tribunal observed and held that (contd.):-

- The Tribunal held that **unrealized exchange loss**, merely recorded to meet accounting norms, **cannot be disallowed** under Section 43A.
- Consequently, the addition made by the Assessing Officer under Section 43A was **deleted** and the matter **decided in favour of the assessee**.



ITAT

❖ ACIT vs T Bhikjiyani Realty Pvt. Ltd. A.Y: 2018-19 TS-53-ITAT-2025(Mum) Date of Order – 25.01.2025
(Relevant Section 36(1)(iii))

❑ Facts & Issue of the case:-

- The assessee, T. Bhimjiyani Realty Pvt. Ltd., engaged in real estate, borrowed funds during AY 2018–19.
- The company claimed deduction under Section 36(1)(iii) for interest paid on these borrowed funds as revenue expenditure.
- The Assessing Officer treated the interest claim as disallowable, reasoning that the borrowed capital was advanced to sister concerns or remained unused for business purposes, thereby severing connection to the business.
- Whether the interest paid on borrowed capital remains deductible under Section 36(1)(iii) when the funds are advanced



ITAT

□ Tribunal observed and held that:-

- Funds borrowed and lent to sister concerns can still be considered as used "for business purposes," provided there is commercial expediency and the sister entities deploy the funds in active business.
- Where both interest-free and borrowed funds co-exist, the prima facie assumption is that interest-free funds are used first. Thus, disallowance of interest only arises if incontrovertible evidence shows that interest-bearing funds were used first for non-business purposes.
- The Tribunal emphasized that so long as borrowed funds are deployed in the business ecosystem—as in acquisition of stock-in-trade or real estate projects—interest deductions cannot be denied merely on indirect deployment via sister concerns.



ITAT

□ Tribunal observed and held that (contd.):

- The Tribunal **allowed** the assessee's claim under Section 36(1)(iii). It held that:
 - There was sufficient **commercial expediency** in advancing funds to sister concerns,
 - The interest-bearing capital was part of the **business cycle**, even if not directly held or used by the assessee,
 - Presumption favored utilization of interest-free funds first, unless rebutted.
- Therefore, the deduction claimed was legitimate and the disallowance by the AO was **deleted** in favor of the assessee.

ITAT

❖ Johnson & Johnson Pvt. Ltd. vs. DCIT A.Y:2011-12 TS-131-ITAT-2025 (Mum.)

Date of Order – 10.02.2025 (Relevant Sections 2(11), 32 & 50)

❑ Facts & Issue of the case:-

- The assessee, engaged in pharmaceutical manufacturing and sales, sold two trademarks—“Coldarin” and “Raricap”—during the previous year relevant to AY 2011–12.
- The trademarks were acquired on **29 July 1992** (Raricap) and **16 March 1998** (Coldarin). The assessee claimed the full cost of acquisition as a deduction in their respective years of purchase and offered the sale proceeds under “Long-Term Capital Gains” (LTCG).
- The AO held that the trademarks were intangible assets forming part of a depreciation block, invoked **Section 50**, and treated the gains as **Short-Term Capital Gains (STCG)**.



ITAT

□ Facts & Issue of the case (contd.):

- The assessee challenged this, asserting that:
 - Trademarks acquired **before 1 April 1998** (Raricap) didn't qualify for depreciation;
 - For Coldarin, although acquired in March 1998, it fell outside the scope of Section 32(1)(ii);
- Hence, Section 50 wasn't applicable, and LTCG rates should apply.
- Does **Section 50** apply to gains on trademarks that have not formed part of a depreciable asset block due to their acquisition before the Finance (No. 2) Act, 1998 amendment?
- Should gains on their sale be taxed as **STCG** or **LTCG**?

