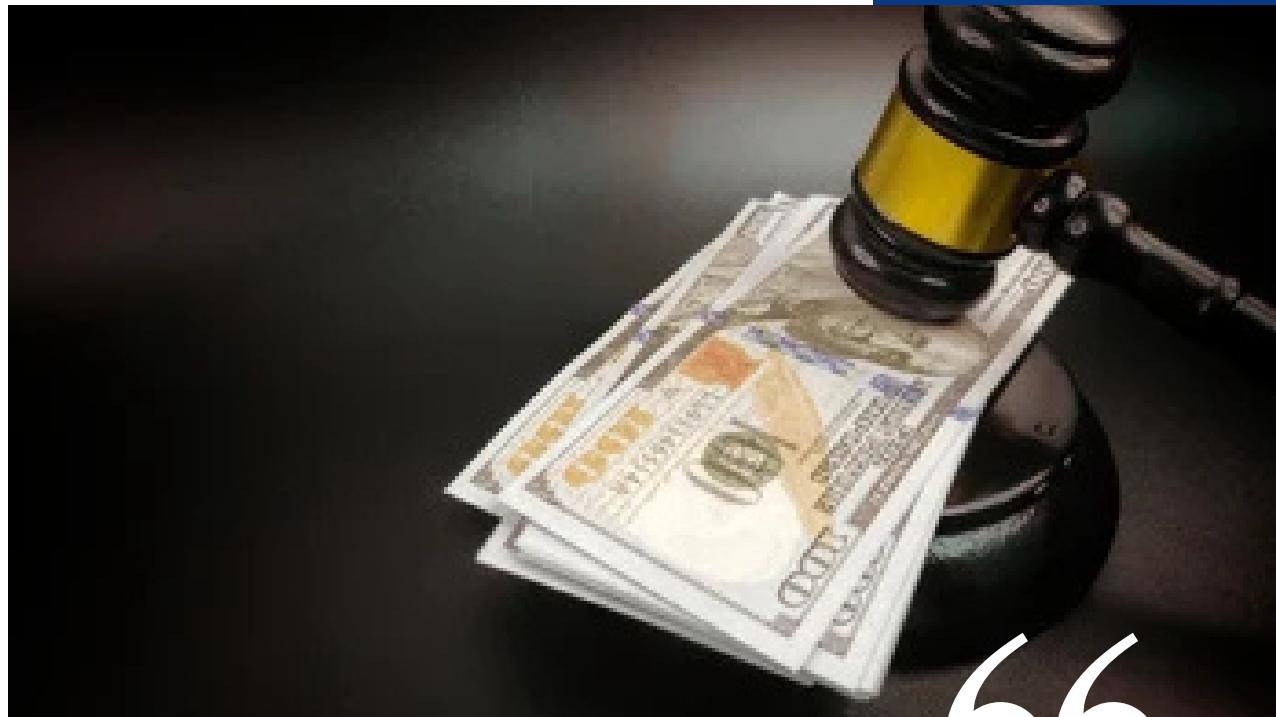


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Top Trends

- S&P 500 and Dow Jones hit record closing highs amid gains in tech stocks and Walmart, despite a DOJ probe into Fed Chair Powell.
- Gold prices smashed a new record above \$4,600 per ounce, driven by safe-haven demand from the Powell investigation and global tensions.

Top Trends

- Global economic growth projected at 2.7-3.2% for 2026, stable but subdued due to high debt, subdued investment, and trade risks; US growth around 2%.
- IMF forecasts slight slowdown to 3.1% global growth in 2026, with advanced economies at 1.5%; inflation declining but above target in US.
- Goldman Sachs predicts sturdy 2.8% global GDP growth in 2026, led by US at 2.6% from tax cuts and China at 4.8% on exports.
- Venezuela stocks soared 130% to records following Maduro's ouster, sparking hopes for economic turnaround.
- US banks like JPMorgan and Goldman Sachs delay rate cut forecasts to mid-2026, with JPMorgan eyeing a 2027 Fed hike amid resilient labor data.
- UBS reports US holds 35% of world wealth, with 39.7% of millionaires; great wealth transfer of \$83 trillion expected over next 20-25 years.

INCOME-TAX (APPELLATE TRIBUNAL) AMENDMENT RULES, 2025

Notification Details

The Ministry of Law & Justice, Department of Legal Affairs, has issued the Income-tax (Appellate Tribunal) Amendment Rules, 2025, bearing Notification Number 71-Ad(AT)/2025, dated 19th December 2025. These rules were published in the Official Gazette on 3rd January 2026 (Part III, Section 1, The Gazette of India, January 3-9, 2026, Pausa 13, 1947). The rules have come into force from the date of their publication in the Official Gazette, making them effective from 3rd January 2026.

