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FIN-O-SCOPE

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Guidance on the Application of Principal Purpose Test (PPT) under India’s Double Taxation Avoidance Agreements (DTAAs)

Notification No. Circular 01/2025 | Dated 15th March 2025

Introduction

The Central Board of Direct Taxes (CBDT), under the Ministry of Finance, Government of India, has issued a clarification regarding Circular No. 01/2025 dated 21st January 2025. The circular provides guidance on the application of the Principal Purpose Test (PPT) under India’s Double Taxation Avoidance Agreements (DTAAs). The clarification aims to ensure clarity and certainty in the application of the PPT provision, which is designed to prevent treaty abuse and revenue leakage.

Top Trends

- State-Run Banks' Earnings Surge: Public sector banks reported a 25.6% increase in net income, reaching ₹85,520 crore in the first half of the fiscal year.
- Government's Stake Sale in Banks: The government plans to dilute minority stakes in four state-run banks to comply with public shareholding norms.

Top Trends

- Rupee's Strengthening Streak: The Indian Rupee has been strengthening, opening at 86.41 against the US dollar, marking its seventh consecutive day of gains.
- Fintechs Outpacing Traditional Banks: Finance Minister Nirmala Sitharaman highlighted fintechs' dominance over traditional banks in metrics like new-to-credit customers and UPI-led QR code payments.
- LIC Warns Against Fraudulent Calls: The Life Insurance Corporation of India cautioned customers about fraudulent calls and advised against sharing sensitive policy or banking details.
- Tata AIA's New Insurance Plan: Tata AIA launched the 'Shubh Flexi Income Plan,' offering tailored options for smart savings and life coverage.

Scope of the Circular:

- The Circular applies only to the PPT provision in Indian DTAAs where such a provision exists.
- It does not interfere with other provisions of the DTAAs, including those related to treaty entitlement or denial of treaty benefits, except for the PPT.
- The Circular does not affect anti-abuse rules under domestic law, such as the General Anti-Abuse Rule (GAAR), Specific Anti-Abuse Rules (SAAR), and Judicial Anti-Abuse Rules (JAAR). These rules will continue to operate independently.

Principal Purpose Test (PPT):

- The PPT is a provision under the Multilateral Convention (MLI) that aims to prevent treaty abuse by denying benefits under a DTAA if one of the principal purposes of an arrangement or transaction is to obtain a tax advantage.
- The PPT allows for the denial of benefits unless it is established that granting the benefit aligns with the object and purpose of the relevant provisions of the DTAA.

Application of the PPT:

- The PPT provision is to be applied prospectively.
- For DTAAs where the PPT has been incorporated through bilateral processes, it applies from the date of entry into force of the DTAA or the Amending Protocol.
- For DTAAs modified by the MLI, the PPT applies from the date of entry into effect of the MLI provisions, as specified in Article 35 of the MLI.

Interaction with Treaty-Specific Bilateral Commitments:

- The PPT provision does not interact with certain treaty-specific bilateral commitments, such as grandfathering provisions under the India-Cyprus, India-Mauritius, and India-Singapore DTAAs. These provisions remain outside the purview of the PPT.

Additional Guidance:

- The application of the PPT is a context-specific, fact-based exercise to be carried out on a case-by-case basis.
- Tax authorities may refer to the BEPS Action Plan 6 Final Report and the Commentary to Articles 1 and 29 of the UN Model Tax Convention (2021) as supplementary sources of guidance, subject to India’s reservations.

Conclusion

The clarification reaffirms that Circular No. 01/2025 is intended solely to provide guidance on the application of the PPT provision under India's DTAAs. It does not introduce any new legal interpretations or affect other provisions of the Income-tax Act. The Government remains committed to ensuring consistency in tax law interpretation while upholding the existing legal framework.

Official Document Link:

Press Release Clarification on Circular 01/2025

FAQs on Compounding of Offences under the Income Tax Act, 1961

Notification No. Circular 04/2025 | Dated 17th March 2025

Introduction

The Central Board of Direct Taxes (CBDT), under the Ministry of Finance, Government of India, has issued revised guidelines for the compounding of offences under the Income-tax Act, 1961, on 17th October 2024. These revised guidelines supersede all previous guidelines and are applicable to both pending and new applications. To provide clarity and better understanding among stakeholders, the CBDT has issued a Circular in the form of Frequently Asked Questions (FAQs) addressing various aspects of the revised guidelines.

A. Compounding of Offence

What is compounding of offence?

- Compounding of an offence is a mechanism where the defaulter can avoid major legal consequences by paying a certain sum of money, either before or after the initiation of prosecution proceedings.

Is compounding an admission of guilt?

- No, compounding is not construed as an admission of guilt by the applicant.

Are all offences under the Income Tax Act compoundable?

- Yes, all offences under the Income Tax Act have been made compoundable under the revised guidelines.

B. Competent Authority/Jurisdiction

Where can the compounding application be filed?

- The application can be filed before the jurisdictional Pr. CCIT/CCIT/Pr. DGIT/DGIT, who is the competent authority for compounding.

Top Trends

- Paytm's UPI Trading Blocks: Paytm introduced UPI Trading Blocks, enabling users to set up automatic payment deductions directly from their bank accounts for trades.
- RBI's Advisory to NBFCs: The Reserve Bank of India advised Non-Banking Financial Companies to curb perpetual credit lines due to risk concerns.
- PNB's KYC Update Deadline: Punjab National Bank urged customers to update their KYC by March 26 to avoid account restrictions.
- March Financial Deadlines: Several financial changes and deadlines, including tax-saving investments and UPI updates, are set for March, impacting taxpayers and investors.
- Mumbai's Stamp Duty Revenue: Mumbai collected ₹896 crore as stamp duty from over 11,500 property registrations in February, indicating a robust real estate market.

