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FIN-O-SCOPE

15th Feb, 2025

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Union Budget 2025-26: Empowering Growth and Inclusivity

Press Release | Dated: 1st February 2025

The Union Budget 2025-26, presented by Finance Minister Smt. Nirmala Sitharaman, focuses on inclusive development, enhanced consumption, and boosting household savings. With the theme “Sabka Vikas,” the budget aims for balanced growth across all regions and sectors.

Top Trends

- Centre releases ₹1.11 lakh crore loan to states. The government disbursed interest-free loans for capital expenditure, with the allocation rising to ₹1.5 lakh crore in FY25.
- RBI increases gold reserves amid rising prices. Gold prices surged over 10% in early 2025, prompting RBI to diversify its reserves for currency stability.

Top Trends

- Finance Bill restricts indirect overseas fund investments. Resident Indians can't invest more than 5% indirectly in offshore funds, impacting global fund managers in GIFT City.
- India's fiscal deficit remains at 4.4% of GDP. The government continues fiscal consolidation while maintaining growth-focused capital expenditure.
- RBI promises agile liquidity response. The central bank is ready to inject liquidity as needed after the recent policy rate cut.
- India Inc's financial health weakens in H2FY24. Rising inflation, global fuel prices, and erratic rainfall impact corporate credit ratings.
- Urban Cooperative Banks (UCBs) strengthen financial position. Improved net interest margins and regulatory support drive stability in UCBs.

Key Announcements

1.Income Tax Relief

- No income tax for individuals earning up to ₹12.75 lakh annually under the new tax regime, boosting middle-class savings and consumption.
- TDS on Rent: The limit increased from ₹2.4 lakh to ₹6 lakh.
- Time Limit for Updated Returns: Extended from 2 years to 4 years.

2. Agriculture Reforms – The First Engine of Growth

- Launch of 'Prime Minister Dhan-Dhaanya Krishi Yojana,' covering 100 districts with low agricultural productivity.
- 'Mission for Aatmanirbharta in Pulses,' focusing on Tur, Urad, and Masoor.
- Kisan Credit Card (KCC) Loan Limit: Raised from ₹3 lakh to ₹5 lakh under the modified interest subvention scheme.

3. Boost for MSMEs – The Second Engine

- Enhanced Credit Guarantee: Increased from ₹5 crore to ₹10 crore.
- New scheme for 5 lakh women and SC/ST first-time entrepreneurs, offering term loans up to ₹2 crore.
- Launch of a National Manufacturing Mission to further the 'Make in India' initiative.

4. Investment in People, Economy, and Innovation

- 50,000 Atal Tinkering Labs to be set up in government schools over the next 5 years.
- Allocation of ₹20,000 crore for private sector-driven R&D and innovation initiatives.
- Gig Workers' Welfare: Identity cards, registration on the e-Shram portal, and healthcare coverage under PM Jan Arogya Yojana.

5. Exports as the Fourth Engine of Growth

- Export Promotion Mission to help MSMEs access global markets.
- Launch of 'BharatTradeNet,' a unified platform for international trade documentation and financing solutions.

6. Reforms for Ease of Doing Business

- Introduction of Jan Vishwas Bill 2.0, decriminalizing over 100 provisions across various laws.
- FDI Limit for Insurance: Raised from 74% to 100%.

7. Fiscal Discipline and Future Outlook

- Fiscal deficit target for FY 2025-26 set at 4.4% of GDP.
- Budget outlay for FY 2025-26 at ₹50.65 lakh crore.

The Union Budget 2025-26 reinforces the government's commitment to economic growth while ensuring inclusivity and welfare for all segments of society.

For more details, refer to the **Official Notification.**

CBI Cracks Down on Faceless Tax Scam

CBI Press Release | Dated: 6th February 2025

Key Details:

1.Case Registration:

- The CBI has registered a case against nine accused, including:
- One Deputy Commissioner (IRS) of the Income Tax Department.
- Two Inspectors of the Income Tax Department.
- Five Chartered Accountants (CAs).
- One private individual.
- The case involves allegations of sabotaging the Faceless Scheme of Assessment introduced by the Government of India.

2. Allegations:

- The accused were allegedly involved in unauthorizedly disclosing the names of Assessing/Appellate Officers to taxpayers, which is against the principles of the Faceless Scheme.
- They were also accused of misusing sensitive income tax data related to pending assessments, appeals, and high refund cases for pecuniary benefits.
- This misconduct allowed taxpayers to physically contact the concerned officers, thereby undermining the faceless and transparent nature of the scheme.

2. Searches Conducted:

- The CBI conducted searches at 18 locations across India, including:
- Delhi
- Mumbai
- Thane
- West Champaran (Bihar)
- Bengaluru
- Kottayam (Kerala)
- During the searches, the CBI recovered:
- Incriminating documents.
- Evidence of undue gratification (bribes).
- Digital and electronic evidence.

Top Trends

- Indian FinTech firms expand in the US market. Innovation and strong regulatory compliance help Indian FinTechs gain traction in US financial services.
- Financial education aids in achieving net zero. Teaching sustainable finance practices can accelerate global climate goals.
- Chennai emerges as a global financial hub. The city is attracting major investments, boosting its financial services sector.
- FinTech innovations driving financial sector growth. New technologies in lending, payments, and blockchain are reshaping finance.
- Mukul Agrawal sets Guinness World Record. He hosted the largest financial investment conclave with 1,806 attendees.
- Fi Money partners with Pride Circle. The collaboration aims to promote inclusivity in financial services for the LGBTQ+ community.