Key Amendment: Introduction of Digital Signature

The most significant amendment introduces the definition of "digital signature" in Rule 2(iii-a) of the principal rules. Digital signature is now defined as the authentication of any electronic record by a subscriber through an electronic method or procedure in accordance with the provisions of Section 3 of the Information Technology Act, 2000 (21 of 2000). This amendment aligns the ITAT procedural rules with the contemporary digital governance framework and the statutory regime governing electronic documents. Practitioners can now file memoranda of appeal using digital signatures, which are legally equivalent to physical signatures for authentication purposes.

E-mail Address and Mobile Number Provisions

Rule 2(iii-b) and Rule 2(iv-a) now define "e-mail address" and "mobile number" respectively. E-mail address is the electronic communication address at which notices, orders, and communications may be delivered to or transmitted to the addressee. Mobile number refers to the mobile telephone number of the appellant or respondent. These definitions are essential because the amended rules now contemplate service of notices, orders, and other documents through electronic mail and SMS communications, in addition to traditional postal service.

Procedure for Filing Appeals – Digital Authentication

Rule 6 has been substantially amended to provide that a memorandum of appeal to the Appellate Tribunal shall be filed by the appellant or by an agent authorized by the appellant under his digital signature. This eliminates the need for physical presence or attestation and allows remote filing of appeals through secured digital channels. The amendment facilitates accessibility for practitioners based in different geographical locations and reduces the administrative burden of managing physical document submissions.

Documentation Requirements – Reduction in Copies

A major procedural simplification has been introduced through amendments to Rule 9(1) and Rule 9(2). Previously, appeals required submission of multiple copies (typically two or three copies in different formats). The amended Rule 9(2) now provides that instead of "two copies" of the order, certified copy, AO's order, and other documents, only "a copy" (singular) is required. This significant reduction in documentary burden addresses the practical challenges faced by practitioners and reduces the volume of paper submissions at the Tribunal registry.

Detailed Contents to be Attached with Appeal Memorandum

Rule 9(1) specifically mandates that every memorandum of appeal shall be accompanied by: (a) the order appealed against or a certified copy thereof; (b) a copy of the order of the Assessing Officer; (c) a copy of the order of the Transfer Pricing Officer, if any; (d) a copy of the grounds of appeal before the first appellate authority; and (e) a copy of the statement of facts, if any, filed before such appellate authority. The requirement for a certified copy of the order appealed against ensures authenticity and prevents frivolous appeals.

Special Provisions for Dispute Resolution Panel Cases

A new provision has been inserted as Rule 9(v), specifically addressing appeals filed against assessment orders passed in pursuance of directions of the Dispute Resolution Panel (DRP). In such cases, the memorandum of appeal must additionally be accompanied by: (a) a copy of the order of the Transfer Pricing Officer under sub-section 3 of Section 92CA (relating to determination of arm's length price); (b) a copy of the draft assessment order issued under sub-section (1) of Section 144C (prior to final assessment order); (c) a copy of the grounds of objections filed before the DRP; and (d) a copy of the directions issued by the DRP. This ensures that the Tribunal has complete visibility of the DRP process and the issues already deliberated before the panel.

Appeals Against Higher Authority Orders

Rule 9(vi) introduces a new provision recognizing that assessments may be modified or revised by higher authorities. When an appeal is preferred against an order passed by the Principal Chief Commissioner, Chief Commissioner, Principal Director General, Director General, Principal Commissioner, Commissioner, Principal Director, or Director, the memorandum of appeal shall also be accompanied by a copy of such order. This provision accommodates the hierarchical structure of the revenue administration and ensures that appeals against supervisory authority orders contain all necessary background documentation.

Revised Memorandum of Appeal for Updated Contact Details

A new Rule 9A has been inserted comprehensively addressing the scenario where contact details of parties change during the pendency of an appeal. Under Rule 9A(1), if there is any change in the address, e-mail address, mobile number, or telephone number of any party, a revised memorandum of appeal, duly filled up with the new contact details, must be filed. This revised memorandum must be filed in the same manner and procedure as the original memorandum was filed.

Rule 9A(2) requires that the revised memorandum be accompanied by a covering letter specifying either the appeal number originally assigned or the date of filing of such appeal before the Appellate Tribunal. This requirement ensures proper identification and linking of the revised memorandum to the original appeal. Rule 9A(3) provides that no cognizance of any change in contact details shall be taken for any purpose unless the revised memorandum is filed in accordance with the prescribed procedure. This ensures that the Tribunal's records contain only current and verified contact information.

Top Trends

- European equities rallied on fiscal stimulus in Germany and strong banking/commodities sectors, optimistic for 2026 growth around 1.3%.
- US markets steadied after initial jitters from DOJ criminal inquiry into Fed Chair Powell and Trump's 10% credit card rate cap proposal, with bank stocks like Citigroup down 4% and Capital One plunging 11%.
- Gold surged 2.5% to new records above \$4,600/oz and silver up 7.3%, boosted by safe-haven buying amid Fed independence fears and geopolitical risks.
- Global stocks rally continues: S&P 500 up 1.6%, Nasdaq 100 +2.2%, Russell 2000 surges 4.6%; over two-thirds of world stocks above 200-day average.
- European shares outperform US in early 2026, growing twice as fast; rotation from America broadens global equity gains.
- Chinese and Japanese markets rose over 1%, with mainland China trading volumes hitting all-time highs amid stabilization signs.