Top Trends

- SBI Mutual Fund's New Offerings: SBI Mutual Fund launched two new funds tracking the BSE PSU Bank Index, expanding investment options for investors.
- Advancements in Digital Lending: The digital lending ecosystem is witnessing significant growth, with increased adoption of Account Aggregator frameworks and consent-based data sharing.
- RBI's Climate Risk Initiatives: The Reserve Bank of India plans to set up an 'On Tap' cohort focusing on climate change risks, emphasizing sustainable finance.
- Securitization Market Dynamics: Securitized pools are facing pressure as collections dip on unsecured loans, affecting the overall securitization market.
- Surge in AI-Powered Chatbots – Banks and fintechs are using AI chatbots for customer support and financial advisory.

Who is the competent authority for TDS-related offences with multiple jurisdictions?

- The competent authority will be the one where the quantum of TDS default is higher.

C. Compounding Application and Fee

Is there a prescribed format and fee for the application?

- Yes, the application must be filed in the prescribed format (Annexure-1) along with a fee as per the guidelines.

Is there a time limit for filing the application?

- No, the application can be filed at any time after the offence is committed, regardless of whether prosecution proceedings have been initiated.

Is the compounding fee adjustable?

- Yes, the fee is adjustable against the compounding charges for the specific application, but cross-application adjustment is not allowed.

D. Terms for Compounding

Is withdrawal of appeals required before filing a compounding application?

- No, but the applicant must undertake to withdraw appeals related to the offences being compounded.

Can a person file a compounding application if their previous application was rejected?

- Yes, a fresh application can be filed if the previous rejection was due to curable defects.

E. Approval of Higher Authority

Can offences involving imprisonment of two years or more be compounded?

- Yes, but only with the approval of the Chairman, CBDT.

Can cases involving other agencies like ED/CBI be compounded?

- Yes, unless the applicant is involved in anti-national or terrorist activities.

F. Compounding Charges

How are compounding charges calculated for rejected applications?

- Rejected applications under previous guidelines are considered as the first application, and fresh applications are treated as subsequent applications with higher charges.

Are compounding charges increased for late applications?

- Yes, if the application is filed more than 12 months after the prosecution complaint, the charges are increased by 50%.

G. Extension of Time for Payment

Can the time for payment of compounding charges be extended?

- Yes, up to a maximum of 24 months, subject to approval.
- H. Co-Accused and Abettors

Can co-accused file compounding applications?

- Yes, co-accused can file applications separately or jointly with the main accused.

What happens if the main accused is under insolvency proceedings?

- The co-accused can still file a compounding application, and the liability of the co-accused does not extinguish even if the main accused's liability ceases.

Conclusion

The revised guidelines aim to simplify the compounding process, remove previous limitations, and provide greater flexibility to taxpayers. The FAQs clarify various aspects of the compounding process, including jurisdiction, fees, charges, and the treatment of co-accused. The CBDT remains committed to ensuring a fair and transparent process for compounding offences under the Income Tax Act.

Official Document Link:

FAQs on Compounding of Offences under Income Tax Act, 1961

Ministry of Finance Implements Amendments to Income-tax Rules, 2025

Notification No. G.S.R. 195(E) | Dated: 27th March, 2025

The Central Board of Direct Taxes (CBDT) has introduced the Income-tax (Seventh Amendment) Rules, 2025, effective from the date of their publication in the Official Gazette. Key amendments include:

- **Form 26Q:** Updated to include Section 194T for reporting payments of salary, remuneration, commission, bonus, or interest to partners of a firm.
- **Form 27Q:** Modified to incorporate Section 194T for non-resident partners, replacing the existing row for "Other sums payable to a non-resident" under Section 195.

Top Trends

- Emergence of Super Apps: Flipkart-backed super.money has joined the top five UPI apps, indicating the growing prominence of super apps in the financial ecosystem.
- RBI's Digital Transformation Recognition: The Reserve Bank of India received the Digital Transformation Award 2025 for its initiatives in enhancing digital banking infrastructure.
- IndusInd Bank's Capital Raising: IndusInd Bank raised an additional ₹2,750 crore via Certificates of Deposit, strengthening its liquidity position.
- Parliamentary Concerns on CASA Ratios: A parliamentary panel expressed concerns over the declining Current Account Savings Account (CASA) ratios in banks, emphasizing the need for corrective measures.
- Expansion of Fractional Investing – Investors can now buy fractions of high-value stocks, real estate, and other assets.

Top Trends

- NABARD and SIDBI's Bond Issuance: NABARD and SIDBI raised ₹14,000 crore amid growing demand for short to medium-term bonds, reflecting shifts in the bond market.
- RBI's Forward Positioning: The Reserve Bank of India's net short position in the forward market swelled to $77.5 billion, indicating its stance on currency management.
- Net FDI Trends: Net Foreign Direct Investment dipped to $1.4 billion during April-January 2025, while gross FDI saw a 12.4% rise, showcasing mixed investment sentiments.
- RBI's Advisory to Urban Co-op Banks: The RBI advised urban cooperative banks to be mindful of their responsibilities and maintain high standards of customer service to retain depositor trust.

These changes aim to streamline TDS compliance for partnership firms and ensure accurate reporting of partner-related transactions.

Official Link:
Read the Full Notification Here

CBDT Amends Tax Audit Form 3CD Under Income Tax Rules, 2025

Notification No. 23/2025 | Dated: 28th March, 2025

The Central Board of Direct Taxes (CBDT) has notified the Income-tax (Eighth Amendment) Rules, 2025, introducing key amendments to Part B of Form 3CD (Tax Audit Report) under Section 44AB of the Income-tax Act, 1961. These changes will be effective from 1st April, 2025.

Key Amendments:

- Clause 12: Insertion of Section 44BBC for reporting specified transactions.
- Clause 19: Omission of rows related to Sections 32AC, 32AD, 35AC, and 35CCB.
- Clause 21: Addition of a new row for reporting expenditure on settling legal proceedings related to contraventions notified by the Central Government.
- Clause 22: Revised reporting requirements for interest and payments under the MSMED Act, 2006, including:
- Inadmissible interest under Section 23.
- Timely/untimely payments to micro/small enterprises under Section 15.
- Clause 26:
- Removal of redundant sub-clauses.
- Replacement of "allowed" with "allowable" for clarity.
- Clause 28 & 29: Omitted entirely.
- Clause 31: Enhanced disclosure for loans/deposits, including:
- Nature codes (e.g., cash payment, journal entries, asset transfers).
- Dropdown menus for standardized reporting.
- New Clause 36B: Mandates disclosure of share buyback transactions under Section 22(22)(f), including:
- Amount received.
- Cost of acquisition of shares bought back.

