

FIN-O-SCOPE

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Clarification on Taxability of Shares Received by Specified Persons from a Non-Resident

Notice No.: Circular No. 11/2025 | Date: June 18, 2025

This circular, issued by the Central Board of Direct Taxes (CBDT), addresses a critical issue regarding the tax treatment of shares received by employees and other specified persons (as per Section 17(2)(vi) of the Income-tax Act, 1961) from a non-resident employer or a non-resident parent company.

Top Trends

- Massive market-cap gains among top firms, especially non-PSU private financials.
- Public Sector Banks being tasked to lead India's development agenda by 2047.
- Proposed Insurance Amendment Bill may raise FDI in insurance up to 100%.
- GST "2.0" – moving to a two-rate system with higher tax on luxury/harmful goods.

Top Trends

- Simplification of GST compliance by removing invoice-credit note matching.
- Credit expansion through low-limit and FD-backed cards for new borrowers.
- RBI considering allowing lenders to remotely lock financed mobile phones on defaults.
- Banks may soon be allowed to finance M&A deals.
- Housing finance focus on affordability and green homes with institutional inflows.
- Stricter regulation for NBFC-fintech partnerships on default loss guarantees.
- Strong domestic GDP growth with supportive macroeconomic indicators.
- Fiscal deficit expected to remain slightly lower than target.
- Rising brand valuations of large conglomerates and fast-growing brands.
- Investor sentiment high in non-traditional financials like Bajaj Finance.

The key points clarified are:

- **The Issue:** Confusion existed on whether the value of shares allotted or transferred by a non-resident employer to a resident employee is taxable as a perquisite in India, especially if the non-resident company is not eligible for a foreign tax credit in its home country.
- **The Clarification:** The CBDT clarifies that the perquisite value of such shares is taxable in India in the hands of the resident employee in the year of receipt (as per the rules under Section 17(2)(vi)).
- **The Rationale:** The right to tax such perquisites accrues to the country where the employee renders services—in this case, India. The taxability is not contingent upon the foreign company's ability to claim a tax deduction or credit in its country of residence.
- **Relief for Double Taxation:** To avoid double taxation, the employee can claim a foreign tax credit (under Section 91) for any taxes paid on the same income in the foreign country, provided India has a Double Taxation Avoidance Agreement (DTAA) with that country.

Conclusion :

This circular provides much-needed clarity for Indian employees receiving ESOPs or shares from their foreign parent companies or non-resident employers. It confirms that the perquisite value is taxable in India upon receipt and outlines the mechanism to seek relief from double taxation, ensuring compliance and reducing litigation.

Official Document :

[Notice No.: Circular No. 11/2025](#)

Key Decisions from the 56th GST Council Meeting

Press Release – 56th GST Council Meeting |

Date: September 3, 2025

The 56th GST Council meeting, chaired by Union Finance Minister Smt. Nirmala Sitharaman, was held on September 3, 2025. The Council recommended significant changes to GST rates to provide relief to individuals and the common man, along with measures to facilitate trade. The key recommendations are summarized below:

Major Changes in GST Rates on Goods:

A wide range of goods have seen a reduction in GST rates, effective from September 22, 2025 (unless otherwise specified). Key reductions include:

- **Food Items:** Many items moved from 12%/18% to 5%. This includes milk products (cheese, butter, ghee), dried fruits and nuts, fish, meat, fruit juices, cereals, pre-packaged paneer, and certain breads (like pizza bread, khakhra, chapati, roti).
- **Agriculture:** Several agricultural machinery, hand pumps, and sprinkler/drip irrigation systems reduced from 12% to 5%.
- **Health Sector:** Many life-saving drugs, medicines, and medical devices (like glucometers, pacemakers) reduced from 12% to 5%. Certain specified drugs are now exempt (0%).
- **Common Use Items:** Items like toothpaste, hair oil, shampoo, soap, and detergents reduced from 18% to 5%.
- **Renewable Energy:** Solar water heaters, cookers, and other renewable energy devices reduced from 12% to 5%.
- **Textiles:** Footwear (up to ₹2500/pair) and several textile yarns and fabrics reduced from 12% to 5%.