Top Trends

- Billionaire wealth grew \$2 trillion in 2024, richest 1% hold three times poorest half's wealth; US most unequal OECD nation at 21% income to top 1%.
- Australia's consumer confidence hits 35-year low for January start despite post-Christmas sales boost; inflation expectations dip to 5.4%.
- Trump's Venezuela intervention raises stakes for Guyana's vast oil wealth amid regional geopolitical shifts.
- World Economic Situation and Prospects 2026 highlights stable but uneven global growth, with risks from debt and trade tensions.
- Gold jumped 2.5% to record above \$4,600/oz on Fed probe fears.
- European STOXX 600 +2.27%; DAX +2.94%, CAC 40 +2.04%, FTSE 100 +1.74%.
- Small-cap and value stocks outperformed large-cap growth; equal-weighted S&P 500 beat market-cap version.

Rule 9A(4) clarifies that the address, e-mail address, mobile number, and telephone number furnished in the revised memorandum shall be deemed to be the address, e-mail address, mobile number, and telephone number respectively of the parties for the purpose of service of all notices or orders. This provision is critical because service of orders at outdated addresses may lead to orders being treated as never served, potentially resulting in applications for rectification under Section 254(2).

Rule 9A(5) specifies that any document accompanying the memorandum of appeal shall be filed in the same manner in which the appeal has been filed, i.e., if the appeal was filed electronically, subsequent documents must also be filed electronically; if filed physically, then physically.

Filing and Service Requirements – Photocopy Clarification

Rule 18 has been amended to simplify the filing requirements for paper books and documents. Rule 18(1) previously required submission "in duplicate," which has now been omitted. Rule 18(2) previously required submission "in triplicate," which is also now omitted. The word "xerox" in Rule 18(3) has been replaced with "photocopy," reflecting modern terminology and expanding the definition to include all forms of mechanical or digital copying methods beyond traditional xerography.

Rule 18(6A) has been added to provide that papers or paper books shall be submitted by the parties in accordance with Rule 6, meaning they should follow the same filing procedure applicable to appeals (i.e., digital filing with digital signatures where applicable).

Miscellaneous Application Procedures

Rule 34A(2) has been amended to extend the procedure for filing appeals to miscellaneous applications under Rule 34A(1) with necessary modifications. Importantly, applicants must now declare whether any Miscellaneous Application under Section 254(2) has been filed earlier before the Tribunal against the same order and, if so, the status of such application. Copies of all orders passed by the Tribunal on such earlier miscellaneous applications must also be filed. This prevents multiple or repetitive applications and ensures the Tribunal is aware of the entire procedural history.

Practical Implications for Tax Professionals

For chartered accountants and tax practitioners, these amendments translate to significant operational changes. First, the requirement for digital signatures necessitates obtaining digital signature certificates (DSCs) if not already obtained. Second, the reduction in documentary copies reduces administrative costs and speeds up the filing process. Third, the e-mail and mobile communication provisions mean practitioners must keep their contact information current to ensure service of orders. Fourth, for DRP cases, practitioners must ensure they have compiled and can readily access all documentation related to the DRP proceedings. Finally, for practitioners managing multiple appeals, the revised memorandum process for contact details should be tracked to avoid service-related complications.

Where shares held as stock-in-trade in an amalgamating company are substituted with shares of an amalgamated company pursuant to an approved scheme of amalgamation, the nature and timing of the charge to tax must be determined by analyzing whether the substitution results in a "realization" of the stock-in-trade in the sense contemplated by Section 28 of the Income Tax Act.

Case Name: M/S JINDAL EQUIPMENT LEASING CONSULTANCY SERVICES LTD. V. COMMISSIONER OF INCOME TAX DELHI – II

Case Citation: Civil Appeal No. 152 of 2026

Court: Supreme Court

Judges: Justice R. Mahadevan

Judgement delivered on: 09.01.2026

Factual Background and Corporate Structure

The appellants are investment companies within the Jindal Group of companies. These companies held shares in operating companies, namely Jindal Ferro Alloys Limited (JFAL) and Jindal Strips Limited (JSL), as part of the promoter holding representing a controlling interest in those operating entities. The shares were held with the intention of maintaining control over the operating companies and were reflected in the balance sheets of the appellants as investments rather than trading assets. Additionally, the appellants had furnished non-disposal undertakings to financial institutions and lenders who had advanced loans to the operating companies, thereby legally binding themselves to retain the shares for the security of those lenders.