Top Trends

- OptionsSwing Inc. shares success strategies. The company reveals key tactics that helped it thrive during the pandemic.
- Bharat Financials, Bajaj Finance, Muthoot Finance rally 5%. Strong investor sentiment boosts financial sector stocks.
- ICICI Bank and Bajaj Finance gain 3%. Financial stocks surge on improved earnings outlook.
- Financial frauds remain a concern for foreign investors. A study highlights risks, urging stricter regulations and transparency.
- Personal finance management key to wealth growth. Simple financial planning can significantly improve savings and investments.
- Sensex and Nifty rise on strong FII inflows. Foreign investors continue pumping money into Indian equities.

3. Faceless Scheme of Assessment:

- The Faceless Scheme is a key reform introduced by the Government of India to eliminate human interface between taxpayers and tax officials.
- The scheme ensures transparency and anonymity by preventing taxpayers from knowing the identity of the Assessing/Appellate Officers.
- The accused were allegedly trying to defeat this system for personal gains.

4. Investigation Status:

- The investigation is ongoing, and further details will be shared as the case progresses.

Summary of the Case:

The CBI has taken action against income tax officials and CAs for allegedly sabotaging the Faceless Assessment Scheme.
The accused were involved in leaking sensitive information and facilitating unauthorized contact between taxpayers and officers.
·Searches were conducted across multiple locations, and incriminating evidence was seized.

For more details, refer to the **Official Document**

New Due Date for Filing Form 49C for Non-Residents

CBDT Notification No. 14/2025 | Dated 7th February 2025

The Central Board of Direct Taxes (CBDT) has amended Rule 114DA of the Income Tax Rules, 1962, to provide more clarity on the timeline for submitting Form 49C. This amendment specifies the new due date for non-residents with liaison offices in India to file their annual statement of financial details.

Key Highlights

- Previous Deadline: Non-residents with liaison offices were required to file Form 49C within 60 days from the end of the financial year.
- New Deadline: As per Notification No. 14/2025, the due date has been extended to 8 months from the end of the financial year.
- This change aligns with the amendment made to Section 285 of the Income Tax Act by the Finance (No. 2) Act, 2024, which removed the 60-day submission period and empowered the Board to prescribe the filing deadline.

New Compliance Date

- Non-residents must now file Form 49C by 30th November for the financial year ending on 31st March.
- This amendment provides significant relief and additional time for compliance.

Impact and Action Points

- Who Should Comply? Non-resident companies with liaison offices in India.
- Next Steps: Update your compliance schedules and ensure timely filing of Form 49C within the new timeline.

- **For more details, refer to the Official Notification.**

MCA Notification on Companies Amendment Rules, 2025

MCA Notification| Dated 12th February 2025

Key Highlights:

Amendment Issued:

- The Ministry of Corporate Affairs (MCA) has amended the Companies (Prospectus and Allotment of Securities) Rules, 2014.

Effective Date:

- These rules will come into effect on the date of their publication in the Official Gazette.New Proviso to Rule 9B(2): A private company (other than a Producer company) that is not a small company as of 31st March 2023 can comply with Rule 9B(2) by 30th June 2025.

Retrospective Effect:

- The amendment issued with retrospective effect will not adversely affect any person's interest.

Background:

- Principal Rules and Amendments: The principal rules were published on 31st March 2014 and last amended on 20th September 2024.

Impact:

- Compliance Extension: The amendment provides an extension until 30th June 2025 for certain private companies to comply with the allotment of securities provisions.
- Action Required: Companies must review Rule 9B(2) and take necessary steps to ensure compliance.

For more details, refer to the **Official Notification.**

Top Trends

- Bitcoin crosses $50,000 as crypto markets gain momentum. Renewed institutional interest drives cryptocurrency prices higher.
- SEBI tightens IPO regulations to protect investors. New rules aim to curb excessive pricing and ensure transparency.
- Banking sector posts strong Q3 earnings. HDFC, ICICI, and other banks report higher profits due to robust credit growth.
- Government considers changes in capital gains tax. Possible tweaks in taxation aim to encourage long-term investments.
- Rupee remains stable despite global uncertainties. Strong forex reserves help cushion currency fluctuations.
- India's GDP growth projected at 7% for FY25. Domestic consumption and infrastructure spending drive economic expansion.
- Stock market sees increased retail participation. More individual investors are entering the markets amid economic optimism.

Top Trends

- Corporate bond market expands as RBI encourages long-term investments. Companies raise more funds through bonds instead of bank loans.
- Digital lending regulations tightened to curb fraud. The RBI enforces stricter norms for online lending platforms.
- Wealth management industry sees record inflows. HNIs and retail investors increasingly opt for portfolio management services.
- Startup funding rebounds after slow 2024. Venture capitalists return to funding early-stage startups with renewed confidence.
- Finance Ministry supports REITs and e-commerce growth. Institutional participation in Real Estate Investment Trusts (REITs) increases, while e-commerce remains a key driver of India's service sector.