Major Changes in GST Rates on Services:

- **Hotel Accommodation:** Value of supply up to ₹7500 per day per unit moved from 12% (with ITC) to 5% (without ITC).
- **Rail Transport of Goods (in containers):** Services by operators other than Indian Railways moved from 12% to 5% (without ITC).
- **Cinema Tickets:** Admission to cinema halls with tickets priced ₹100 or less reduced from 12% to 5% (with ITC).
- **Insurance:** All individual health and life insurance (and their reinsurance) are now fully exempt from GST.
- **Increased Rates:** Rates for casinos, gambling, and race clubs have been increased from 28% to 40%.

Measures for Trade Facilitation:

- **Provisional Refunds:** A system for risk-based provisional sanction of 90% of refunds for both zero-rated supplies and inverted duty structure claims will be implemented.
- **Simplified Registration:** A new, optional, simplified registration scheme for small and low-risk businesses, aiming for automated registration within 3 working days.
- **Place of Supply for Intermediaries:** The place of supply for intermediary services will be the location of the service recipient, simplifying export benefits for Indian service exporters.
- **Post-Sale Discounts:** The conditions for availing input tax credit on post-sale discounts have been simplified and clarified.

Top Trends

- Luxury and premium segments facing cost pressure due to higher GST rates.
- Automakers may need to cut prices to pass GST benefits to consumers.
- Essentials and small goods likely to be taxed lower under GST "merit" rate.
- Debate on reduced tax revenue vs higher consumption from GST reform.
- Push for financial inclusion and credit access for under-banked populations.
- Growing use of fintech-bank partnerships to launch new credit products.
- New consumer data protection safeguards in loan recovery practices.
- Foreign capital inflows rising in insurance, housing, and ESG projects.
- Simplified tax and compliance reforms to boost ease of doing business.
- Strong emphasis on green housing and sustainable infrastructure finance.
- Growth of non-bank private credit businesses.

Top Trends

- Traditional banks modernising to join M&A and private credit markets.
- Long-term financial policy aligned with Viksit Bharat 2047 goals.
- Interest rate environment sensitive to inflation and global trends.
- Efforts to improve small loan recovery mechanisms.
- Consumer durable and mobile phone loans showing higher default risk.
- Greater scrutiny of credit risk in fintech-sourced lending.
- Surge in SME IPOs with robust retail participation.
- Mutual fund adoption rising in smaller towns and semi-urban areas.
- Higher taxes may shift consumer spending away from luxury goods.

GST Appellate Tribunal (GSTAT):

The GSTAT will be made operational for accepting appeals by the end of September 2025 and will commence hearings by the end of December 2025.

Conclusion

The 56th GST Council meeting introduced sweeping changes focused on providing relief to consumers by reducing taxes on essential items, simplifying compliance for businesses, and strengthening the dispute resolution mechanism. Taxpayers are advised to review the detailed annexures to understand the specific impact on their goods or services.

Official Document :

[Press release](#)

GST Council Announces Major Rate Rationalization; 5% and 18% to be Primary Slabs

Finance Minister Nirmala Sitharaman Unveils Simplified Tax Structure Effective from September 22nd

In a significant move towards simplifying the Goods and Services Tax (GST) regime, the GST Council, chaired by Union Finance Minister Nirmala Sitharaman, has announced a major restructuring of tax slabs. The new structure aims to reduce complexity and streamline compliance by consolidating various rates into two main slabs.

The key decisions announced are:

- **Consolidation into Two Main Slabs:** The multitude of existing rates will be rationalized, making 5% and 18% the two primary tax rates for a vast majority of goods and services. This move is intended to phase out the current multi-tiered structure (0%, 5%, 12%, 18%, 28%) for most items.
- **Effective Date:** The new tax rates are scheduled to come into effect from September 22nd.

Objective: The rationalization is driven by the goals of:

- Reducing Compliance Complexity: A simpler rate structure makes it easier for businesses, especially MSMEs, to file returns and claim input tax credits.
- Minimizing Classification Disputes: Fewer rates reduce litigation and ambiguity over which tax slab a product or service belongs to.
- Long-term Stability: This is seen as a move towards a more stable and predictable GST system.

Exceptions

While the 5% and 18% slabs will become the norm, it is understood that a zero tax rate will remain for essential items, and the 28% rate may be retained for a handful of luxury and sin goods.