The Scheme of Amalgamation

During the previous year relevant to Assessment Year 1997–98, a scheme of amalgamation was formulated for the merger of JFAL with JSL. This scheme was approved by orders dated 19th September 1996 and 3rd October 1996 passed by the High Courts of Andhra Pradesh and Punjab & Haryana respectively, exercising their jurisdiction under Sections 391–394 of the Companies Act, 2013 (then the Companies Act, 1956). The scheme of amalgamation was sanctioned under the statutory procedure for corporate reconstructions. The appointed date of amalgamation was fixed as 1st April 1995, which is the effective date from which the assets and liabilities of JFAL became vested in JSL by operation of law. However, the formal orders sanctioning the scheme were filed with the Registrar of Companies only on 22nd November 1996.

Pursuant to the sanctioned scheme, the shareholders of JFAL (including the appellants) were allotted shares of JSL on a predetermined basis. Specifically, for every 100 shares of JFAL held by a shareholder, that shareholder received 45 shares of JSL. Accordingly, the appellants surrendered their shareholding in JFAL and received shares of JSL in exchange, though at a ratio less favorable than one-to-one exchange.

Top Trends

- Japan's export firms boosted by yen at JPY 157.6 vs USD.
- Silver futures +7.3% to record close amid geopolitical unrest.
- Dollar weakened vs euro, pound, Swiss franc.
- Trump pushes 10% cap on credit card rates: Capital One -11%, Synchrony -8.4%, Citigroup -4%, AmEx -4.3%.
- Powell calls probe a Trump ploy to undermine Fed independence.
- US growth 2.0% in 2026 (from 1.9%), aided by easing but softening labor market.
- EU at 1.3% (down from 1.5%) due to US tariffs, geopolitics.
- Argentina eyes recovery with 1.6% GDP growth post-tariff uncertainty.
- ECB holds at 2.15% after cuts; wait-and-see on uncertainties.
- DOJ criminal probe into Fed Chair Powell over Trump pressure on rates; markets rebound after dip.
- Hong Kong top IPO market; A-shares at 10-year high in China.

Top Trends

- Global GDP growth at 2.7% in 2026, down from 2.8% in 2025; below pre-pandemic levels.
- Australia consumer confidence at 35-year low despite sales.
- Venezuela stocks +130% post-Maduro ouster; Trump eyes Iran military options.
- Venezuela stocks +130% post-Maduro ouster; Trump eyes Iran military options.
- Billionaire wealth +\$2T in 2024; top 1% hold 3x poorest half's assets.
- Dow Jones climbs to 49,500 on small-cap rotation; Russell 2000 outperforms with 4.6% surge.
- Nasdaq 100 advances 2.2%, led by equal-weighted gains over mega-cap tech.
- Bitcoin eyes \$180K potential as Fed cuts boost liquidity, per Bitcoin Suisse forecast.
- Stablecoins evolve beyond Tether–Circle duopoly via utility in payments and treasury.
- Institutional crypto adoption accelerates with VC, M&A records, and bank custody

Tax Treatment Claimed and AO's Determination

In their returns of income filed for Assessment Year 1997–98, the appellants claimed exemption under Section 47(vii) of the Income Tax Act, 1961, in respect of the receipt of JSL shares in lieu of JFAL shares. Section 47(vii) provides that transfers of shares in an amalgamated company received by shareholders of an amalgamating company as a result of an approved scheme of amalgamation shall not be treated as "transfer" for the purpose of computing capital gains. By claiming this exemption, the appellants effectively treated the shares held in JFAL as capital assets rather than trading assets, and contended that no taxable gain or income arose from the substitution of JFAL shares with JSL shares.

However, the Assessing Officer, in the assessment completed under Section 143(3) on 29th February 2000, took a different view. The AO treated the shares of JFAL held by the appellants as stock-in-trade (i.e., trading assets held in the ordinary course of business activity), rather than capital assets. Consequently, the AO denied the exemption claimed under Section 47(vii) and brought the value of JSL shares received to tax as business income. For this purpose, the AO computed the value of JSL shares received by reference to their market value on the date of receipt, and determined the difference between such market value and the book value of the JFAL shares surrendered as taxable business profit.

Proceedings Before Appellate Authorities

The Assessing Officer's order was challenged by the appellants in appeal before the Commissioner of Income Tax (Appeals), who upheld the findings and conclusion of the AO that the shares were held as stock-in-trade and that no exemption under Section 47(vii) was available. The appellants then approached the Income Tax Appellate Tribunal by way of statutory appeal under Section 253 of the Income Tax Act, 1961.

The Tribunal, in its order dated 17th February 2005, took a different approach. Rather than deciding the factual question of whether the shares were held as stock-in-trade or capital assets, the Tribunal observed that it was unnecessary to decide this issue. The Tribunal reasoned that under Section 47(vii), no profit accrues unless the shares held by the appellants are either sold or transferred for consideration, irrespective of the nature of holding (whether capital or trading asset). Since there was admittedly no sale of the shares and no transfer of shares for consideration (but merely an exchange of one class of shares for another in the course of amalgamation), the Tribunal concluded that no taxable profit could be said to have accrued to the appellants. Relying on the earlier Supreme Court decision in *Commissioner of Income Tax, Bombay v. Rasiklal Maneklal (HUF) and Others* [(1989) 177 ITR 198 (sc)], the Tribunal held that the receipt of shares of the amalgamated company in lieu of shares held in the amalgamating company did not amount to a "transfer" and, therefore, Section 47(vii) did not require the shares to be capital assets in order to provide relief.