Action Points for Tax Auditors:

- Ensure compliance with the updated Form 3CD for audits conducted from 1st April 2025.
- Adopt new nature codes (A-L) for reporting transactions under Clause 31.
- Verify MSMED Act-related payments and buyback disclosures meticulously.

Official Notification: Read the Full Text Here

CBDT Issues Guidelines for Waiver of Interest Under Sections 201(1A)(ii) and 206C(7) of the Income-tax Act

Notification No. F. No. 275/92/2024-IT(Budget) | Dated: 28th March, 2025

The Central Board of Direct Taxes (CBDT) has issued a directive under Section 119 of the Income-tax Act, 1961, providing relief to taxpayers facing interest charges due to technical glitches in the payment of TDS/TCS. The order is effective immediately.

Key Provisions:

1.Eligibility for Waiver:

- Interest under Section 201(1A)(ii) (for TDS) or Section 206C(7) (for TCS) may be waived if:
- Payment was initiated on or before the due date, and the amount was debited from the taxpayer's bank account.
- Delay in crediting tax to the government was due to technical issues beyond the taxpayer's control.

2.Application Process:

- Authority: Chief Commissioner (CCIT), Director General (DGIT), or Principal Chief Commissioner (PrCCIT).
- Timeline:
- Applications must be filed within one year from the end of the relevant financial year.
- Disposal within six months of receipt.
- Hearing: A speaking order must be passed after verifying glitches with banks/systems and granting the taxpayer a hearing.

3.Refunds:

- Waiver applies even if interest was already paid; refunds will be issued if approved.

Top Trends

- NPCI's International Expansion: NPCI's international arm partnered with a Singapore firm to expand UPI services to over 12,000 merchants in Singapore, enhancing cross-border payment capabilities.
- RBI's Dollar Inflow Management: The RBI has been 'passively' absorbing dollar inflows over recent sessions, managing liquidity amid foreign exchange fluctuations.
- Slowing Loan Growth in Indian Banks – Indian banks saw an eighth consecutive month of slowing loan growth in February 2025, with a 12% year-on-year increase. This decline is due to stricter RBI capital requirements, especially on personal and credit card loans.
- RBI's Liquidity Framework Consultation – The RBI will meet with market participants on April 3 to discuss liquidity management, aiming to improve monetary policy transmission.

Top Trends

- Rise in Hyper-Personalized Banking – Banks are using AI to offer customized financial products based on user behavior.
- Surge in AI-Based Fraud Detection – AI tools are being deployed to detect and prevent financial fraud in real time.
- Growing Popularity of Health Insurance Plans with Wellness Benefits – Insurers are offering discounts and incentives for healthy lifestyles.
- Increase in Multi-Currency Forex Cards – Demand for multi-currency travel cards is rising among international travelers.
- Growth of AI-Managed Mutual Funds – Mutual funds powered by AI-driven investment strategies are gaining traction.
- Expansion of Agricultural Credit Schemes – More financial institutions are offering specialized loans for farmers.

4.Finality of Order:

- The CCIT/DGIT/PrCCIT's decision is final; no appeals to the CBDT are permitted.

Action Points for Taxpayers/Deductors:

- File waiver applications promptly if impacted by technical glitches.
- Maintain proof of payment initiation (e.g., bank statements, challan details).
- Cooperate with authorities during verification.

Official Link: CBDT Circular

CBDT Expands Safe Harbour Rules: Threshold Increased to Rs. 300 Crore & Lithium-Ion Batteries Included

Notification No. 21/2025 | Date: 25th March 2025

The Central Board of Direct Taxes (CBDT) has amended the Income-tax Rules, 1962, to broaden the scope of safe harbour rules under Section 92CB of the Income-tax Act, 1961. Key changes include:

- Increased Threshold: The monetary limit for availing safe harbour has been raised from Rs. 200 Crore to Rs. 300 Crore, reducing compliance burdens for mid-sized businesses.
- New Inclusion: Lithium-ion batteries for electric/hybrid vehicles are now classified as "core auto components," extending tax benefits to this green technology sector.
- Applicability: The amendments apply to Assessment Years 2025-26 and 2026-27, providing certainty to taxpayers opting for safe harbour.
- These changes aim to promote ease of doing business and align with India's push for sustainable mobility.

Conclusion:
The amendments reflect CBDT's efforts to streamline transfer pricing compliance and support emerging industries. Stakeholders are advised to review the detailed notification for implementation guidance.

Official Links:
CBDT Notification No. 21/2025,

New Compliance Requirement for Companies Dealing with MSMEs

Ministry of MSME Notification No. S.O. 1376(E) |
Dated: March 25, 2025

Key Update

The Ministry of Micro, Small and Medium Enterprises (MSME) has mandated a half-yearly reporting requirement for companies with outstanding payments to MSME suppliers exceeding 45 days.

Who Needs to Comply?

All companies that:

- Procure goods/services from MSME-registered suppliers
- Have pending payments beyond 45 days from the date of acceptance/deemed acceptance of goods/service.

Reporting Requirements

Companies must submit a half-yearly return to the Ministry of Corporate Affairs (MCA) detailing:

- Amounts overdue to MSME suppliers
- Reasons for payment delays

Format & Deadline: To be notified separately by MCA

Legal Basis

- Section 9 of the MSMED Act, 2006 (read with Section 15)
- Aims to strengthen timely payments to MSMEs and improve transparency.

Why This Matters?

- Non-compliance may attract penalties under the MSMED Act.
- Aligns with the government's focus on easing cash flow challenges for MSMEs.

Action Points for Companies

- Review accounts payable to identify overdue MSME payments.
- Implement tracking mechanisms for 45-day payment deadlines.
- Prepare for half-yearly filings once MCA issues detailed guidelines.

Conclusion

This move reinforces the government's commitment to protecting MSME interests. Companies should proactively audit their payment cycles to avoid non-compliance risks.