Conclusion

This announcement marks one of the most significant reforms to the GST structure since its inception. The consolidation into two main slabs is a bold step that promises to enhance the ease of doing business and reduce the administrative burden on millions of taxpayers across India. Businesses must prepare for this transition by reviewing their product portfolios, updating their accounting systems, and ensuring compliance with the new rates effective from the third week of September. This simplification is widely expected to foster better compliance and provide a boost to the formal economy.

Auditors' Role in Internal Financial Controls: Key Lessons from the Ola Electric Case

Case Study on the Delicate Balance

A recent case involving the audit of Ola Electric, as highlighted in a Taxmann analysis, has brought significant attention to the evolving and often ambiguous role of statutory auditors in evaluating and reporting on a company's Internal Financial Controls (IFC). The case serves as a critical study for auditors, management, and audit committees.

The core of the issue lies in a apparent gap in the audit reporting. While the auditor's report on the financial statements gave a clean opinion, affirming that the statements presented a true and fair view, a separate report required under the Companies Act, 2013, expressed a disclaimer of opinion regarding the operating effectiveness of the company's IFC.

Top Trends

- Two-wheeler and small car segments may benefit from GST rate cuts.
- Wedding and festive spending patterns being reshaped by GST changes.
- Climate and sustainability concerns affecting agriculture and tea industries.
- Infrastructure finance remains a key priority for growth.
- Government aiming to attract higher FDI in multiple sectors.
- Demand for more transparency and clarity in taxation policies.
- Financial sector reforms being aligned with global best practices.
- Expansion of digital payments and fintech platforms disrupting banking.
- Consumer protection rules being strengthened in lending practices.
- Increase in external commercial borrowings by Indian firms.

Top Trends

- Growth in asset management and alternative investments like REITs.
- ESG and green finance gaining importance with new funding flows.
- Affordable housing supported by multilateral development banks.
- Regulatory tightening to address risks in NBFC-fintech models.
- Consumption shift from luxury to essentials in middle-income groups.
- Corporates revisiting strategy under new tax regime.
- Increased credit penetration in rural and semi-urban India.
- Margin pressure in sectors unable to pass on higher taxes.
- Growing use of fintech tools for compliance and invoicing.
- High competition in credit products for “new to credit” borrowers.

This discrepancy creates a challenging situation for stakeholders. The auditor clarified that the weakness in IFC did not result in a material misstatement in the financial statements for that specific period. The financial figures were correct, but the processes and controls designed to ensure their ongoing accuracy were deemed potentially unreliable.

Key Implications and Takeaways:

- **The Dichotomy of Roles:** The case underscores the distinct nature of two audit responsibilities:
- **Opinion on Financial Statements:** Answers the question, "Are the numbers correct this time?"
- **Opinion on IFC Effectiveness:** Answers the question, "Are the systems and processes in place to ensure the numbers will always be correct?"
- **A Litmus Test for Investors:** A disclaimer on IFC is a major red flag, even with clean financials. It signals potential future risk, indicating that the company may be overly reliant on manual interventions or that there is a higher risk of errors or fraud in subsequent periods.
- **Auditor's Conundrum:** The situation presents a professional challenge for auditors. It demonstrates that it is possible to verify the final output (financial statements) through substantive audit procedures even when the internal control system is weak. However, professional standards and regulations now demand that auditors explicitly call out control weaknesses independently of whether they found a material misstatement.

Conclusion

The Ola Electric case study is a potent reminder that the auditor's role has expanded beyond verifying historical numbers to providing assurance on the governance and control framework that produces those numbers. The "important gap" highlighted is not necessarily an audit failure but a revelation of a risk that exists within the company's processes.

- For companies, it emphasizes the necessity of building robust, documented, and effective IFC frameworks that can withstand auditor scrutiny. For auditors, it reinforces the obligation to provide a clear, unambiguous, and separate assessment of IFC, even if it creates a seemingly contradictory message within the full suite of audit reports. For stakeholders, it is a lesson in reading both opinions together to get a complete picture of the company's financial health and operational integrity.