Revenue's Challenge and High Court's Intervention

The Revenue, dissatisfied with the Tribunal's order, preferred an appeal before the High Court of Delhi under Section 260A of the Income Tax Act, 1961. The Revenue raised three substantial questions of law before the High Court:

- 1.Whether shares received by assessee on amalgamation are entitled to the benefit of Section 47(vii) without the Tribunal concluding that such shares were held by the assessee as capital assets?
- 2.Whether the benefit of Section 47(vii) is limited to determination of capital gains and only in regard to capital assets?

Whether income would accrue to the assessee on shares received in amalgamation and whether such income would be taxable in view of the non-applicability of Section 47(vii)?

The High Court, in its impugned judgment dated 7th August 2020, disposed of the appeals in favor of the Revenue and against the assessee. The High Court held that the Tribunal had erred in relying on the decision in Rasiklal Maneklal while failing to consider a later and binding decision of the Supreme Court in Commissioner of Income-tax, Cochin v. Grace Collis and Others [(2001) 248 ITR 323 (SC)].

The High Court articulated its reasoning as follows. First, where the shares of the amalgamating company were held as capital assets, the receipt of shares of the amalgamated company would constitute a "transfer" within the meaning of Section 2(47) of the Income Tax Act, 1961 (which defines "transfer" comprehensively), though such transfer would be exempt under Section 47(vii). Second, in the alternative scenario where the shares were held as stock-in-trade, the High Court held that upon the assessee receiving shares of the amalgamated company in lieu of those held in the amalgamating company, the assessee had, in effect, realized the value of their trading assets, and the difference in value (if any) would be taxable as business profit under Section 28 of the Income Tax Act. In reaching this conclusion, the High Court relied upon the decision of the Supreme Court in Orient Trading Company Ltd. v. Commissioner of Income Tax, Calcutta [(1997) 224 ITR 371 (SC)].

Consequently, the High Court remitted the matter back to the Income Tax Appellate Tribunal for a fresh determination of whether the JFAL shares held by the appellants were capital assets or stock-in-trade, as that determination would govern the ultimate tax treatment of the receipt of JSL shares.

Supreme Court's Analysis and Holding

Justice R. Mahadevan, writing for the Bench, undertook a comprehensive examination of the statutory framework and judicial precedent. The Court emphasized that the determination of whether shares are held as capital assets or stock-in-trade is fundamentally a question of fact, to be ascertained on the basis of the assessee's intention, the frequency and pattern of transactions, and the nature of the activity. The Court noted that holdings representing controlling interest in operating companies, particularly when non-disposal undertakings are furnished to lenders, typically exhibit characteristics of capital assets. However, the mere holding of shares in an investment company does not conclusively determine their character; the character must be determined based on comprehensive factual analysis.

The Court established that the charge under Section 28 may be attracted if the shares of the amalgamated company: (a) are saleable; (b) are tradable; (c) have a definite market value; (d) confer a presently realisable commercial advantage; and (e) constitute the allotment of new shares that crystallizes the benefit in the shareholder's hands. The Court emphasized that the test is fact-sensitive and the burden lies on the Revenue to establish that the receipt of shares in the amalgamated company conferred a real and presently realizable commercial benefit.

Top Trends

- Global growth steady at 2.7-3.1% for 2026, tempered by debt and trade barriers.
- US GDP at 2% with tax cuts offsetting labor slowdowns.
- Trump's 10% credit card rate cap hits lenders: Capital One drops 11%.
- Asia-Pacific records set: Nikkei 225 breaches 42,000 on export tailwinds from depreciated yen.
- Chinese onshore volumes reach peaks as stimulus hopes lift sentiment across emerging markets.
- Spot gold establishes new highs beyond \$4,600 per ounce amid haven demand spikes.
- Brent crude advances 4% as supply disruptions compound geopolitical risk premiums.
- Capital One shares plummet 11%, Synchrony Financial down 8%, exposing consumer lending vulnerabilities.
- UN forecasts global GDP expansion at 2.7% for 2026, stable yet below historical norms.
- UN forecasts global GDP expansion at 2.7% for 2026, stable yet below historical norms.