Official Notification:

Read full notification here

Top Trends

- Emphasis on Green Finance – More financial institutions are supporting environmentally sustainable investments, focusing on renewable energy and eco-friendly infrastructure.
- Focus on Cybersecurity – With increasing digital transactions, financial institutions are strengthening cybersecurity to protect sensitive data.
- Enhancing Financial Inclusion – Digital banking solutions are helping bridge the gap for rural populations and small businesses.
- Elevated Borrowing Costs for NBFCs – Borrowing costs for Non-Banking Financial Companies (NBFCs) are expected to remain high despite potential policy rate cuts.
- Expansion of International Stock Investing – Indian investors are showing more interest in foreign stock markets through global investment platforms.

Top Trends

- Growth in Digital Lending Platforms – More digital lending platforms are emerging, offering faster approvals and loan disbursements.
- Integration of Blockchain in Finance – Financial institutions are exploring blockchain technology to improve transparency and security.
- Expansion of Microfinance Services – Microfinance institutions are expanding their reach to provide credit to underserved segments.
- Increase in Contactless Payments – Contactless payment adoption is rising, driven by convenience and hygiene concerns.
- Growth of Peer-to-Peer Lending – P2P lending platforms are gaining traction as alternative financing options.
- Emphasis on Financial Literacy – Financial education initiatives are growing to help consumers make informed decisions.

Finance Bill 2025: Key Amendments Passed by Lok Sabha – Simplified Breakdown

Budget update | Date: 25th March, 2025

The Lok Sabha passed the Finance Bill 2025 on March 25, 2025, introducing over 30 modifications to the original bill tabled on February 1, 2025. These changes aim to simplify compliance, boost IFSC investments, and refine tax assessment procedures. Below is a consolidated summary of the major amendments:

1. Relaxation for Offshore Fund Managers (Section 9A)

- **Current Rule:** Indian residents cannot invest more than 5% (directly/indirectly) in an eligible investment fund.

- **Amendment:**
- Indirect investments (e.g., through intermediaries) excluded from the 5% cap.
- Central Govt. power restored to modify conditions for IFSC-based fund managers.
- **Impact:** Easier compliance for foreign funds relocating managers to IFSCs.

2. Presumptive Taxation for Non-Resident Tech Providers (Section 44BBD)

- **New Rule:** Non-residents offering technology/services to Indian electronics manufacturers can opt for:
- 25% deemed profit taxation (simplified calculation).
- Exclusion from royalty/FTS taxation (Sections 44DA & 115A won't apply).
- **Benefit:** Reduces litigation for foreign tech firms.

3. IFSC Insurance Policies – Correction in Section 10(10D)

- **Earlier Provision:** Tax exemption for life insurance policies issued by IFSC intermediaries (no premium limit).
- **Amendment:** Term "intermediary" replaced with "IFSC insurance offices" for accuracy.

4. Easier Relocation of Funds to IFSCs (Section 47(viiad))

- **Expanded Definition**: "Resultant fund" now includes:
- Retail Schemes & ETFs (regulated by IFSCA).
- No need to meet Section 10(4D) conditions.
- **Impact:** Tax-neutral transfers for funds shifting to IFSC-based schemes.

5. Block Assessment Reforms (Chapter XIV-B)

- **Major Shift:** Assessments now focus only on undisclosed income (not total income).

Key Changes:

- Pending cases abated – undisclosed income computed based on search evidence.
- Time limit: 12 months (extendable to 13 months if audit required).
- Tax rate: 60% flat rate on undisclosed income.
- **Benefit:** Faster resolution, reduced harassment for taxpayers.

6. Other Notable Changes

- Section 10(4E): Expanded tax exemption for OTC derivatives traded with IFSC-based FPIs.
- Section 2(14): AIF-held securities now classified as capital assets.
- Section 143(1): Returns to be checked for inconsistencies with past filings (rules to be prescribed).

Conclusion & Next Steps

The Finance Bill 2025 amendments focus on ease of compliance, IFSC growth, and efficient tax assessments. Businesses, fund managers, and taxpayers must review the changes to optimize tax planning.

Official Sources:

CBDT Notifications

Reopening of Assessment for Long-Term Capital Gains: Notice Set Aside as Escaped Income Must Consider Cost of Acquisition

Case Law: Sanath Kumar Murali v. Income-tax Officer | Court: High Court of Karnataka | Writ Appeal No. 968 of 2023 (T-IT) | Date: February 10, 2025

Introduction

The Karnataka High Court, in Sanath Kumar Murali v. ITO, examined the validity of a reopening notice under Section 148 for AY 2016-17. The AO alleged escaped assessment of ₹55.77 lakh LTCG, while the assessee claimed only ₹33.85 lakh (below the ₹50 lakh threshold for reopening under Section 149(1)(b)). The Single Judge quashed the notice, prompting the Revenue's appeal.

Top Trends

- Surge in Insurtech Innovations – The insurance sector is undergoing technological changes to enhance customer experience.
- Adoption of AI in Risk Management – Financial firms are leveraging AI to improve risk assessment and fraud detection.
- Growth in Sustainable Investments – More investors are focusing on socially responsible and sustainable projects.
- Regulatory Sandboxes for Fintechs – Regulatory bodies are creating sandboxes to encourage fintech innovation.
- Rise of Embedded Finance – Companies outside the financial sector are integrating financial services into their offerings.
- Rise of Embedded Finance – Companies outside the financial sector are integrating financial services into their offerings.
- Expansion of WealthTech Services – Technology-driven wealth management platforms are becoming more popular.

Top Trends

- Growth in Digital Lending Platforms – More digital lending platforms are emerging, offering faster approvals and loan disbursements.
- Integration of Blockchain in Finance – Financial institutions are exploring blockchain technology to improve transparency and security.
- Expansion of Microfinance Services – Microfinance institutions are expanding their reach to provide credit to underserved segments.
- Increase in Contactless Payments – Contactless payment adoption is rising, driven by convenience and hygiene concerns.
- Growth of Peer-to-Peer Lending – P2P lending platforms are gaining traction as alternative financing options.
- Emphasis on Financial Literacy – Financial education initiatives are growing to help consumers make informed decisions.