Exposure Draft on Accounting Standards for Limited Liability Partnerships (LLPs)

Notice No. 76835ASB61909 | Dated: January 10, 2025

The Institute of Chartered Accountants of India (ICAI) has issued a Notice regarding the Exposure Draft on Accounting Standards for Limited Liability Partnerships (LLPs). This draft outlines the proposed accounting framework for LLPs, which aims to enhance the consistency and clarity in the preparation and presentation of financial statements by these entities.

Background

Under the current regulatory framework, LLPs in India follow accounting standards issued by ICAI, similar to other non-company entities. However, Section 34A of the Limited Liability Partnership Act, 2008 allows the Central Government, in consultation with the National Financial Reporting Authority (NFRA), to prescribe specific accounting standards for LLPs. The standards will be based on recommendations from ICAI and will tailor accounting practices to the unique needs of LLPs.

Key Aspects of the Exposure Draft

- Current Accounting Standards: LLPs currently follow the accounting standards applicable to non-company entities, which are prescribed by ICAI.
- Proposed Framework: The Exposure Draft proposes new accounting standards specific to LLPs, ensuring their financial reporting practices are streamlined and compliant with relevant laws and regulations.
- Public Consultation: ICAI has invited public comments on the Exposure Draft, allowing stakeholders to provide feedback and suggestions.

How to Submit Comments

The ICAI is accepting feedback on the Exposure Draft until November 27, 2023. Comments can be submitted through the following channels:

- Electronically (Preferred Method): Submit comments online via ICAI Comments Submission
- Email: Comments can be sent to commentsasb@icai.in
- Postal Address:

- Secretary, Accounting Standards Board
- The Institute of Chartered Accountants of India
- ICAI Bhawan, Post Box No. 7100
- Indraprastha Marg, New Delhi 110 002

For further clarification, queries can be directed to asb@icai.in.

Download the Exposure Draft

For detailed review, the full Exposure Draft is available for download at the following link:
Exposure Draft on Accounting Standards for LLPs

Purpose of the Exposure Draft

- This Exposure Draft aims to provide a clear, standardized framework for LLPs, which will guide them in their accounting practices. The goal is to ensure consistency with other business entities while meeting the unique operational needs of LLPs. The adoption of these standards will foster transparency in financial reporting and ensure that LLPs are in compliance with the regulatory requirements.

Conclusion

- The proposed accounting standards will bring significant improvements in the financial reporting practices of LLPs. ICAI encourages all stakeholders, including professionals, businesses, and industry representatives, to thoroughly review the Exposure Draft and provide valuable feedback by the submission deadline of November 27, 2023.
- This is a critical step in enhancing the governance and financial transparency of LLPs in India, and we urge all concerned parties to participate in the consultation process.

For more details, refer to the **Official Notification.**

Income Tax Bill 2025 – Key Updates and Resources

Bill No. 24 of 2025

The Income Tax Bill 2025 is under review by a 31-member Select Committee, with BJP MP Baijayant Jay Panda appointed as its chairperson. This committee will examine the proposed reforms in detail, ensuring a balanced and comprehensive approach to the new tax framework. Stay informed and access the latest resources below.Key Highlights of the Income Tax Bill 2025

Top Trends

- Household savings decline attributed to diversified investments. The Finance Ministry clarifies that lower savings are due to increased investments in financial products, not financial distress.
- Microfinance portfolio contracts by 10% due to stricter guidelines. Stricter regulations under 'Seven Sankalps' reduced incremental disbursements, impacting the microfinance sector's overall growth.
- India plans to raise FDI limit in insurance to 100%. The government proposes amending the Insurance Act to attract more international insurers and strengthen the sector.
- Non-food credit growth slows to 12.8% in October 2024. The Reserve Bank of India reports a slowdown in lending to agriculture, services, and personal loan sectors.

Top Trends

- India's economic momentum remains intact with projected 6.5-7% growth. Despite global uncertainties, strong GST collections and manufacturing activity support India's growth outlook.
- Rupee depreciation boosts IT sector margins in Q3 2024. A weaker rupee improves export revenues for IT firms, but rising costs and currency fluctuations pose challenges.
- RBI dissolves Aviom Housing Finance's board, initiates insolvency proceedings. The central bank appoints an administrator to handle the resolution process due to financial instability.
- India reassesses financial aid to Maldives amid China's FTA implementation. India's review follows concerns over transparency in the Maldives' debt exposure to China.

Key Highlights:

- Revised tax slabs for individuals and businesses.
- Mandatory e-filing for all taxpayers.
- Tax incentives for green energy investments.
- Unified GST and income tax filing portal.
- Reforms in penalties for compliance errors.

Official Resources for Download:

- Income Tax Bill 2025: Download Here
- FAQs - Income Tax Bill 2025: Download Here
- Navigator - Income Tax Bill 2025: Download Here

ITAT Bangalore: Penalty under Section 271B Cancelled due to Reasonable Cause

Case Law | Court: ITAT Bangalore Bench 'C' | Case No.: IT Appeal No. 1357 (Bang) of 2024 | Date: November 29, 2024

In a recent ruling, the Income Tax Appellate Tribunal (ITAT), Bangalore Bench, held that the penalty imposed under Section 271B of the Income-tax Act, 1961, for failure to get accounts audited was not warranted due to the existence of a reasonable cause.