ITAT

□ Tribunal observed and held that:-

- Section 50 is triggered only if the asset sold is part of a **depreciation block**—i.e., depreciation has been or could have been claimed under Section 32.
- Intangible assets acquired **prior to 1 April 1998** were not included in the depreciation block and thus were ineligible for depreciation under Section 32(1)(ii).
- As the trademarks were never depreciated (nor eligible), the conditions for invoking Section 50 were **not fulfilled**.
- Consequently, the gains arising from their sale qualify as **Long-Term Capital Gains** and should be taxed accordingly.
- The Tribunal ruled in favour of the assessee: **Section 50 did not apply**, and the gains were correctly treated as



ITAT

❖ Rabin Arup Mukerjea vs. ITO, International Tax ITA No. 588/Mum./2024 A.Y:2016-17

Date of Order – 21.03.2025 (Relevant Section 56(2)(vii))

❑ Facts & Issue of the case:-

- The assessee, a non-resident individual, received a flat in Worli, Mumbai as a **gift** from Ms. Vidhie Mukerjea via a registered gift deed dated **21 January 2016**.
- The deed described the donor and donee as “sister” and “brother,” respectively.
- The Assessing Officer held that the relationship was between **step-siblings**, not natural siblings, and thus **not within** the legal definition of “relative” under Section 56(2)(vii).



ITAT

❑ Facts & Issue of the case (contd.):

- Consequently, the AO **reopened** the assessment under Section 147 and added ₹7.50 crore to the assessee's income.
- Whether a gift from a **step-sister to a step-brother** qualifies as a gift from a “relative” under Section 56(2)(vii), thereby making it **exempt from taxation**.



ITAT

□ Tribunal observed and held that:-

- The term “relative” under clause (e) to Explanation to Section 56(2)(vii) includes “brother or sister,” which the Tribunal interpreted to **include step-siblings** based on common-law principles and dictionary definitions recognizing affinity.
- Black’s Law Dictionary defines “relative” to include those connected **by affinity**, i.e., marriage ties—not just consanguinity.
- Other statutes (Income Tax Act Section 2(15B), RBI Act, Companies Act) recognize **step-siblings as relatives**.



ITAT

□ Tribunal observed and held that (contd.):-

- The Tribunal concluded that the gift from Vidhie (step-sister) to Rabin (step-brother) **falls within** the definition of “relative.”
- Therefore, the property transfer was **exempt under Section 56(2)(vii)**, and the ₹7.50 crore addition was **deleted**.
- The appeal was **allowed**, and all objections to reopening under Section 148 were rendered academic.

ITAT

❖ Shivani Bhasin Sachdeva vs. Assessment Unit ITA No. 3218/Mum./2024 A.Y:2021-22

Date of Order – 21.01.2025 (Relevant Section 48)

❑ Facts & Issue of the case:-

- The assessee sold an immovable property for ₹15.21 crore and claimed capital gains by deducting ₹9.96 crore (cost of acquisition) and ₹2.47 crore (cost of improvement).
- AO questioned the ₹2.47 crore improvement claim, pointing out:
 - Flat was purchased on 27.12.2017, but the improvement agreement was dated 31.05.2010—allegedly before ownership existed.
 - Improvement agreement was **unregistered**, leading AO to disallow the entire ₹2.47 crore.



ITAT

☐ Facts & Issue of the case (contd.):

- CIT(A) upheld the disallowance. The assessee appealed to the Tribunal.
- Whether unregistered agreement payments made **prior to receiving possession** but in compliance with the improvement contract are allowable as “cost of improvement” under Section 48.



ITAT

□ Tribunal observed and held that:-

- The Tribunal analyzed the agreement of 31.05.2010, noting detailed specifications for civil and electrical fit-outs and found that the payments were actually **incurred for improvement work**.
- It accepted that the assessee took possession on **31.03.2014** and completed improvements by then, which were integral to the property's value.
- The AO's assumption that improvements couldn't be undertaken before purchase was factually incorrect.