Top Trends

- UBS highlights US dominance with 35% share of worldwide wealth and nearly 40% of millionaires.
- Anticipated \$83 trillion intergenerational transfer reshapes asset allocation over next quarter-century.
- Global stock markets remained volatile as investors weighed slowing growth signals against expectations of future rate cuts by major central banks.
- Gold prices stayed strong as investors sought safe-haven assets amid geopolitical and economic uncertainty.
- Major central banks, including the Fed and ECB, signaled a cautious stance on interest rates due to persistent inflation risks.
- Wealth inequality continued to widen globally, with the top 1% capturing a growing share of financial assets.
- Global economic growth forecasts were revised slightly downward due to weak manufacturing and trade slowdowns.

The Court clarified that the charge under Section 28 is not attracted on the mere sanction of the scheme by the court or on the appointed date of amalgamation specified in the scheme, as at these stages there is only a substitution of rights by legal fiction without any asset in the hands of the shareholder capable of commercial exploitation. Rather, the charge is attracted only upon the receipt of the new shares through allotment, which alone crystallizes the benefit in the shareholder's hands, for it is only then that the old stock-in-trade ceases to exist and is replaced by new shares of definite market value capable of immediate realization.

The Court observed that until allotment, there is no identifiable scrip or tradable asset in existence in the hands of the assessee. Thus, the charge under Section 28 is not attracted on the mere sanction of the scheme or on the appointed date, but only upon the receipt of the new shares, when the statutory substitution translates into a concrete, realisable commercial advantage.

Regarding the question of valuation and whether the value may be hypothetical, the Court held that the test under Section 28 is not postponed until an actual sale, but is satisfied once the assessee comes into possession of an asset of determinable and presently realizable value in substitution of its trading stock. The fact that such value may fluctuate subsequently does not render the benefit unreal; valuation for tax purposes is always carried out at a particular point in time, notwithstanding subsequent volatility. What matters is that, on the date of allotment, the assessee must have received realisable instruments capable of being valued in money's worth, and such receipt constitutes a real, and not a notional, commercial gain.

Key Distinction Between Capital and Business Assets

The Court articulated a fundamental distinction between capital assets and business (stock-in-trade) assets in the context of amalgamation. Section 47(vii) of the Income Tax Act, 1961, expressly carves out an exemption in respect of certain transfers in the context of amalgamation, but that exemption is confined to capital assets. The rationale is plain. Where a shareholder holds shares as an investment (capital asset), the underlying object is to remain invested in the corporate venture, and a mere amalgamation ordinarily does not alter that position. While the possibility of tax avoidance in the investment field cannot be ruled out altogether, the legislative judgment reflects that the risk is relatively low. The exemption under Section 47 is thus founded on the recognition that amalgamation, in the capital field, is essentially a corporate restructuring and not a true realization of profit.

By contrast, the Court emphasized that Section 28, which governs profits of business, contains no such carve-out, nor could it be otherwise. The nature of stock-in-trade is wholly different from that of an investment. Stock-in-trade represents circulating capital: it is held not for preservation or appreciation, but for conversion into money in the ordinary course of business. The Court quoted from its earlier decision in *Commissioner of Income Tax v. Express Newspapers Ltd.* (MANU/SC/0126/1964 : 1964 INSC 152): "The profits and gains of business and capital gains are two distinct concepts in the Income Tax Act: the former arises from the activity which is called business and the latter accrues because capital assets are disposed of at a value higher than what they cost the Assessee. They are placed under different heads; they are derived from different sources; and the income is computed under different methods."

The Court concluded that the substitution of one trading asset by another, such as the receipt of shares in an amalgamated company in lieu of shares held as stock-in-trade in the amalgamating company, cannot be equated with a mere continuation of an investment. It represents a commercial realization in kind, for the new shares are distinct assets with a definite and presently realisable market value.

Conclusion and Remand

The Supreme Court set aside the High Court's judgment to the extent it had remanded the matter for fresh determination of the nature of shareholding. Instead, the Supreme Court held that the matter must be decided by the Tribunal on the basis of the principles laid down by the Court. The Tribunal must determine, on the evidence on record, whether the shares held by the appellants in JFAL exhibited the characteristics of stock-in-trade or capital assets. If they were capital assets, Section 47(vii) exemption would apply and no tax would be attracted. If they were stock-in-trade with all the characteristics mentioned above (saleable, tradable, definite market value, presently realizable), then the charge under Section 28 would be attracted on the allotment of shares in the amalgamated company.

Top Trends

- Technology and AI-driven companies remained key drivers of wealth creation worldwide.
- Governments across regions discussed higher taxation on ultra-high-net-worth individuals to address fiscal pressures.
- Bond yields across developed economies stayed elevated, signaling tighter financial conditions for governments and corporates.
- Global banking stocks traded cautiously as investors assessed credit risk and slower loan growth.
- China's economic recovery remained uneven, with weak property demand offsetting gains in exports and manufacturing.
- European economies showed signs of stagnation as high energy costs and tight credit weighed on growth.
- Sovereign wealth funds increased allocations to infrastructure and private equity to secure long-term returns.