Facts of the Case:

- The assessee, a partnership firm engaged in the business of petroleum products, faced penalty proceedings for not getting its accounts audited as required under Section 44AB and failing to submit the audit report within the prescribed time.
- The firm attributed the delay to unavoidable circumstances: the main partner's illness after his marriage and the sudden departure of the accountant, which left the firm without a qualified person to manage the accounts.

The audit report and return were filed manually as soon as the accountant rejoined after being offered a higher remuneration.

Key Observations by the Tribunal:

- Reasonable Cause Demonstrated:
  - The Tribunal acknowledged that the delay was beyond the control of the assessee and constituted a reasonable cause under Section 273B.
  - The illness of the managing partner and the abrupt resignation of the accountant were valid reasons for the delay.
- No Loss to the Revenue:
  - It was noted that the taxes had already been paid, and there was no revenue loss to the government. The delay was purely technical in nature.
- Additional Evidence Accepted:
  - The Tribunal admitted affidavits from the managing partner and the accountant as additional evidence, which confirmed the reasons for the delay and the subsequent filing of the audit report.
- Penalty Not Automatic:
  - The Tribunal reiterated that the imposition of a penalty is discretionary and must be applied judiciously after considering the facts of the case.
  - Section 273B protects taxpayers from penalties if they can prove that the failure was due to a reasonable cause.

Tribunal's Decision:
Taking into account all the facts and circumstances, the Tribunal annulled the penalty order under Section 271B and ruled in favor of the assessee.

Issuance of Notice to a Deceased Assessee: A Legal Misstep

Case Law: Lal Chand Verma Through His Legal Heir v. Union of India) | Court: Delhi High Court | Case No.: IT Appeal 468 of 2024 | Date: December 24, 2024

In a significant ruling, the Delhi High Court in Lal Chand Verma Through His Legal Heir v. Union of India quashed a notice issued under section 148A(b) of the Income-tax Act, 1961, to a deceased assessee. The case highlights the crucial principle that legal notices must be correctly addressed, and the failure to issue a notice to the legal heir invalidates the entire proceeding.

Top Trends

- Domestic financial institutions may soon hold more stake than foreign investors. Significant foreign investor sell-offs may increase the shareholding of Indian institutions in domestic firms.
- Global tech giants lose $108 billion after market selloff. A sharp decline in tech stocks erodes billionaire wealth, with the Nasdaq Composite Index dropping 3.1%.
- India Inc seeks GST overhaul in upcoming Union Budget 2025. Businesses demand a simpler tax structure, better compliance tools, and a GST Appellate Tribunal.
- Tech industry urges funding for deeptech and reforms in safe harbour policies. Startups seek a central deeptech fund and regulatory clarity to boost innovation.
- Government shifts focus from privatisation to investing in state-run firms. The administration plans fresh capital infusion into public enterprises instead of further disinvestment.

Top Trends

- Manufacturing sector calls for pro-local policies and GST reductions. Industry bodies push for tax cuts and incentives to strengthen domestic production.
- Salaried class anticipates relief in Union Budget 2025-26. Expectations rise for adjustments in tax slabs to ease the burden on middle-income groups.
- Godrej Enterprises to invest over ₹1,200 crore in digital solutions. The company aims to enhance AI-driven platforms for customer experience and operational efficiency.
- Jewellers advocate for policies to make gold more affordable. Industry leaders propose EMI-based gold purchases and lower import duties to boost demand.
- Optiemus Electronics partners with TP-Link to boost 'Make in India' initiative. The collaboration will manufacture networking and smart home devices locally.

Background of the Case

The original assessee, Lal Chand Verma, passed away on July 30, 2021. Despite this, the Assessing Officer (AO), relying on statements made by another assessee in an unrelated assessment, issued a notice under Section 148A(b) on March 30, 2023, seeking an explanation on certain financial transactions. The deceased assessee's son and legal heir, Puneet Verma, responded promptly, informing the AO about his father's demise and providing a copy of the death certificate as conclusive proof. However, the AO proceeded to pass an order under Section 148A(d) and issued a reassessment notice under Section 148, ignoring the fact that the original assessee was no longer alive.

Legal Issues and Court's Observations

1.Validity of Notice Under Section 148A(b) to a Deceased Person

- The Court emphasized that a notice issued to a deceased assessee is invalid in law unless it is directed to the legal heir under Section 159(2)(b) of the Income-tax Act.
- Since the AO was made aware of the assessee's death and still failed to issue a fresh notice to the legal heir, the notice was deemed legally unsustainable.

2. Application of Section 159 of the Income-tax Act

- Section 159 applies only when proceedings were initiated while the assessee was alive and later continued against the legal heir.
- In this case, the notice was issued after the assessee's demise, making Section 159 inapplicable.
- Thus, the entire assessment proceeding was deemed void ab initio.