Absence of Documentary Proof for Cash Component in a Debt Does Not Disprove Its Existence: SC

George Kutty Chacko vs. M.N Saji | Civil Appeal No. 11309 of 2025 | Supreme Court of India | September 1, 2025

In a significant ruling that reinforces the principles underlying the Negotiable Instruments Act, 1881, the Supreme Court has held that the absence of documentary evidence for a cash transaction does not automatically negate its existence, especially when a promissory note acknowledging the debt is proved and not disbelieved.

The appellant had filed a suit for recovery of money based on a promissory note executed by the respondent, acknowledging a debt of Rs. 30.80 lakhs. The Trial Court decreed the suit, ordering the respondent to pay Rs. 35,29,680 (the principal plus interest). The respondent challenged this decree before the High Court.

The High Court, while upholding the validity of the promissory note, took a contrary view on the quantum of the debt. It noted that the appellant could only provide documentary proof (bank transactions/negotiable instruments) for Rs. 22 lakhs. For the remaining amount, which was asserted to have been paid in cash, there was no documentary evidence. Consequently, the High Court reduced the decretal amount to Rs. 22 lakhs.

The appellant appealed to the Supreme Court, arguing that once the promissory note—which contained a categorical admission of the entire debt—was accepted as genuine, the burden shifted to the respondent to disprove the receipt of the cash amount.

The Supreme Court, in agreement with the appellant, allowed the appeal. The bench made several crucial observations:

Top Trends

- RBI exploring responsible AI adoption in banking and finance.
- Introduction of AI governance framework for risk and compliance.
- Push for AI-enabled fraud detection and credit scoring.
- Expansion of small-ticket SIPs under ₹500 in mutual funds.
- Mutual fund investor base rapidly growing in Tier-2 and Tier-3 cities.
- Surge in women investors entering mutual funds and SIPs.
- New focus on financial literacy in small towns through digital apps.
- Record fundraising through IPOs in 2025 so far.
- SME IPOs outperforming large-cap IPOs in terms of returns.
- Foreign investors showing higher interest in Indian IPOs.

Top Trends

- REITs offering 6–7.5% yields, attracting retail and HNI investors.
- Indian REIT market projected to reach \$25B market cap in 4 years.
- Infrastructure-focused REITs gaining traction.
- Overseas borrowing by Indian corporates at a 5-year high.
- Cheaper ECB loans driving capital expansion plans.
- More companies preferring dollar loans due to rupee stability.
- Renewed push for bond market deepening in India.
- Corporate bond issuances on the rise.
- Green bonds and ESG-linked debt seeing record growth.
- NBFCs increasingly tapping bond markets for funds.

- Onus of Proof: Once the appellant took a specific stand that he had paid Rs. 30.80 lakhs (partly by cheque and partly in cash) and this was backed by a promissory note that was upheld by the courts, the onus was on the respondent to disprove this fact.
- Nature of Cash Transactions: The Court recognized the practical reality of financial dealings, stating, "it is not uncommon that in money transactions, there is a component of cash also involved." The mere inability to prove a cash transfer through official banking channels should not lead to the conclusion that it never occurred, particularly when there is a categorical statement to that effect.
- Presumption under NI Act: The Court invoked the initial presumption of a legally enforceable debt that arises under the Negotiable Instruments Act. This presumption placed the burden on the respondent to prove that the acknowledged amount was not given.
- Erroneous Bifurcation: The Supreme Court found the High Court's bifurcation of the debt into a "proved" documentary portion and an "unproved" cash portion to be clearly erroneous and unsustainable. It reasoned that a person giving cash would not typically have documentary proof, and the absence of a receipt does not by itself disprove the transaction.

Conclusion

The Supreme Court set aside the impugned order of the High Court and restored the Trial Court's decree for the full amount of Rs. 35,29,680. This judgment serves as a vital reminder that courts must adopt a pragmatic approach when evaluating evidence in commercial and money-lending transactions. It affirms that a duly executed promissory note creates a strong presumption in favour of the existence of the entire debt, and the defendant must lead strong evidence to rebut the presumption for any part of it, including a cash component. The ruling prevents defendants from taking a technical defence on the mode of payment to escape liability for a debt they have formally acknowledged.