Facts of the Case:

- The AO issued a notice under Section 148A(b) alleging that the assessee had sold a property after holding it for three years, resulting in LTCG of ₹55.77 lakh, which had escaped assessment.
- The assessee argued that after deducting the cost of acquisition, the actual capital gain was only ₹33.85 lakh, which was below the ₹50 lakh threshold for reopening under Section 149(1)(b).
- The Single Judge held that the entire sale consideration could not be considered as escaped income without deducting the cost of acquisition. The notice was set aside.

Key Legal Issues:

- Whether the amount mentioned in the registered conveyance deed can be taken as escaped income without deducting the cost of acquisition.
- Whether the reopening notice was valid given the time limitation under Section 149(1)(b).

Court's Decision:

- The Division Bench agreed with the Single Judge's view that the cost of acquisition must be deducted from the sale consideration to determine the actual escaped income.
- The Court held that the AO could not straightaway consider the entire sale consideration as escaped income without accounting for the cost of acquisition.
- The Court dismissed the Revenue's appeal, affirming that the reopening notice was rightly set aside

Case Law Referred:

- Nitin Nema v. Principal Chief CIT [2023] 155 taxmann.com 276 (Madhya Pradesh): The Madhya Pradesh High Court had followed the Single Judge's decision in this case, and the Supreme Court had dismissed the Revenue's appeal against it.
- Office of Principal Chief Commissioner of Income-tax v. Nitin Nema [2024] 168 taxmann.com 531 (SC): The Supreme Court upheld the Madhya Pradesh High Court's decision, reinforcing the principle that the cost of acquisition must be deducted to determine escaped income.

Conclusion

The Karnataka High Court upheld the quashing of the reopening notice, ruling that the AO must deduct the cost of acquisition to compute escaped income. As the net gain (₹33.85 lakh) fell below the ₹50 lakh threshold under Section 149(1)(b), the notice was invalid. The judgment reaffirms that sale consideration alone cannot justify reassessment.

Income Tax: Monetary Limits in CBDT Circulars Apply to Pending Appeals; Exceptions Apply Prospectively

Case Law: Pr. Commissioner of Income-tax-14 v. Premier Industrial Corporation Ltd. | Court: Bombay High Court | ITA No. 2061 & 2063 of 2018 | Date: February 12, 2025

Introduction

The Bombay High Court held that CBDT circulars prescribing monetary limits for appeals apply to pending cases, but their exceptions operate prospectively. This clarifies that revised thresholds benefit assessees in pending appeals, while exceptions apply only from the circular's issuance date.

Background & Arguments

- The assessee argued that the tax effect in the present appeals was below ₹2 crore and, as per CBDT circulars on monetary limits, these appeals should be dismissed.
- The Revenue contended that at the time of filing (April 6, 2018, and February 5, 2018), themonetary limit was only ₹20 lakh. Since the tax effect in these appeals was ₹1.27 crore and ₹72 lakh, the appeals were validly filed under the existing monetary thresholds.
- The Revenue further relied on a CBDT letter dated August 20, 2018, which introduced exceptions allowing appeals despite monetary limits. They argued that this exception should be retrospectively applied to these cases.

Court's Findings & Decision

- The court held that while monetary limits set in CBDT circulars apply to pending appeals, any exceptions carved out by subsequent circulars only take effect from the date they are introduced.
- Before August 20, 2018, these appeals did not qualify for any exception. As the revised monetary limits now apply to pending appeals, the court upheld the assessee's objection.
- Consequently, the appeals were disposed of as the tax effect was within the revised monetary limits set by the CBDT. However, the questions of law were left open for future consideration.

Conclusion

The Bombay High Court clarified that CBDT's monetary limits apply to pending appeals, but exceptions take effect prospectively only. This ensures taxpayers benefit from revised thresholds while preventing retrospective application of new conditions.

Top Trends

- Adoption of Open Banking – Open banking is allowing greater data sharing and collaboration among financial institutions.
- Focus on Regulatory Technology (RegTech) – More investment is going into RegTech solutions to streamline compliance and risk management.
- Doubling of Foreign Investment Limits – India plans to double the investment limit for individual foreign investors in listed companies from 5% to 10% to boost capital inflows.
- RBI's Anticipated Rate Cuts – The Reserve Bank of India is expected to cut interest rates on April 9, with another reduction projected in August, marking one of the shortest easing cycles in its history.
- FinTech Market Growth – India's FinTech sector reached ₹68 trillion in FY24, driven by Lending Tech (₹34T), Payments Tech (₹29T), and Neo-Banking (₹5.6T).

Top Trends

- Rapid Growth of Digital Payments – Innovations like UPI, mobile wallets, and QR code-based solutions have propelled India's digital payments ecosystem, with monthly UPI transactions surpassing 9 billion in 2024.
- Rise of Embedded Finance – Financial services are increasingly integrated into non-financial platforms, such as e-commerce websites and ride-hailing apps, enhancing customer convenience.
- AI and Machine Learning in Finance – Financial institutions are leveraging AI and ML for personalized financial advice, fraud detection, and alternative credit scoring, improving service delivery and risk management.

Penalty Under Section 270A Set Aside Due to Pending Appeal: Takshila Educational Society vs. Income Tax Department

Case law: Takshila Educational Society vs. Assessment Unit, Income-tax Department, National Faceless Assessment Centre | Court: High Court of Patna | Appeal No.: Civil Writ Jurisdiction Case No. 16228 of 2024 | Date: January 21, 2025

Introduction

The case of Takshila Educational Society involves the imposition of a penalty under Section 270A of the Income Tax Act, 1961, for under-reporting and misreporting of income. The assessee had filed its return of income for the assessment year 2022-23, declaring a total income of Rs. 1.58 lakhs. However, the Assessing Officer (AO) determined the income at Rs. 39.78 crores and initiated penalty proceedings. The assessee filed an appeal against the assessment order and requested that the penalty proceedings be kept in abeyance until the appeal was disposed of. Despite this, the penalty order was passed, leading the assessee to approach the High Court of Patna. The court set aside the penalty order and remitted the matter for fresh consideration, emphasizing the need to comply with the principles of natural justice under Section 274 of the Income Tax Act

Background of the Case:

- The assessee, Takshila Educational Society, filed its return of income for the assessment year 2022-23, declaring a total income of Rs. 1.58 lakhs. The case was selected for scrutiny, and the AO passed an assessment order determining the income at Rs. 39.78 crores.
- The assessee filed an appeal against the assessment order and requested that the penalty proceedings under Section 270A be kept in abeyance until the appeal was disposed of. However, the AO proceeded to pass a penalty order imposing a penalty of Rs. 33.93 crores and issued a demand notice on the same day.