3. Reliance on Precedents

- The Delhi High Court relied on the rulings in Savita Kapila v. Assistant Commissioner of Income Tax ([2020] 118 taxmann.com 46) and Dharamraj v. ITO (2022 SCC Online Del 174), both of which held that issuing a notice to a deceased person renders the proceedings invalid.
- The Court reaffirmed that the requirement to serve a valid notice is a jurisdictional necessity. If the notice itself is defective, subsequent orders and proceedings become void.

4. Irrelevance of Section 292BB

- The revenue argued that defects in the notice could be cured under Section 292BB.
- However, the Court clarified that Section 292BB only applies when the assessee appears in response to a defective notice and does not challenge it. In this case, the legal heir explicitly contested the validity of the notice from the outset.

Final Judgment

- The Delhi High Court allowed the writ petition, quashing the impugned notice issued under Section 148A(b) along with all consequential orders and proceedings. This decision reinforces that tax authorities must exercise due diligence when issuing notices, especially in cases involving deceased assessees.

Key Takeaways for Taxpayers and Practitioners

- Always verify the validity of tax notices—if issued to a deceased person, they are legally unsustainable.
- Legal heirs should proactively inform tax authorities about the assessee's death and provide documentary evidence.
- Section 159 applies only if proceedings commenced before the assessee's death; otherwise, fresh notice must be issued to the legal heir.
- Defects in jurisdictional notices cannot be cured under Section 292BB, especially when contested at the outset.

This ruling serves as a critical reminder for taxpayers and professionals to ensure procedural compliance in income tax matters, reinforcing the importance of proper notice issuance under the Income-tax Act.

Shrenik Kumar N. Baldota v. Deputy Commissioner of Income-tax

Court: High Court of Bombay | Writ Petition No. 1331 of 2022 | Date: January 20, 2025

Assessee's Argument:

The assessee argued that the reassessment notice was invalid because:

- Issuance After Four Years: The notice was issued after four years from the end of the assessment year, triggering the proviso to Section 147, which requires the failure of the assessee to disclose fully and truly all material facts.
- No Failure to Disclose: The information used for reassessment was already available in the documents and submissions made during the original assessment.
- Change of Opinion: The AO was essentially disagreeing with the previous officer's assessment, which cannot be a valid ground for reassessment.
- Unaddressed Objections: The objections raised by the assessee were not properly addressed by the AO.

Top Trends

- Flexible workspace operators plan expansions amid growing demand. With hybrid work models on the rise, managed office spaces see increasing interest.
- Budget 2025 expected to focus on welfare schemes for women, youth, and farmers. Infrastructure, fiscal prudence, and social welfare remain key priorities.
- RBI's bond purchases fuel speculation of a February rate cut. The central bank's actions indicate a possible reduction in interest rates next month.
- Investors face challenges amid global economic uncertainties. Geopolitical tensions and central bank policies create market volatility.
- India's startup ecosystem witnesses a funding revival. Venture capital inflows return, signaling renewed investor confidence in early-stage startups.

Top Trends

- Real estate sector expects boost from upcoming budget reforms. Policy changes in taxation and incentives could drive sectoral growth.
- Government eyes increased digital payments adoption by MSMEs. Plans are underway to improve financial access for small businesses through fintech solutions.
- Retail loan growth slows as banks tighten lending norms. Rising interest rates and risk concerns lead to stricter loan approvals.
- Foreign investments in Indian bonds rise amid global interest rate cuts. Lower rates globally drive capital inflows into India's bond market.
- Stock markets remain volatile amid geopolitical tensions. Uncertainty in global markets causes fluctuations in Indian indices.

Revenue's Argument:
The Deputy Commissioner of Income-tax (Revenue) argued that the reassessment was justified based on audit objections, which constituted new and tangible information.

Court's Decision:
The High Court ruled in favor of the assessee, quashing the reassessment notice and the order rejecting the assessee's objections. The court's reasoning was as follows:

- Proviso to Section 147: Since the reassessment notice was issued after four years, the AO had to demonstrate that the assessee failed to disclose fully and truly all material facts.
- No Failure to Disclose: The court found no indication of such failure in the reasons recorded for reopening the assessment. The information was gleaned from documents and submissions already on record.
- Change of Opinion: The court noted that the reassessment was essentially based on a different opinion from the predecessor officer.
- Unrebutted Objections: The AO failed to address the jurisdictional objections raised by the assessee.
- Audit Objections: The court emphasized that the validity of the reassessment must be based on the reasons recorded, and new justifications (like audit objections) cannot be added later.

Conclusion:
The High Court held that the reassessment notice was without jurisdiction, illegal, and arbitrary because the necessary conditions under Section 147 were not met. The court reaffirmed the principle that reassessment cannot be based on a mere change of opinion or on information already disclosed during the original assessment, especially after the lapse of four years, unless there is a clear failure on the part of the assessee to disclose fully and truly all material facts.

Shell International Petroleum Company Ltd. v. ACIT (International Tax)

ITAT Mumbai Bench 'I' | IT Appeal No. 310 (Mum) of 2021 | Assessment Year: 2011-12 | Date: December 31, 2024

Business Support Services (BSS) Not Taxable as Fees for Technical Services (FTS)

- Issue: Whether payments received by the assessee for providing Business Support Services (BSS) are taxable as Fees for Technical Services (FTS) in India.
- Assessee's Argument: The assessee contended that the services provided were managerial in nature and did not involve "making available" any technical knowledge, skill, etc., thus not qualifying as Fees for Technical Services (FTS).
- Tribunal's Decision: The Tribunal ruled in favor of the assessee, concluding that the services rendered were managerial and did not involve technical knowledge. Therefore, the payments received for BSS were not taxable as FTS. This decision was consistent with a similar ruling in the assessee's case for Assessment Year 2009-10, following the SIMPL decision.