ITAT

□ Tribunal observed and held that (contd.):-

- Despite being unregistered, such agreements are **not fatal** for claiming improvement costs; actual expenditure and linkage to property value matter most.
- The Tribunal **allowed** the deduction of ₹2.47 crore towards cost of improvement.
- Directed AO to re-compute capital gains accordingly.



HIGH COURT

❖ Associated Chambers of commerce and Industry of India vs. DCIT (2025) 473 ITR 696 (Del.) AY- 2016-17 Date of Order – 05.08.2024 (Relevant Sections 11(2), 147 & 148A)

□ Issue of the case:-

- Whether the Assessing Officer (AO) could initiate reassessment proceedings under sections 147/148, read with 148A, and deny exemption under section 11(2), solely due to late digital submission of Form 10 (accumulation plan) by the trust, especially when no portion of the accumulated income actually escaped assessment.



HIGH COURT

□ Del. High Court observed and held that:-

- Section 11(2)(a) requires the trust to “furnish” a statement in Form 10 detailing accumulation purposes and mode—this is a **procedural requirement**, not a condition precedent for claiming exemption under section 11(2).
- The digital portal for Form 10 was introduced only in FY 2015–16. Circular No. 7/2018 acknowledged genuine difficulties faced by trusts in timely digital uploading. The delay in electronic filing, without dispute on genuineness of the accumulation, **cannot transform into taxable escapement**
- The assessment order (dated 1 Dec 2018) had already accepted the accumulation under section 11(2). Thus, AO’s belief that income escaped assessment lacked any factual basis and could not justify reassessment under section 147



HIGH COURT

□ Del. High Court observed and held that (contd.):-

- AO did not adhere to section 148A's requirement to provide a proper show-cause notice and consider objections before issuing reassessment notice, rendering the process **procedurally invalid**.
- The High Court **quashed both the reassessment notice and the order** under sections 147/148.
- It ruled that **delay in digital submission of Form 10 does not warrant reopening** where:
 - (a) The accumulation under section 11(2) was accepted in the original assessment;
 - (b) The delay was due to procedural/electronic transition issues;
 - (c) No taxable income had escaped assessment;
 - (d) The AO failed to comply with mandatory 148A hearing and objections process



HIGH COURT

❖ ESS Singapore Branch vs. DCIT (2025) 473 ITR 541 (Del.) AY- 2014-15 Date of Order – 22.08.2024
(Relevant Sections 199, 240 & 244)

□ Issue of the case:-

- Whether, upon an appellate order in favor of the assessee, the Assessing Officer (AO) could:
 - a) Restrict TDS credit to the amount originally claimed in the return (ignoring higher actual TDS deposited);
 - b) Proceed to compute the refund based only on claimed TDS, despite higher credits reflected in Form 26AS;



HIGH COURT

□ Del. High Court observed and held that:-

- Section 199 unequivocally treats TDS deposited as tax paid. Once tax is deducted and booked in Form 26AS, the assessee is entitled to credit—even if not claimed in return.
- Where refund arises from a non-revenue court's order, the refund must be granted **automatically**, without requiring a separate claim .
- Interest becomes due from the beginning of the relevant assessment year until actual refund date.
- The AO's action in relying on a limited TDS claim in the return is misaligned with the legal



HIGH COURT

□ Del. High Court observed and held that (contd.):-

- The High Court quashed the AO's order
- It directed the AO to
 - a) Acknowledge the **entire TDS deposited** (per Form 26AS) under section 199.
 - b) Grant **refund automatically** under section 240, without requiring an application.
- Pay interest from 1 April of AY 2014-15 until refund receipt under section 244A



HIGH COURT

❖ Principal CIT vs. Milia Tracon Pvt Ltd (2025) 473 ITR 155 (Cal.) Block period 01/04/1996 to 07/05/2002 Date of Order – 03.07.2024 (Relevant Sections 132 & 158BD)

❑ Issue of the case:-

- Whether proceedings under Section **158BD** (block assessment of undisclosed income) can be validly initiated against a non-searched person—on the basis of a satisfaction note and seized materials—**without**:
 - a) A satisfaction note recorded by the AO who conducted the search under Section 132, and
 - b) Proper hand-over of seized books/documents to the AO of the non-searched person?