Top Trends

- Cryptocurrency markets moved sideways as regulatory clarity improved but speculative interest cooled.
- Corporate profits faced margin pressure globally due to higher wages and input costs.
- Capital increasingly shifted from public markets to private assets in search of stable yields.
- Inflation eased in several regions but remained above central bank targets, delaying aggressive rate cuts.
- Global trade growth slowed as geopolitical fragmentation disrupted traditional supply chains.
- Luxury goods demand softened in mature markets but stayed resilient in Asia and the Middle East.
- AI-led productivity gains began reshaping labor markets, influencing long-term economic forecasts.
- Developing nations faced rising debt servicing costs due to a strong dollar and higher global rates.

Section 263 cannot be invoked merely because the PCIT disagrees with the quantum of addition determined by the AO, when the determination is based on a considered view of law and supported by precedent, and when alternative views are available based on different judicial authorities.

Case Name: AXIS INFOLINE P. LTD. V. PRINCIPAL COMMISSIONER OF INCOME TAX DELHI-1

Case Citation: ITA No. 2613/Del/2025

Bench: Shri Mahavir Singh, Hon'ble Vice President, and Shri Sanjay Awasthi, Accountant Member.

Court: The Income Tax Appellate Tribunal, Delhi Bench "B", New Delhi.
Judgement delivered on: 02.01.2026

Assessment Year and Factual Background

The matter pertains to Assessment Year 2021-22. During the financial year, the assessee had made certain purchases of goods from M/s Diwakar Enterprises for an aggregate amount of Rs. 1,49,86,000/- . These purchases were claimed as legitimate business expenditures in the return of income filed for the assessment year.

Assessing Officer's Enquiry and Finding

The Assessing Officer, during the course of assessment proceedings, made relevant enquiries into the nature and genuineness of the purchases from M/s Diwakar Enterprises. After conducting such enquiries, the AO reached a factual finding that the purchases made from M/s Diwakar Enterprises were "bogus purchases," meaning that either the goods were not actually supplied, or the supplier entity was not a genuine business entity, or there was some other defect in the transaction making it not credible or legitimate. Based on this finding, the AO proceeded to disallow a portion of these purchases.

PCIT's Revision Proceedings Under Section 263

Subsequently, the Assessing Officer's order came under the scrutiny of the Principal Commissioner of Income Tax (PCIT), who initiated revision proceedings under Section 263 of the Income Tax Act, 1961. Section 263 empowers a PCIT to revise an assessment order passed by an AO if the PCIT believes the order is "erroneous in so far as it is prejudicial to the interests of the revenue."

The PCIT's position was based on an assumption or presumption that once purchases are held to be bogus (i.e., found to be non-genuine), then the entire quantum of such purchases deserved to be disallowed, leaving no scope for partial allowance or compromise. The PCIT relied on judicial precedents, particularly the judgment in the case of N.K. Proteins reported in 84 taxmann.com 195 (SC) (where the Supreme Court had dismissed the SLP), and the case of Kanak Impex reported in 474 ITR 175 (Bombay) (where the Supreme Court had also dismissed the SLP against the Bombay High Court's decision). In both these cases, the courts had taken the view that bogus purchases should be disallowed in their entirety.

Based on this reasoning and reliance on these judgments, the PCIT concluded that 100% of the bogus purchases (i.e., the entire amount of Rs. 1,49,86,000/-) deserved to be disallowed. The PCIT held that the AO's order, which disallowed only 25% of the bogus purchases, was erroneous and prejudicial to the interests of the revenue, as it failed to disallow the full amount. Consequently, the PCIT passed an order of revision under Section 263, directing the AO to enhance the disallowance to the full amount of Rs. 1,49,86,000/-.

Assessee's Appeal Grounds to the ITAT

Aggrieved by the PCIT's revision order dated 26th March 2025, the assessee preferred an appeal before the Income Tax Appellate Tribunal with the following grounds:

Ground 1: On the basis of facts and circumstances of the case, the order passed under Section 263 by the PCIT is bad both in the eye of law and in facts.

Ground 2: On the facts and circumstances of the case, the PCIT erred in passing the assessment order without providing the assessee reasonable opportunity of being heard, violating the principles of natural justice.

Ground 3: On the facts and circumstances of the case, the revision order passed under Section 263 is illegal, without jurisdiction, and void ab initio and liable to be quashed.

Ground 4: On the facts and circumstances of the case, the revision order is illegal and invalid as the assessment order is neither "erroneous" nor "prejudicial to the interest of the revenue."

Ground 5: The issue raised in the revision order is already the subject matter of appeal before the CIT(A), and hence the PCIT lacked jurisdiction to initiate Section 263 proceedings.

Ground 6: The assessment order does not fall within the requirements of Explanation 2 to Section 263 and hence cannot be deemed erroneous.

Ground 7: The PCIT erred in substituting his own opinion for the view adopted by the AO after independent application of mind.

Ground 8: The PCIT erred in ignoring the settled law that where issues are debatable or where two views are possible and the AO has taken one view which the PCIT does not agree, it cannot be treated as an erroneous order prejudicial to the interests of the Revenue.