SUN Maintenance Software Usage Charges Not Considered Royalty

- Issue: Whether the amount received by the assessee towards usage charges of SUN Maintenance Software is considered royalty and taxable in India.
- Assessee's Argument: The assessee argued that the payment was for the "use of a copyrighted article" and not the "use or right to use copyright," thus not qualifying as royalty.
- Tribunal's Decision: The Tribunal ruled in favor of the assessee, holding that the charges for the use of SUN Maintenance Software did not qualify as royalty. It referred to the CIT(LTU) v. Reliance Industries P. Ltd. case, where payments for resale or use of software under End User License Agreements (EULAs) or distribution agreements were not treated as royalty.

Key Cases Referred To

- CIT v. Roca Bathroom Products (P.) Ltd.
- Engineering Analysis Centre of Excellence (P.) Ltd. v. CIT
- CIT (LTU) v. Reliance Industries Ltd.

Conclusion

- The ITAT ruled in favor of the assessee, Shell International Petroleum Company Ltd., on both issues:
- Business Support Services were not taxable as FTS.
- SUN Maintenance Software usage charges were not considered royalty and thus not taxable.

Top Trends

- Central banks worldwide maintain cautious stance on interest rate cuts. Policymakers assess inflation risks before making monetary easing decisions.
- US sanctions on Russia disrupt global oil trade. New U.S. sanctions effective January 2025 have stranded Russian oil shipments, leading to increased demand for Middle Eastern and African crude.
- RBI supersedes New India Co-operative Bank's board. The Reserve Bank of India has taken control of the bank's board for 12 months due to fund misappropriation allegations.
- India proposes new bill to overhaul income tax law. A new bill aims to replace the six-decade-old income tax law, simplifying rules to reduce disputes and encourage voluntary compliance.

Top Trends

- Prime Minister Modi meets President Trump to discuss defense and trade. Talks include potential F-35 jet sales, doubling bilateral trade to $500 billion by 2030, and addressing high tariffs on American cars.
- New RBI chief joins efforts to revive economic growth. Sanjay Malhotra, appointed in December, has cut interest rates and delayed banking sector rules to support growth.
- India accuses Kia Motors of $155 million tax evasion. Authorities allege Kia misclassified imported components to benefit from lower tax rates, similar to a recent Volkswagen dispute.
- Finance leaders optimistic about private credit and M&A in 2025. Expectations include growth in private credit markets, major mergers and acquisitions, and expansion into the U.S. market.

Shandilya Properties LLP v. Income-tax Officer

HIGH COURT OF BOMBAY | Writ Petition No. 2485 of 2024 | Date: January 15, 2025

Case Summary

Shandilya Properties LLP challenged an assessment order in which the Assessing Officer (AO) adopted the percentage completion method for recognizing income, while the assessee followed the project completion method. The assessee argued that the order taxed income already declared and accepted in the previous year, which was outside the scope of the AO’s jurisdiction. The writ petition sought to quash the order and demand notice.

Court's Rationale

The Bombay High Court dismissed the writ petition, stating that:

- Alternate Remedy Available: The Court noted that the assessee had a statutory right to appeal the assessment order to the Commissioner (Appeals) under Section 260A of the Income-tax Act. The writ jurisdiction should not be invoked when an alternate remedy is available.
- Merits of the Case: The Court observed that the issues raised were primarily about the merits of the assessment order, specifically relating to the method of accounting and interpretation of applicable sections. These should be resolved by the appellate authorities.
- Role of the High Court: The Court emphasized that the writ petition could not be used to bypass the statutory remedy process and that the High Court should not be turned into an appellate forum for examining the merits of the assessment order.

Conclusion

The Bombay High Court upheld the principle that taxpayers must exhaust the statutory remedies available to them before approaching the High Court. The Court dismissed the writ petition and directed the Appellate Authority to consider the delay caused by the pendency of the writ petition. This decision reinforces the importance of following the correct legal procedure and avoiding unnecessary interference in tax matters at the High Court level.

Principal Commissioner of Income-tax v. Tata Power Delhi Distribution Ltd

Court: High Court of Delhi |IT Appeal No.: 687 of 2019 | Assessment Year: 2006-07 | Date: January 13, 2025

Case Overview

In this case, the Delhi High Court ruled that Section 115JB of the Income-tax Act, as it stood before the 2012 amendment, is not applicable to electricity companies like Tata Power Delhi Distribution Ltd., which are governed by the Electricity Act, 2003 and the Electricity (Supply) Act, 1948.

Facts

- The assessee, a joint venture between Tata Power Company and the Government of NCT of Delhi, filed its return for AY 2006-07, declaring income under normal provisions and book profits under Section 115JB.
- The Assessing Officer made adjustments to book profits, particularly related to exempt dividend income, which the assessee had not added back as required under Section 115JB(2).
- The Commissioner (Appeals) partially granted relief, but the Tribunal ruled that Section 115JB was inapplicable to the assessee.
- The Revenue appealed the Tribunal's decision to the Delhi High Court.