Consistent Accounting Practice for Capital Receipts Upheld; No Tax Loss to Exchequer: ITAT

Council of Architecture vs. ITO (Exemption) | ITA Nos. 955 & 952 (Del) of 2019 | ITAT Delhi Bench | August 13, 2025

In a ruling that emphasizes the importance of consistency and the absence of tax loss, the Delhi bench of the Income Tax Appellate Tribunal (ITAT) has held that a charitable trust's practice of amortizing a one-time life membership fee over 40 years must be accepted by the Revenue, especially when it has been consistently followed and historically accepted.

The assessee, the Council of Architecture, is a statutory body and a charitable trust registered under Section 12AA. It collects a one-time life membership fee from architects. Following a resolution, the Council treated these fees as a capital receipt, parking them in an Endowment Fund and transferring only 1/40th of the amount to the Income & Expenditure account each year.

The Assessing Officer (AO) sought to treat the entire fee as a revenue receipt in the year it was received for the assessment years 2012-13 and 2014-15. This would have created a significant shortfall in the application of income for charitable purposes, leading to taxation. The Commissioner (Appeals) upheld the AO's order.

Before the ITAT, the assessee argued that:

- The practice of amortization had been consistently followed for over 20 years and accepted by the department in past assessments.
- Disturbing this practice would disrupt its financial structure and lead to double taxation, as the same income would be taxed fully in one year instead of being spread out.
- The dispute was merely a "timing difference" and, crucially, resulted in no ultimate loss of tax revenue to the exchequer, as the same amount of income was being recognized, just over a different period.

Top Trends

- Private equity and VC flows strong in fintech and green energy.
- PE firms showing interest in infrastructure and logistics.
- Rise of alternative investment funds (AIFs) in India.
- Family offices diversifying into private credit and AIFs.
- Higher scrutiny on startup valuations post-funding.
- More unicorns exploring IPO route instead of late-stage VC.
- RBI aiming for lower inflation through careful liquidity control.
- Expectation of another repo rate cut by year-end.
- Credit growth in double digits driven by retail lending.
- Housing loans continue to dominate bank lending portfolios.
- Corporate lending reviving after years of slowdown.
- Banks adopting stricter underwriting standards.
- Digital loan disbursements crossing new highs.

Top Trends

- Mobile-based microloans growing fast.
- Strong growth in UPI payments across all segments.
- UPI for international payments being tested.
- Digital wallets integrating with UPI and credit cards.
- Cross-border remittances becoming faster via fintech.
- Payment banks merging into larger banking ecosystem.
- Insurance sector seeing higher penetration post-COVID.
- Demand for health insurance remains strong.
- Term insurance adoption growing among youth.
- Bancassurance becoming a key channel for insurers.
- ESG funds gaining traction among retail investors.
- Gold ETFs seeing record inflows amid global uncertainty.
- Index funds and passive investing growing in popularity.

The assessee, the Council of Architecture, is a statutory body and a charitable trust registered under Section 12AA. It The Tribunal found immense force in the assessee's arguments. It placed strong reliance on the Supreme Court's landmark judgment in CIT vs. Excel Industries Ltd., which held that where tax rates remain the same, a dispute over the timing of income recognition is entirely academic, and no addition should be made.

The ITAT held that the Revenue's action in re-characterizing the consistently treated receipt was not acceptable. It directed the AO to ignore the entire lump-sum membership fee while computing the application of income and exemption under Section 1

Conclusion

The ITAT's decision reinforces the principle of respecting consistent accounting practices, particularly for entities like trusts and clubs dealing with non-voluntary, statutory fees. The ruling establishes that the Revenue cannot arbitrarily change its stance on the nature of a receipt when:

- a consistent accounting method is in place,
- it has been accepted in the past, and
- most importantly, the alteration results in no real loss of tax revenue but only a timing difference.

This judgment provides significant clarity and relief for trusts and similar entities in their long-term financial and tax planning.

Sale of Donated Books Through Associate Does Not Invalidate Trust Registration: ITAT

John Foundation vs. Deputy Commissioner of Income-tax | IT Appeal No. 643 (Hyd) of 2025 | ITAT Hyderabad Bench | August 26, 2025

In a significant ruling for charitable trusts, the Hyderabad bench of the Income Tax Appellate Tribunal (ITAT) has held that the sale of religious books, received free of cost from a foreign donor, through a closely associated business concern does not by itself constitute a "specified violation" warranting the cancellation of registration under Section 12AB of the Income-tax Act, 1961.