Key Issues:

- Whether the penalty order under Section 270A could be passed while the appeal against the assessment order was still pending.
- Whether the assessee was given a reasonable opportunity of being heard, as mandated under Section 274 of the Income Tax Act.

Arguments:

- The assessee argued that the penalty proceedings should have been kept in abeyance until the appeal was disposed of, as the outcome of the appeal could impact the penalty proceedings. The assessee also highlighted that the AO had overlooked the High Court's earlier order, which had directed the exclusion of certain periods while calculating the delay in filing the appeal.
- The Department conceded that the penalty order was passed without considering the pending appeal and agreed that the matter should be remitted for fresh consideration. The Department also acknowledged that the assessee should be given an opportunity of hearing through the faceless facility, as required under Section 274.

Court's Decision:

- The High Court set aside the penalty order and the demand notice, remitting the matter to the National Faceless Assessment Centre (NFAC) for fresh consideration. The court emphasized that the penalty proceedings should not have been finalized while the appeal against the assessment order was still pending.
- The court also directed the Department to comply with the provisions of Section 274, which mandate that no penalty order shall be passed without giving the assessee a reasonable opportunity of being heard. The assessee was granted the liberty to seek a hearing through the faceless facility.

Conclusion

The High Court of Patna allowed the writ petition filed by Takshila Educational Society, setting aside the penalty order under Section 270A and the accompanying demand notice. The court remitted the matter to the NFAC for fresh consideration, emphasizing that the penalty proceedings should not have been finalized while the appeal against the assessment order was pending. The court also directed the Department to ensure compliance with Section 274, which requires that the assessee be given a reasonable opportunity of being heard before any penalty is imposed. This case underscores the importance of adhering to procedural fairness and the principles of natural justice in tax proceedings.

Top Trends

- Blockchain Adoption – Beyond cryptocurrencies, blockchain technology is being utilized for cross-border payments, trade finance, and Know Your Customer (KYC) processes in banking.
- Environmental, Social, and Governance (ESG) Investing – There's a growing emphasis on ESG factors in investment decisions, with Indian companies issuing over $12 billion in green bonds in 2024 to fund renewable energy projects.
- InsurTech Innovations – The insurance sector is experiencing technological advancements, including AI-driven claims processing, usage-based insurance models, and digital-first policy offerings.
- Financial Inclusion Initiatives – Efforts to enhance financial inclusion are gaining momentum, with over 500 million accounts opened under the Pradhan Mantri Jan Dhan Yojana scheme, linking rural citizens to the formal banking system.

Top Trends

- Regulatory Developments – Regulatory bodies like the RBI and SEBI are introducing policies to foster innovation while safeguarding consumer interests, including frameworks for account aggregators and guidelines for robo-advisory services.
- WealthTech Expansion – Technology-driven wealth management platforms are democratizing investment opportunities, offering services like fractional investments and AI-powered portfolio management.
- Growth of Alternative Credit Scoring – The adoption of alternative credit scoring models using non-traditional data sources is expanding access to credit for underserved populations.

Reopening Notice Quashed Due to Full Disclosure of Facts: Deepak Nitrite Ltd. vs. Joint Commissioner of Income-tax

Case Law: Deepak Nitrite Ltd. vs. Joint Commissioner of Income-tax | Court: High Court of Gujarat | Appeal No.: R/Special Civil Application No. 16850 of 2024 | Date: February 11, 2025

Introduction

The case of Deepak Nitrite Ltd. involves the reopening of an assessment under Section 147 of the Income Tax Act, 1961, on the ground that the assessee had claimed depreciation on a plant where only trial production had commenced. The Assessing Officer (AO) issued a reopening notice, alleging that the assessee had not fully disclosed the facts regarding the trial production. The Tribunal rejected the assessee's miscellaneous application, stating that the fact of trial production was not shown in the computation statement. The High Court of Gujarat set aside the Tribunal's order, holding that the assessee had fully disclosed all necessary facts during the original assessment proceedings and remanded the matter back to the Tribunal for a fresh decision.

Background of the Case:

- The assessee, Deepak Nitrite Ltd., had claimed depreciation on its Nitro Aromatics Division plant for the assessment year 1991-92. The AO issued a notice under Section 148 to reopen the assessment, alleging that the depreciation was claimed even though only trial production had started in the plant.
- The Commissioner of Income Tax (Appeals) [CIT(A)] allowed the assessee's appeal, holding that the assessee had disclosed all relevant facts during the original assessment proceedings, and the AO had considered the issue of depreciation in detail.
- The Tribunal, however, rejected the assessee's miscellaneous application, stating that the fact of trial production was not shown in the computation statement. The Tribunal also held that the assessee had failed to disclose all material facts necessary for the assessment.

Key Issues:

- Whether the reopening notice under Section 147 was valid, given that the assessee had fully disclosed all material facts during the original assessment proceedings.
- Whether the Tribunal erred in rejecting the assessee's miscellaneous application on the ground that the fact of trial production was not shown in the computation statement.

Arguments:

- The assessee argued that all relevant facts, including the details of the trial production, had been disclosed during the original assessment proceedings. The AO had considered the issue of depreciation in detail, and there was no failure on the part of the assessee to disclose material facts.
- The assessee also relied on the decision of the Gujarat High Court in Asstt. CIT vs. Ashima Syntex Ltd., which held that depreciation on machinery used for trial production is allowable under the Income Tax Act.
- The Department argued that the reopening was justified as the assessee had not disclosed the fact of trial production in the computation statement.