Key Findings

- Inapplicability of Section 115JB: The Court held that the provisions of Section 115JB, before the 2012 amendment, did not apply to electricity companies governed by special statutes such as the Electricity (Supply) Act, 1948.

Conclusion

The Delhi High Court ruled in favor of the assessee, holding that electricity companies are not liable to Minimum Alternate Tax (MAT) under Section 115JB for periods before the 2012 amendment.

Top Trends

- Centre releases ₹1.11 lakh crore interest-free loan to states. Funds allocated for capital expenditure aim to boost infrastructure and reforms, with top beneficiaries including Bihar and Uttar Pradesh.
- RBI increases gold reserves amid rising prices. Gold prices have jumped over 10% in early 2025, prompting the central bank to diversify reserves and mitigate currency volatility risks.
- Finance Bill's 5% cap hinders overseas fund managers' India plans. Restrictions on indirect investments by resident Indians are deterring fund management activity in GIFT City.
- Union Budget emphasizes fiscal consolidation and growth. The 2025-26 budget maintains a deficit-to-GDP ratio of 4.4%, with steady capital expenditure and debt-to-GDP on a downward trend.

Commissioner of Income-tax (Exemptions) v. Indira Trust

Court: ITAT Kolkata | It Appeal no. 1018 (Kol.) of 2023 | Date: January 10, 2025

Case Overview

The ITAT Kolkata Bench has clarified that a charitable trust, which has been granted provisional registration under Section 12A(1)(ac)(i), does not need to apply for final registration under Section 12A(1)(ac)(iii). This decision is in line with the CBDT Circular No. 11 of 2022, which treats provisional registration as regular registration, resolving any confusion that may have existed regarding the registration process.

Case Background

Indira Trust, a charitable trust, was granted provisional registration under Section 12A on April 6, 2022, valid until AY 2026-27. The trust had been registered under Section 12A since July 3, 2020. With the amendments to the Income-tax Act, trusts registered before April 1, 2021, were required to apply for new registration. The trust had initially applied for final registration under Section 12A(1)(ac)(iii), assuming that the provisional registration did not suffice. However, the Commissioner of Income Tax (Exemptions) rejected the application, deeming it premature, as provisional registration was still valid. The trust then appealed to the ITAT, which initially ruled in its favor but recalled its order after the Revenue filed a Miscellaneous Application, citing CBDT Circular No. 11 of 2022.

Key Findings of the ITAT

- Provisional Registration Treated as Regular Registration: The ITAT noted that the CBDT Circular No. 11 of 2022 had clarified that provisional registration granted during FY 2021-22, owing to technical glitches, should be treated as regular registration.
- No Requirement for Final Registration: Since the trust had been granted provisional registration under Section 12A(1)(ac)(i), which was valid until AY 2026-27, the Tribunal ruled that there was no need to apply for final registration under Section 12A(1)(ac)(iii).
- Recall of Earlier ITAT Order: The ITAT recalled its earlier order based on a misinterpretation of the provisional registration, emphasizing that provisional registration was sufficient, and dismissed the trust’s appeal as infructuous.

Top Trends

- RBI Governor promises agile liquidity response. Following a recent policy rate cut, the central bank is prepared to manage liquidity to ensure adequate assets in the banking system.
- Credit growth surpasses deposit growth in January 2025. Bank lending rose 11.4% year-on-year, outpacing deposit growth of 10.3%, leading banks to increase deposit rates.
- India's cash deficit eases after RBI liquidity measures. The liquidity deficit reduced significantly, aligning overnight borrowing costs with the central bank's policy rate.
- Finance Ministry to ease FEMA rules to attract foreign investors. The ministry, in collaboration with RBI, plans to simplify foreign exchange regulations, particularly for non-debt instruments.

Conclusion

The ITAT's ruling reaffirms that provisional registration under Section 12A is treated as regular registration under Section 12AB, and no separate final registration application is necessary. This provides clarity for charitable trusts regarding their registration status and compliance requirements.

Key Takeaways

- Provisional registration under Section 12A(1)(ac)(i) is considered regular registration under Section 12AB(1)(a).
- Charitable trusts with provisional registration need not apply for final registration under Section 12A(1)(ac)(iii).
- The CBDT Circular No. 11 of 2022 addresses ambiguities surrounding provisional registrations issued during FY 2021-22, confirming their regular status.

Implications for Charitable Trusts

Charitable trusts should review their registration status under Section 12A to ensure they comply with the provisions outlined in CBDT Circular No. 11 of 2022. Trusts that have been granted provisional registration do not need to file for final registration, saving time and avoiding unnecessary applications.

Aalap Digital Music (P.) Ltd. v. ACIT

Court: ITAT Delhi Bench 'A' |IT Appeal No.: 2034 (Delhi) of 2023 | Assessment Year: 2016-17 | Date: January 10, 2025

Case Overview

The case of Aalap Digital Music (P.) Ltd. v. ACIT involves the disallowance of license fees claimed as business expenditure by the assessee company, which specializes in the commercial exploitation of music albums. The key issue revolved around whether the license fees paid by the company should be treated as prior period expenses or as deferred revenue expenditure to be amortized over the term of the license.