HIGH COURT

□ Cal. High Court observed and held that:-

- Section 158BD requires that the AO who conducted the search must record satisfaction that undisclosed income relates to another person **and** hand over seized materials to the relevant AO of the non-searched entity
- In this case, the satisfaction note was recorded by the AO of the non-searched entity—**not** by the searching AO. Further, no proper hand-over of documents occurred—both being **essential steps** for valid proceedings.
- The Tribunal and High Court held that initiating block assessments without satisfying these statutory prerequisites renders the proceedings completely **without jurisdiction** and, hence, **void ab initio**.
- The High Court **dismissed the Revenue's appeal**, affirming the Tribunal's decision.



HIGH COURT

❖ Northern Arc Investment Manager Pvt. Ltd vs. Dy. DIT (2025) 472 ITR 154 (MAD.) Date of Order – 10.11.2023 (Relevant Section 143)

□ Issue of the case:-

- Whether, in faceless assessments under section 143(1), the AO (or CPC/NFAC) must:
 - a) Intimate any corrections, additions, or reductions made in the assessed income to the assessee; and
 - b) Provide the assessee a real opportunity to respond before finalizing the intimation?



HIGH COURT

❑ MAD. High Court observed and held that:-

- Sub-section (1) allows the department to process returns and make “corrections.” However, any such changes require mandatory **intimation to the assessee**, along with an opportunity to respond.
- Once the assessee is given notice of corrections, **their response must be fully considered** by the AO before issuing the final assessment order/intimation.
- Even in faceless assessments, procedural fairness—notably, prior notice and meaningful consideration of rebuttals—is **non-negotiable**.



HIGH COURT

□MAD. High Court observed and held that (contd.):-

- The Madras High Court directed that the Department must allow the assessee to file a reply to any corrections before issuing the final intimation under section 143(1).
- If the reply is filed, the AO **must consider** it and recalibrate the intimation accordingly.
- The petition filed by Northern Arc Investment Manager Pvt. Ltd. was allowed, granting permission to file a rectification petition to address the double-disallowance error and process the refund.



HIGH COURT

❖ Incredible Unique Buildeon Pvt Ltd vs. ITO:(2024) 470 ITR 106 (Del.) AY: 2011-12

Date of Order – 03.11.2023 (Relevant Section 205)

❑ Issue of the case:-

- Whether, when tax has been deducted at source (TDS) by the payer but not deposited with the government, the assessee (deductee) can be compelled to pay that amount or be denied TDS credit—especially in the absence of Form 16A—as per Section 205 of the Income-tax Act?



HIGH COURT

❑ Del. High Court observed and held that:-

- Once it is established that tax has been deducted at source, Section 205 prohibits recovery from the deductee as self-assessment tax—even if the deductor failed to deposit the tax. It is irrelevant whether Form 16A was issued or not.
- While Form 16A is one form of evidence, it is **not mandatory**. Other reliable materials—like return disclosures, ledger statements, and complaints to the Department—can sufficiently demonstrate the existence of TDS.
- The payment of TDS is the responsibility of the deductor; the deductee cannot be penalized or held liable for non-deposit by the payer.



HIGH COURT

❖ Mrs. Usha Eswar vs. ITO and Ors.(2024) 470 ITR 200 (Bom.) AYs. 1997-98 - 2000-01

Date of Order – 07.07.2023 (Relevant Sections 147, 148, 245R & 245S)

□ Issue of the case:-

- Whether reassessment can be initiated after the four-year limitation based on an Advance Ruling given in a different case?
- If the taxpayer followed an AAR ruling, can the Department reopen assessments for other years without change in law or new factual material?