The assessee, John Foundation, a registered charitable trust, received religious books as gifts from a foreign donor. It subsequently supplied these books to a closely associated company, Ben Holistic Enterprises Pvt. Ltd., which sold them to the public at a profit margin. The Principal Commissioner of Income Tax (PCIT) cancelled the trust's registration on two primary grounds:

- **Application of Income:** That the income derived from the property (books) held under the trust was applied for the benefit of "specified persons" (the associated company and its directors, who were relatives of the trustees) and not solely for the trust's charitable objects.
- **Non-Genuine Activities:** That the trust's activities were not being carried out in accordance with the conditions of its registration.

The PCIT argued that books meant for free distribution were sold for profit, and the associated company booked bogus expenses to siphon off income, thereby benefiting the trustees' relatives.

The Tribunal meticulously analyzed the facts and found the PCIT's order to be based on "suspicion and surmises" rather than concrete evidence. Key observations from the ITAT included:

- **No Donor Restriction:** There was no evidence from the foreign donor that the books were meant only for free distribution. The trust's objects clause explicitly included the sale and distribution of religious books.
- **Revenue Applied for Objects:** The substantial revenue generated from the sale of these books was fully applied towards the trust's charitable objects, such as constructing schools, children's homes, and funding education projects. There was no finding that the funds were misapplied.
- **Lack of Evidence for Allegations:** The PCIT's allegation that the associated company booked bogus expenses to camouflage profits was not backed by any evidence from its income-tax assessment. The company's low profit margin was not, by itself, proof of malfeasance.
- **Timing of Receipts:** The allegation that the trust received only a part of the sale consideration was explained by the fact that sales were made on credit, and the entire amount was eventually received, as evidenced by the ledger accounts.

The ITAT emphasized that for a violation under Section 13 to be established, the Revenue must prove that the trust's income or property was made available to a specified person for less than adequate consideration. Mere assumptions about the nature of transactions were insufficient to cancel registration.

Top Trends

- Retail investors moving towards low-cost passive funds.
- Crypto regulations being debated actively by policymakers.
- Central Bank Digital Currency (CBDC) pilots expanding.
- Push for cross-border CBDC experiments with friendly nations.
- Institutional investment in real estate remains strong, with foreign capital dominating a large share.
- Week-to-week market cap gains are being concentrated among top private finance firms.
- Home-finance startups are increasingly raising capital via non-convertible debentures.
- India's growth forecast was upgraded after strong performance in the latest quarter.
- State-owned banks (PSUs) are being positioned centrally in long-term vision plans (like Viksit Bharat 2047).

Top Trends

- New tax reforms (such as GST 2.0) are expected to reshape consumption patterns and luxury goods demand.
- A wave of IPOs is anticipated around the festive season, driven by strong retail investor flows.
- Small & Medium Enterprises (SME) IPOs are raising large amounts and delivering outsized returns.
- The rupee is under pressure, hitting record lows, amid trade tensions and foreign investment outflows.
- Consumption loans have surged, particularly gold loans, while growth in personal and credit card loans is cooling.
- Cross-border and foreign direct investment activity continues to increase.
- Investment announcements by corporates have jumped significantly over the past fiscal.
- Traditional banks are losing revenue share to fintechs and digital native firms.

Conclusion

The ITAT allowed the trust's appeal and set aside the PCIT's order, restoring the trust's registration. This ruling underscores a crucial principle for the tax authorities: cancellation of a trust's registration is a drastic step that must be based on solid, verifiable evidence of wrongdoing, not on presumption or conjecture. The decision affirms that:

- Generating revenue from assets held by a trust (even those received free of cost) is permissible if the resulting income is applied to charitable ends.
- Transactions with associated entities are not ipso facto invalid; the key test is whether they result in a tangible, unjustified benefit to specified persons, which must be proven by the Revenue.
- The objects of the trust are paramount; if an activity (like selling books) is part of the stated charitable objects, it cannot be deemed non-genuine.