Court's Decision:

- The High Court held that the Tribunal had erred in rejecting the assessee's miscellaneous application. The court noted that there was no requirement in the computation statement to specifically mention that depreciation was claimed on machinery used for trial production.
- The court also observed that the AO had considered the issue of depreciation in detail during the original assessment proceedings, and the assessee had fully disclosed all material facts. Therefore, the reopening notice under Section 147 was not justified.
- The court set aside the Tribunal's order and remanded the matter back to the Tribunal to pass a fresh order on the miscellaneous application, considering the observations made by the court.

Conclusion

The Gujarat High Court quashed the Tribunal's order, ruling the assessee had fully disclosed all material facts. It noted no requirement to specifically mention trial production and that depreciation was already examined by the AO. The case was remanded for fresh consideration, reinforcing that reassessment under Section 147 requires proper justification.

Top Trends

- Expansion of Digital Lending – Digital lending platforms are transforming the borrowing landscape, offering quicker loan approvals and disbursements, particularly benefiting micro, small, and medium enterprises (MSMEs).
- Increased Focus on Cybersecurity – With the rise in digital transactions, financial institutions are prioritizing robust cybersecurity measures to protect sensitive data and maintain consumer trust.
- Adoption of Open Banking – Open banking frameworks are being implemented, allowing for greater data sharing and collaboration between financial institutions, enhancing customer experiences.
- Surge in Retirement Planning Awareness – More financial firms are promoting pension plans and retirement savings options.

Top Trends

- Surge in Contactless Payments – The adoption of contactless payment methods, including near-field communication (NFC) technology and contactless cards, is increasing due to convenience and hygiene considerations.
- Growth of Peer-to-Peer (P2P) Lending – P2P lending platforms are gaining popularity, offering alternative financing options to borrowers and investment opportunities to lenders.
- Integration of Internet of Things (IoT) in Insurance – IoT devices are being used to collect data for usage-based insurance models, enabling personalized policies and premiums.
- Expansion of Microfinance Services – Microfinance institutions are leveraging digital platforms to provide credit to underserved segments, fostering economic growth in rural areas.

Payments for Brand Strategy and Training Not Considered Royalty: Deloitte Touche Tohmatsu India LLP vs. DCIT

Case Law: Deputy Commissioner of Income-tax vs. Deloitte Touche Tohmatsu India LLP | Court: Income Tax Appellate Tribunal (ITAT), Mumbai Bench 'I' | Appeal No.: IT Appeal No. 5089 and 5091 (Mum) of 2024, CO No. 250 and 251 (Mum) of 2024 | Date: March 21, 2025

Introduction

The case of Deloitte Touche Tohmatsu India LLP (DTTI) revolves around the tax treatment of payments made to Deloitte Global Services Holding Limited (DGSHL), a UK-based company, for services such as global brand strategy, global communication, and global technology/knowledge management. The Assessing Officer (AO) treated these payments as royalty under Section 9(1)(vi) of the Income Tax Act, 1961, and Article 13 of the India-UK Double Taxation Avoidance Agreement (DTAA), and directed the assessee to deduct tax at source (TDS) at 3%. The Commissioner of Income Tax (Appeals) [CIT(A)] ruled in favor of the assessee, holding that the payments did not constitute royalty. The ITAT upheld the CIT(A)'s decision, dismissing the Revenue's appeal.

Background of the Case:

- The assessee, DTTI, is a limited liability partnership firm providing professional services to domestic and multinational corporations. It entered into a Shared Services Agreement with DGSHL, a UK-based company, for services such as global brand strategy, global communication, and global technology/knowledge management.
- The assessee sought authorization under Section 195(2) of the Income Tax Act to remit payments to DGSHL without deducting TDS. The AO, however, held that payments for global brand, global communication, and global technology/knowledge management constituted royalty under Section 9(1)(vi) and Article 13 of the India-UK DTAA, and directed the assessee to deduct TDS at 3%.

Key Issues:

- Whether the payments made to DGSHL for global brand, global communication, and global technology/knowledge management services constituted royalty under Article 13(3) of the India-UK DTAA.

- Whether the assessee was required to deduct TDS on these payments.

Arguments:

- Assessee's Argument: The payments were for internal use by member firms and did not involve the transfer of any intellectual property or copyright. The services provided by DGSHL, such as brand strategy, communication, and technology management, were for the internal benefit of the Deloitte network and did not involve any commercial exploitation or transfer of technical knowledge. Therefore, the payments did not fall within the definition of royalty under Article 13(3) of the India-UK DTAA.
- Revenue's Argument: The payments were for the use of information concerning commercial experience and thus constituted royalty under Article 13(3) of the India-UK DTAA. The AO relied on the Authority for Advance Ruling (AAR) decision in EY Global Services Ltd., which held that similar payments were taxable as royalty.

Tribunal's Decision:

- The ITAT held that the payments for global brand, global communication, and global technology/knowledge management did not constitute royalty under Article 13(3) of the India-UK DTAA. The services provided by DGSHL were for the internal use of member firms and did not involve the transfer of any intellectual property or copyright.
- The ITAT emphasized that the services were not for commercial exploitation and did not involve the use of or right to use any copyright, patent, or scientific equipment. The payments were for common policies, training, and guidance related to the brand, which were purely for internal use and did not fall within the scope of royalty.
- The ITAT also noted that the AAR decision in EY Global Services Ltd., relied upon by the AO, had been overturned by the Delhi High Court in EY Global Services Ltd. vs. ACIT, which held that payments for the use of software licenses did not constitute royalty unless there was a transfer of copyright. The ITAT followed this precedent and held that the payments in question were not taxable as royalty.

Conclusion

The ITAT ruled the payments for global brand and tech services didn't qualify as royalty under India-UK DTAA, as they were for internal use without IP transfer. Following EY Global Services precedent, it dismissed Revenue's appeal, holding no TDS was required—reinforcing that internal services without commercial exploitation aren't taxable as royalty.