HIGH COURT

□ Bom. High Court observed and held that:-

- Binding nature of Advance Rulings: Under Section 245R/245S, an AAR ruling is binding on the assessee, the jurisdictional AO, and only in respect of the transactions covered—unless there is a change in law or facts.
- No new material or change in law: The AO sought to reopen assessments only because a subsequent AAR decision in another case had taken a different view. The High Court held that this did not constitute new tangible material or change in law, nor did it pertain to the specific assessee's transactions.



HIGH COURT

□ Bom. High Court observed and held that (contd.):-

- Violation of time-limit and fair process: Since the original assessments were beyond four years, and all reopening conditions were unmet, the notices under Sections 147/148 were invalid. The process also bypassed Section 245R/245S safeguards.
- The Bombay High Court **quashed the reassessment notices and orders** issued under Sections 147/148.
- It ruled that reliance on another applicant's ruling without fresh material or legal change **cannot justify reopening**, especially post the four-year threshold.



HIGH COURT

❖ Muhammed C. AK vs. ACIT:(2025) 472 ITR 161(Ker.): AYs. 2020-21 to 2023-24

Date of Order – 11.03.2024 (Relevant Sections 132A,147, 148 and 148A)

□ Issue of the case:-

- Whether the initiation of reassessment proceedings based on materials seized under Section 132A was valid when the assessee challenged the manner of seizure and retention of documents under Section 451 of the Code of Criminal Procedure, and whether notices under Sections 148 and 148A were sustainable in law for A.Ys. 2020-21 to 2023-24.



HIGH COURT

□ Ker. High Court observed and held that:-

- The power under Section 132A to requisition and retain seized documents must be exercised strictly in accordance with statutory safeguards, and any breach renders such seizure unlawful.
- Retention of documents beyond permitted time frames without proper approval violates procedural safeguards, giving the assessee the right to seek relief under Section 451 of the Code of Criminal Procedure for interim custody.
- The new reassessment regime (post Finance Act, 2021) mandates strict compliance with Section 148A procedures, including providing adequate opportunity to the assessee before issuing a notice under Section 148.



HIGH COURT

□ Ker. High Court observed and held that (contd.):-

- Any reassessment based on unlawfully retained documents or without adherence to Section 148A is vitiated.
- The Kerala High Court held the reassessment notices under Sections 148 and 148A invalid as they were predicated on documents requisitioned and retained contrary to Section 132A and CrPC safeguards.
- Directed the revenue to release the seized documents to the assessee under Section 451 CrPC, unless valid retention orders were produced.
- The proceedings for A.Ys. 2020-21 to 2023-24 were quashed, with liberty to the revenue to initiate



HIGH COURT

❖ Manjula D. Rita and Bhavya D. Rita vs. Pr. CIT: (2025) 472 ITR 116(Bom): AY: 2012-13 Date of Order – 19.06.2023 (Relevant Sections 179 & 264)

□ Issue of the case:-

- Whether the Principal Commissioner of Income-tax (Pr. CIT) was justified in upholding recovery proceedings under Section 179 of the Income-tax Act against the petitioners, being directors of a private company, for company's outstanding tax liabilities, despite their claim that the company had ceased operations and the directors were not in control of the company's finances. Also, whether revision under Section 264 could be invoked to grant relief.



HIGH COURT

□ Bom. High Court observed and held that:-

- Section 179 empowers the Revenue to recover tax dues of a private company from its directors only if the tax cannot be recovered from the company and it is established that such non-recovery is due to the director's gross neglect, misfeasance, or breach of duty.
- The onus lies on the Revenue to prove that the director was responsible for the company's inability to pay its taxes; mere status as a director does not automatically result in liability.
- In exercising revisional powers under Section 264, the Pr. CIT must act judiciously, especially where the directors demonstrate absence of personal fault or show that the company's financial collapse was beyond their control.