Burden to Prove Agricultural Land is on Assessee; Alternate 54F Claim Must Be Considered: Kerala HC

George Stanley vs. Deputy Commissioner of Income-tax | IT Appeal No. 45 of 2024 | High Court of Kerala | August 25, 2025

The Kerala High Court has delivered a significant ruling that underscores the heavy burden of proof on an assessee claiming an asset as agricultural land to claim exemption from capital gains tax under Section 10(37) of the Income-tax Act, 1961. Simultaneously, the court reinforced that technicalities should not preclude the examination of a bona fide alternate claim for deduction under Section 54F, even if not made in the original return.

The assessee, a non-resident, sold 94 cents of land with a residential building for ₹6.20 crores. He claimed the entire amount was exempt from capital gains tax, contending the property was agricultural land. The Assessing Officer (AO) rejected this claim. The assessee then alternatively claimed a deduction under Section 54F for investment in a new residential property, which was also rejected by the AO and subsequent authorities because it was not part of the original return.

On the agricultural land claim, the High Court upheld the revenue's decision. The Court found the assessee's evidence—a Village Officer's certificate noting the presence of trees and a confirmation from a rubber tapper—insufficient. Crucially, the Court highlighted several factors that weakened the assessee's case:

- **Contradictory Statements:** The assessee gave inconsistent accounts of who received income from the property.
- **Buyer's Testimony:** The buyer certified before the AO that no agricultural activity was carried out and that the land was commercial.
- **No Documentary Evidence:** The assessee failed to provide details of agricultural income/expenses or prove usage for agricultural purposes for the two years immediately preceding the transfer, as mandated by Section 10(37).
- **Sale Deed:** The document registered at the Sub-Registrar's office contained no endorsement classifying the property as agricultural.
- **FEMA Angle:** The Court also noted the peculiarity of an agricultural land (whose sale to non-residents is restricted) being sold to another non-resident.

The Court firmly placed the burden of proof on the assessee and concluded that he had failed to discharge it.

However, on the alternate claim under Section 54F, the Court took a taxpayer-friendly approach. It chastised the revenue authorities for rejecting the claim on a "mere technical ground" that it was not made in the original return. The Court held that when the department seeks to levy capital gains tax, it is incumbent upon the AO to adjudicate a bona fide alternate claim raised during the assessment proceedings. The officer should not act as a mere "tax gatherer" but must consider such claims on merit.

Conclusion

The Kerala High Court's judgment establishes two key principles:

- **Stringent Proof for Agricultural Land:** Claiming exemption under Section 10(37) requires concrete and consistent evidence of agricultural use. The presence of trees alone is not enough; the assessee must prove active agricultural operations and income, especially for the statutory two-year period. The burden is entirely on the assessee, and the revenue can rely on counter-evidence like the buyer's statement.

Top Trends

- Non-Bank Financial Companies (NBFCs) and private credit are playing a larger role in corporate funding.
- Financial inclusion is being bolstered via MSME financing platforms like invoice financing / receivables exchanges.
- Insurance and mutual fund sectors continue to expand rapidly, driven by rising awareness and regulatory support.
- Regulatory authorities are approving large cross-border stake acquisitions (e.g. foreign firms buying stakes in Indian banks).
- Exchanges that were limited to commodities are seeking to expand into equity / derivatives trading.
- Consumer spending remains resilient, helping drive macro growth despite global headwinds.
- Inflation has eased in some periods, aided by favorable weather, lower food prices, or other supply side factors.

Top Trends

- Interest rate cuts are being priced in by markets, though timing and magnitude remain uncertain.
- Ease of doing business reforms (tax, regulation, compliance) are being emphasized to sustain investment momentum.
- Capital expenditure (CapEx) by corporates & government remains a key driver of growth.
- External commercial borrowing (ECBs) by companies remains substantial for financing major projects, modernization.
- Household savings rates in financial assets vs physical assets are trending in ways that affect consumption and investment.
- Growth in passenger vehicle sales and automotive sector being used as a barometer for demand.

- **Substance Over Form for Deductions:** A claim for a deduction like Section 54F, raised as an alternate plea during assessment, must be examined on its merits. Rejection solely because it was not part of the original return is impermissible. The AO's role is to assess the correct tax liability, not to enforce technicalities.

The case was partly allowed, with the matter remanded to the AO solely for a fresh adjudication on the assessee's claim under Section 54F.

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