Top Trends

- Rise of Central Bank Digital Currencies (CBDCs) – The RBI has launched a pilot for its digital currency, aiming for broader adoption to modernize the financial system.
- Growth in Sustainable Investments – Investors are increasingly focusing on sustainable and socially responsible projects, aligning their portfolios with environmental and social goals.
- Development of Regulatory Sandboxes – Regulatory bodies are establishing sandboxes to foster innovation in the fintech sector, allowing for testing of new products and services in a controlled environment.
- Increased Collaboration Between Banks and Fintechs – Traditional banks are partnering with fintech companies to enhance their digital offerings and reach a broader customer base.

Top Trends

- Adoption of Biometric Authentication – Financial institutions are implementing biometric authentication methods, such as fingerprint and facial recognition, to enhance security and user experience.
- Growth of Alternative Investment Funds (AIFs) – There's a rising interest in AIFs as investors seek diversified portfolios beyond traditional asset classes.
- Emphasis on Customer Experience – Financial institutions are focusing on enhancing customer experience through personalized services, intuitive digital interfaces, and responsive customer support.
- Increase in Cross-Border Transactions – Technological advancements are facilitating easier and more secure cross-border financial transactions, benefiting businesses and consumers engaged in international trade.

Reimbursement of Expenses and Tax Incentives in Film Production: Red Chillies Entertainment (P.) Ltd. vs. DCIT

Case Law: DCIT CC 4(2) vs. Red Chillies Entertainment (P.) Ltd. | Court: Income Tax Appellate Tribunal (ITAT), Mumbai Bench 'C' | Appeal No.: IT Appeal No. 5831 (Mum) of 2024, CO No. 290 (Mum) of 2024 | Date: February 21, 2025

Introduction

The case of Red Chillies Entertainment (P.) Ltd. revolves around the tax implications of reimbursed expenses paid to a UK-based company and the treatment of tax incentives received from the UK government. The assessee, a film production company, had reimbursed expenses to Winford Production Ltd. (UK) for services such as arranging shooting locations, obtaining permits, and other logistical support.

The Assessing Officer (AO) treated these payments as "fees for technical services" (FTS) under the Indo-UK Double Taxation Avoidance Agreement (DTAA) and disallowed the expenses under Section 40(a)(i) of the Income Tax Act, 1961, for non-deduction of TDS. Additionally, the AO reopened the assessment after four years, alleging that the assessee had not offered to tax the incentives received from the UK government. The case was appealed to the ITAT, which ruled in favor of the assessee on all grounds.

Reimbursement of Expenses and Fees for Technical Services (FTS):

- The assessee had reimbursed expenses to Winford Production Ltd. for services such as arranging shooting locations, obtaining permits, customs clearance, and other logistical support. The AO treated these payments as FTS under the Indo-UK DTAA, arguing that the services were technical in nature and that the rights to the film vested with the assessee.
- The ITAT held that the services provided by Winford were generic and did not involve the "making available" of technical knowledge, expertise, or processes as required under Article 13(4) of the Indo-UK DTAA. The Tribunal emphasized that mere reimbursement of expenses does not constitute income in the hands of the recipient and cannot be classified as FTS.

- The ITAT relied on the Karnataka High Court's decision in CIT vs. De Beers India Minerals (P.) Ltd., which clarified that for a payment to qualify as FTS, the services must enable the recipient to independently apply the technology or knowledge in the future. Since the services in question did not meet this criterion, the payment was not taxable as FTS.

Validity of Reassessment Notice:

- The AO reopened the assessment after four years, alleging that the assessee had not offered to tax the incentives received from the UK government. The ITAT found that the AO had no tangible material or new information to form a "reasonable belief" that income had escaped assessment. The reopening was based on a mere change of opinion, which is not permissible under Section 147 of the Income Tax Act.
- The ITAT quashed the reassessment notice, citing the Supreme Court's decision in CIT vs. Kelvinator of India Ltd., which held that reassessment cannot be based on a change of opinion without any new tangible material.

Treatment of Tax Incentives from the UK Government:

- The AO had made an addition in the hands of the assessee for the tax incentives received from the UK government, arguing that the assessee was entitled to 25% of the cost incurred in the UK as an incentive. However, the ITAT noted that the incentives had already been accounted for by Eros International Media Ltd. (EIML), to whom the assessee had assigned all rights to the film "Ra One."
- The ITAT held that since the incentives were part of the net realization figure accounted for by EIML, no further addition could be made in the hands of the assessee. The Tribunal emphasized that the incentives were not income in the hands of the assessee and had already been factored into the agreement with EIML.

Conclusion

- The ITAT ruled in favor of the assessee on all grounds. It held that the reimbursed expenses did not qualify as FTS under the Indo-UK DTAA, as the services did not involve the "making available" of technical knowledge or expertise. The reassessment notice was quashed, as the AO had no tangible material to justify reopening the case after four years. Additionally, the ITAT held that the tax incentives received from the UK government had already been accounted for by EIML and could not be taxed again in the hands of the assessee. The appeal filed by the Revenue was dismissed, and the cross-objection filed by the assessee was allowed.

Top Trends

- Adoption of Cloud Computing – Financial institutions are increasingly adopting cloud computing solutions to enhance scalability, reduce costs, and improve service delivery.
- Focus on Financial Literacy – Initiatives to improve financial literacy are being implemented to empower consumers to make informed financial decisions and effectively utilize financial services.
- Surge in 'Buy Now, Pay Later' (BNPL) Services: BNPL options are gaining popularity, allowing consumers to make purchases and pay in installments without interest, enhancing affordability.
- Advancements in RegTech: Regulatory Technology is being adopted to help financial institutions comply with regulations more efficiently through automation and data analytics.

Top Trends

- Growth of Neobanking: Digital-only banks are emerging, offering streamlined services without physical branches, catering to tech-savvy customers seeking convenience.
- Expansion of Account Aggregator Framework: The implementation of account aggregators is facilitating secure sharing of financial data between institutions, enhancing customer service and product offerings.
- Development of Central Bank Digital Currency (CBDC): The Reserve Bank of India is exploring the introduction of a digital rupee to modernize the financial system and reduce dependency on cash.

- This case reinforces the principle that reimbursement of expenses without any income element cannot be treated as FTS and that reassessment cannot be based on a mere change of opinion without new tangible material. It also highlights the importance of proper documentation and agreements in determining the tax treatment of incentives and reimbursements in cross-border transactions.

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