Ground 9: The PCIT erred in relying upon judicial precedents which are not applicable to the assessee.

Ground 10: The PCIT erred in directing the AO to disallow the entire purchases as against the disallowance of 25% made by the AO under Section 69C.

Top Trends

- Green finance and ESG investments regained attention amid renewed climate policy commitments.
- Wealth managers reported growing demand for diversification into gold, real estate, and alternative assets.
- Global debt levels hit new highs, increasing concerns about long-term fiscal sustainability for both developed and emerging economies.
- High interest rates continued to slow housing markets worldwide, reducing affordability and transaction volumes.
- International investors showed renewed interest in Japan as corporate reforms and wage growth supported equities.
- Currency volatility increased as countries adopted divergent monetary and fiscal policies.
- Family offices expanded exposure to private credit as traditional bonds offered limited real returns.

Top Trends

- Global mergers and acquisitions slowed as high borrowing costs discouraged large leveraged deals.
- Inflation-linked bonds gained attention as investors looked for protection against persistent price pressures.
- Consumer spending softened in advanced economies as savings buffers built during COVID continued to shrink.
- Manufacturing activity stayed weak globally, while services remained the primary driver of growth.
- Central banks in emerging markets remained cautious, prioritizing currency stability over growth stimulus.
- Global remittance flows remained strong, supporting household incomes in developing nations.
- Commodity-exporting countries benefited from stable metal and energy prices despite slower global demand.
- Pension funds raised allocations to alternative assets to meet long-term return obligations.

ITAT's Analysis of the Legal Framework

The ITAT, after considering the rival submissions and perusing the case records, the paper book, and the compilation of case laws filed by the assessee, identified the primary issue requiring determination. The primary issue was whether, when an AO has taken a considered view about a certain disallowance, it is open to the PCIT to arrive at a different quantum of disallowance from the same transaction.

The Tribunal observed that while the AO had relied on certain case laws to arrive at a figure of 25% disallowance, the PCIT had also relied on certain case laws to arrive at the conclusion that 100% of bogus purchases deserve to be disallowed. Thus, what was not in doubt was that the purchases had been certainly held to be bogus, and the assessee's offer of surrender merely strengthened this fact finding by the AO. However, the moot point was not whether the AO was correct or the PCIT was correct in its assumption; rather, the issue was whether, when two views were certainly possible (at least on the peculiar facts of that case), and both views were more or less supported by different case laws, a sustainable action under Section 263 could be taken.

ITAT's Discussion on Debatable Issues and Section 263

The Tribunal noted that, by way of academic discussion, even the Hon'ble Delhi High Court in the case of La Medica reported in 250 ITR 575 (Del) had arrived at a conclusion somewhat similar to the Kanak Impex case regarding the treatment to be given to bogus purchases. However, the Tribunal found that even in the case of Malabar Industrial (supra), in paragraph 9 of that decision, the Hon'ble Apex Court had not approved of a situation where two views are possible and the AO has adopted one such view with which the Commissioner does not agree, provided that the action of the AO is not unsustainable in law.

The Tribunal concluded that the action of the AO in disallowing 25% of the bogus purchases was certainly not unsustainable in law but was merely suffering from the possibility of there being two views on the matter. This is a critical distinction. "Unsustainable in law" means the action violates a clear principle of law or is based on a view that is manifestly incorrect or against binding judicial authority. "Two views possible" means that on the facts of the case, reasonable persons could disagree on the outcome, and both positions have some basis in law or precedent.

The Tribunal also referred to the case of DLF Limited reported in 350 ITR 555 (Del.), wherein on facts, a debatable issue had not been approved for any proceedings under Section 263. Similarly, the Tribunal found that the Hon'ble Delhi High Court in the case of Ansal Housing Construction Ltd. reported in 45 taxmann.com 223 (Del.), had held that a debatable issue would be an unjustified ground for invoking the provisions of Section 263.

Considering the entire discussion and the weight of judicial authority, the Tribunal concluded that the action of the PCIT in revising the AO's order and enhancing the disallowance from 25% to 100% was fatally hit by the issue being debatable at best on facts. The Tribunal was unable to persuade itself to agree with the PCIT's action. Accordingly, the appeal of the assessee was allowed, and the PCIT's revision order was set aside, thereby restoring the AO's original assessment disallowing 25% of the bogus purchases.

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Top Trends

- Wealth migration increased, with high-net-worth individuals relocating to low-tax and politically stable regions.
- Corporate borrowing shifted toward shorter maturities amid uncertainty over future interest rates.
- Stock market leadership narrowed, with a small group of large companies driving overall index returns.
- Governments accelerated infrastructure spending to support employment and domestic demand.
- Real wages improved slightly in some economies as inflation cooled faster than salary growth.
- Financial regulators increased scrutiny of non-banking financial institutions to manage systemic risk.
- Long-term investors focused more on capital preservation than aggressive wealth expansion.