Facts of the Case

- The assessee company entered into a license agreement with Hungama Digital Media Entertainment Pvt. Ltd. (HDMEPL) on December 20, 2015, for the acquisition of audio and audio-visual rights for non-Bollywood regional music content for six years. The total license fee of Rs. 11.74 crores was agreed to be paid over six years. The assessee claimed the full amount as a business expenditure in the Assessment Year (AY) 2016-17.

Top Trends

- Economic Affairs Secretary urges utilization of ₹20,000 crore R&D fund. Ajay Seth encourages India Inc to submit high-quality proposals to leverage the research and development allocation announced in the Budget.
- 98.15% of ₹2,000 notes returned to the banking system. As of January 31, 2025, only ₹6,577 crore worth of ₹2,000 notes remain in circulation, with the rest deposited or exchanged.
- Budget proposals expected to boost bank deposits by up to ₹45,000 crore. Income tax adjustments, including raising TDS thresholds and increasing senior citizens' savings limits, aim to enhance deposits.
- RBI directs NBFCs to disclose maximum loan rates. Large non-banking finance companies must reveal the highest rates charged on each loan product to ensure transparency.

Top Trends

- Canada's PSP Investments in talks for Maple InvIT stake. The pension investor is considering acquiring a minority stake in Maple Infrastructure Trust to finance recent toll road asset acquisitions.
- Religare independent director Hamid Ahmed resigns. Citing increased family business responsibilities, Ahmed steps down amid a ₹2,116-crore open offer by the Burman family to acquire a stake in Religare.
- Banks focus on medium-term deposits for liquidity compliance. To meet new liquidity coverage ratio rules, lenders are mobilizing two-to-five-year non-callable deposits despite higher costs.
- Grameen Credit Score initiative to boost rural women's access to loans. The program aims to support self-help groups by providing credit scores, enhancing financial inclusion in rural areas.

- The Assessing Officer (AO) disallowed part of the license fee, treating it as prior period expenses, based on the commercial exploitation start dates of the music albums, which were earlier than the license agreement date. This disallowance was upheld by the Commissioner of Income Tax (Appeals) [CIT(A)].

Key Issues

- Whether the license fees paid should be treated as prior period expenses or deferred revenue expenditure to be amortized over the six-year license period.
- Whether the AO was correct in disallowing the expenses based on the start dates of the commercial exploitation of the albums, instead of the actual date of acquiring the license.

Tribunal's Findings

- Nature of License Fees: The Tribunal ruled that the license fee was a minimum guarantee fee, not a royalty payment. The assessee had guaranteed a minimum payment of Rs. 11.74 crores, which was tied to the revenue earned from exploiting the music albums.
- Prior Period Expenses: The Tribunal observed that the license was acquired on December 20, 2015, and there were no expenses incurred before this date. Therefore, the license fees could not be treated as prior period expenses.
- Deferred Revenue Expenditure: The Tribunal held that the license fees should be classified as deferred revenue expenditure, to be amortized over the six-year license period. The AO was directed to re-assess the expenses accordingly.
- Matching Concept: The Tribunal noted that the assessee had failed to follow the matching concept of accounting, as income and expenses were not properly matched. The AO was directed to allow only the license fees for the current period (4 months from December 2015 to March 2016) and carry forward the balance for amortization over the remaining period.

Tribunal's Decision

The matter was remanded back to the AO for re-assessment. The Tribunal directed the AO to treat the license fees as deferred revenue expenditure and allow amortization over the six-year license period. The AO was also instructed to ensure that the matching concept was followed, allowing only the relevant portion of the license fees for the current period and carrying forward the balance for future years.

Conclusion

The ITAT's ruling emphasizes the importance of proper accounting treatment of license fees, particularly when linked to long-term agreements. The Tribunal clarified that the AO's disallowance of the expenses as prior period expenses was incorrect and ordered a re-assessment to ensure the proper amortization of license fees over the license period.

Key Takeaways

- License fees for long-term agreements should be treated as deferred revenue expenditure and amortized over the license period.
- The matching concept of accounting should be followed, with income and expenses being recognized in the relevant periods.
- The AO's disallowance of expenses based on the start date of commercial exploitation was found to be incorrect, and the matter was remanded for re-assessment.

Implications for Businesses

This case highlights the need for businesses to follow the correct accounting treatment when dealing with long-term licenses or contracts. Proper amortization of deferred revenue expenditure can help ensure compliance with tax laws and accurate financial reporting.

Disclaimer

Top Trends

- UPI transaction value surges to ₹18.3 lakh crore in January 2025. The Unified Payments Interface (UPI) recorded over 12 billion transactions, showing continued growth in digital payments.
- Government plans new incentives for electric vehicle manufacturing. Policy updates aim to boost EV production by providing tax breaks and subsidies for domestic manufacturers.
- India's forex reserves cross $650 billion amid strong capital inflows. Steady FDI and foreign portfolio investments have contributed to an increase in India's foreign exchange reserves.
- Stock market sees record foreign investor inflows in early 2025. January 2025 witnessed one of the highest FII inflows in recent years, boosting equity indices to new highs.

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