HIGH COURT

❑ Bom. High Court observed and held that (contd.):-

- The Bombay High Court quashed the recovery proceedings under Section 179, holding that the Revenue failed to establish the petitioners' gross neglect or breach of duty leading to non-payment of the company's taxes.
- Directed the Pr. CIT to grant appropriate relief under Section 264, considering the petitioners' case on merits and the fact that the tax recovery could not be solely shifted to directors without evidence of culpability.
- Emphasized that the liability under Section 179 is not automatic and can only be fastened when statutory conditions are clearly satisfied.



HIGH COURT

❖ National Association of Software and Services Companies (NASSCOM) vs. DCIT (Exemption)
[2024] 470 ITR 493 (Del.) A.Ys. 2018-19: Date of Order – 01.03.2024
(Relevant Sections 154, 220(6) & 237)

❑ Issue of the case:-

- Whether NASSCOM, a charitable organization, was entitled to seek rectification of an intimation and refund under Section 237 of the Act, and to claim protection from coercive recovery under Section 220(6), when the Assessing Officer rejected its Section 154 application despite admitting an apparent error in computation of income.



HIGH COURT

□ Del. High Court observed and held that:-

- Section 154 permits rectification only of mistakes apparent from the record, and when the error in income computation is undisputed and arithmetical, the Assessing Officer is bound to correct it.
- Section 220(6) is a discretionary but equitable power; recovery proceedings should ordinarily be stayed when the assessee's claim is prima facie meritorious and the demand is under challenge.
- Refund under Section 237 is a substantive right where taxes paid exceed the lawful liability; denial solely due to pendency of appeal or unwillingness to rectify is arbitrary.



HIGH COURT

□ Del. High Court observed and held that (contd.):-

- The Delhi High Court directed the Assessing Officer to rectify the mistake under Section 154 and issue refund under Section 237 with applicable interest.
- Ordered that no coercive recovery steps be taken against NASSCOM under Section 220(6) till final disposal of the matter.
- Emphasized that charitable bodies cannot be subjected to unlawful recovery or denied legitimate refunds merely due to administrative reluctance.



HIGH COURT

❖ Hemant Mahipatray Shah vs. Anand Upadhyay: [2025] 482 ITR 1 (Bom.): A.Ys. 2012-13 to 2018-19:
Date of Order – 12.08.2024 (Relevant Sections 2(35)(b), 201, 221, 276B, 278B & 279(1))

□ Issue of the case:-

- Whether prosecution and penalty proceedings under Sections 276B, 278B, and 279(1) for failure to deposit tax deducted at source (TDS) could be validly initiated against Hemant Mahipatray Shah, designated as a “principal officer” under Section 2(35)(b), when the company had already faced demand and penalty under Sections 201 and 221, and whether such simultaneous actions were legally sustainable.



HIGH COURT

□ Bom. High Court observed and held that:-

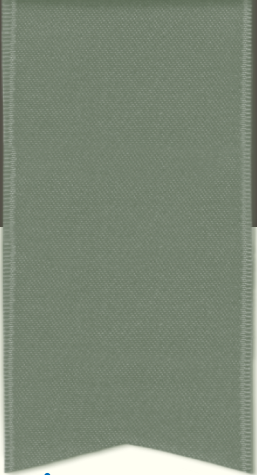
- The designation of a person as a “principal officer” under Section 2(35)(b) is not automatic; the Revenue must demonstrate active responsibility for financial management and decision-making leading to the TDS default.
- Recovery and penalty under Sections 201 and 221 are civil liabilities; prosecution under Sections 276B and 278B is criminal in nature and cannot be pursued mechanically without establishing mens rea (guilty intent).
- Section 279(1) requires proper sanction before prosecution; mere existence of a TDS default or earlier penalties does not justify automatic prosecution.
- Simultaneous civil and criminal actions must not result in double jeopardy unless statutory conditions are met and clear evidence exists of deliberate default.



HIGH COURT

□ Bom. High Court observed and held that (contd.):-

- The Bombay High Court quashed the criminal prosecution initiated against Hemant Mahipatray Shah, holding that the Revenue failed to establish his role as a “principal officer” responsible for the TDS defaults, and failed to prove mens rea required for prosecution.
- Clarified that while demand and penalty under Sections 201 and 221 could stand, separate prosecution under Sections 276B and 278B cannot be sustained without specific sanction and evidence of willful default.
- Directed that any future prosecution must follow due process under Section 279(1) and be based on



CONCLUSIONS

❑ Conclusions we can draw from the cases discussed:-

- ✓ *Journal entries reflecting loan liability without cash transfer do not violate Section 269SS; penalty under Section 271D not sustainable.*
- ✓ *Unexplained cash payments for credit card bills without substantiating source rightly attract addition under Section 69A.*
- ✓ *Partner's capital contribution, when substantiated, cannot be taxed as unexplained income in the firm's hands under Sections 68/69A.*
- ✓ *Interest disallowance under Section 36(1)(iii) cannot stand when the assessee demonstrates sufficient interest-free funds.*
- ✓ *No under-reporting exists when revised and assessed income match; immunity under Section 270AA must be granted.*
- ✓ *Exemption under Section 54F is allowable even if the new house is purchased in spouse's name.*
- ✓ *Return filed under extended deadline of Section 139(4A) is valid for claiming exemption under Section 11.*



CONCLUSIONS

❑ Conclusions we can draw from the cases discussed (contd.):-

- ✓ *Registration under Section 12AB cannot be denied solely due to commercial objectives if actual charitable activity is ongoing and within permissible limits.*
- ✓ *Unsubstantiated share capital receipts can be taxed as unexplained cash credits under Section 68.*
- ✓ *Unrealized foreign exchange losses without actual remittance do not attract disallowance under Section 43A.*
- ✓ *Interest on borrowed funds is deductible under Section 36(1)(iii) if backed by commercial expediency, even when advanced to sister concerns.*
- ✓ *Section 50 does not apply to sale of intangible assets acquired prior to 1 April 1998 that were never part of a depreciable block.*
- ✓ *Gifts from step-siblings are exempt under Section 56(2)(vii) as step-siblings qualify as "relatives".*



CONCLUSIONS

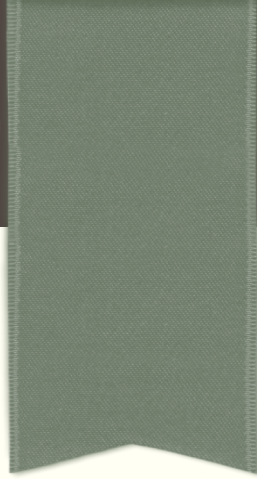
❑ Conclusions we can draw from the cases discussed (contd.):-

- ✓ *Unregistered but substantiated expenditure for property improvements is allowable as cost of improvement under Section 48.*
- ✓ *Reassessment based solely on delayed e-filing of Form 10 is invalid when accumulation is otherwise accepted.*
- ✓ *TDS credit must be granted for entire tax deposited, regardless of amount claimed in return; refund with interest is mandatory.*
- ✓ *Block assessment under Section 158BD is void without proper satisfaction by the search AO and document transfer.*

CONCLUSIONS

❑ Conclusions we can draw from the cases discussed (contd.):-

- ✓ *Section 205 prohibits recovery from assessee once TDS is deducted, even if not deposited by deductor.*
- ✓ Reassessment is invalid when issues were conclusively settled by the Settlement Commission under Sections 245R and 245S.
- ✓ Reassessment notices based on unlawfully seized documents and without following Section 148A procedure were invalid and quashed.
- ✓ Directors cannot be made liable for company tax dues under Section 179 without proof of gross neglect or breach of duty.
- ✓ Rectification of errors and refunds must be granted to charitable entities, and coercive recovery stayed when prima facie claims exist.
- ✓ Prosecution for TDS defaults cannot be sustained without proof of willful default, proper sanction, and clear role as



THANK YOU