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THE INSTITUTE OF

COST ACCOUNTANTS OF INDIA

Statutory Body under an Act of Parliament

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TAX INSIGHTS

By

Tax Research Department

Direct Tax

01.09.2026

Whether reassessment proceedings under Section 148 could be initiated merely on the basis of an Investigation Wing report alleging a high-value transaction, when:

- the relevant transaction had already been considered/disclosed in the original scrutiny assessment;
- the alleged amount represented an opening balance rather than a fresh payment during the relevant assessment year; and
- there was no new tangible material indicating escapement of income.

Hiramoti Texchem (P.) Ltd. v. Income-tax Officer
High Court of Gujarat (3 August 2026)

Facts of the Case

- The assessee filed its return for AY 2013-14 declaring total income of ₹23,08,270.
- The return was selected for scrutiny and an assessment was completed under Section 143(3) on 30 December 2015, accepting the same income.
- Subsequently, the Assessing Officer issued a Section 148 notice dated 28 March 2019 proposing to reopen the assessment.
- The reasons for reopening were based substantially on information received from the Investigation Wing concerning transactions involving M/s Manibhadra Textile Company.
- According to the Investigation Wing, the assessee had deposited approximately ₹16,14,883 in the bank account of that concern, which was considered a high-value transaction allegedly not commensurate with the assessee's returned income.
- The Investigation Wing also noted that the proprietor of Manibhadra Textile Company subsequently withdrew funds through self-cheques/cash.

Assessee's Defence

The assessee specifically pointed out that:

- No payment of ₹16,14,883 was made during AY 2013-14.
- The amount represented an opening balance arising from transactions of earlier years.
- In fact, during the relevant year, Manibhadra Textile Company had returned approximately ₹2 lakh to the assessee.
- The relevant business transactions had already been disclosed and considered during the original scrutiny assessment.
- There was therefore no fresh income or transaction during the year that could constitute escapement of income.

Revenue's Argument

The Revenue contended that the Investigation Wing had supplied relevant information indicating that:

- Manibhadra Textile Company allegedly lacked creditworthiness to receive such funds;

- the funds were subsequently withdrawn in cash/self-cheques; and
- the information constituted sufficient material to justify reopening.

The Revenue also argued that the correctness and sufficiency of the information could be examined during the reassessment proceedings rather than at the stage of challenging the notice.

High Court's Findings

The High Court rejected the Revenue's stand.

Incorrect factual basis: The Court noted that the assessee had clearly established that ₹16,14,883 was an opening balance and not a payment made during the relevant year. This fact was not disputed by the Revenue. Consequently, the very foundation of the reopening was factually incorrect.

No escapement of income: Since there was no payment during the relevant assessment year, there was no basis to conclude that the transaction resulted in any income escaping assessment.

No new tangible material: The Court found that the Investigation Wing report did not disclose any new tangible material showing escapement of income. The assessee had already fully disclosed the relevant business transactions during the original scrutiny assessment.

Change of opinion: The Court held that the reopening amounted to a fishing and roving inquiry and was nothing but a change of opinion. Mere withdrawal of funds in cash by the proprietor of the other concern was not sufficient to reopen the assessee's completed assessment.

Decision

The Gujarat High Court allowed the writ petition and quashed and set aside the notice issued under Section 148 dated 28 March 2019. The decision was in favour of the assessee.

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TAX INSIGHTS

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Tax Research Department

Goods & Services Tax

01.09.2026

Whether an adjudication order could be sustained where the assessee contended that the Show Cause Notice (SCN) had never been duly served, thereby depriving it of an opportunity to reply and contest the proceedings, particularly where the SCN was merely uploaded on the GST portal.

Absolute Electrovision (P.) Ltd. v. Additional Commissioner, CGST Delhi East
High Court of Delhi (11 August 2026)

Facts of the Case

- The petitioner challenged an adjudication order dated 28 January 2025, passed under Section 74 of the CGST Act for the financial years 2017-18 to 2020-21.
- The petitioner also challenged the SCN dated 27 September 2023.
- The principal grievance was that the SCN was not duly served upon the petitioner.
- According to the petitioner, absence of proper service deprived it of a reasonable opportunity to file a reply and contest the proposed liability.
- The petitioner contended that the respondent had proceeded on the assumption that the SCN had been validly served.

Petitioner's Contention

- The petitioner relied upon the decision of the Punjab & Haryana High Court in *Luxmi Traders v. Union Territory of Chandigarh* and argued that the matter should be dealt with in accordance with the principles laid down in that case.
- The petitioner essentially sought protection against adjudication without proper service of the SCN and without an effective opportunity to respond.

Principle in *Luxmi Traders*

The Court considered the principles laid down in *Luxmi Traders*, particularly that:

- Merely uploading an SCN on the GST Common Portal does not automatically constitute sufficient service, unless its receipt is acknowledged or a reply is filed.
- Where an SCN is uploaded on the portal, no reply is filed, and an ex parte order is passed, the proceedings are to be restored to the stage of issuance of the SCN.

- The assessee should then be permitted to file a reply within the prescribed period and the Department should proceed after granting an opportunity of hearing.
- Similar protection applies where an order is served only through portal uploading and limitation for appeal is subsequently disputed.

Revenue's Argument

The Revenue attempted to distinguish the judgment in *Luxmi Traders* and argued that the principles of that decision should not apply to the present case.

However, the Delhi High Court found that the Revenue could not point out any distinguishing feature which would take the present case outside the principles laid down in *Luxmi Traders*.

High Court's Decision

The Delhi High Court held that the controversy was essentially governed by the principles laid down in *Luxmi Traders*.

Since the Revenue failed to establish any material distinction from that case, the High Court directed that the present writ petition be disposed of in terms of the principles laid down in *Luxmi Traders*.

Ratio Decidendi

Mere uploading of an SCN on the GST Common Portal cannot necessarily be treated as valid and sufficient service where the assessee has neither acknowledged its receipt nor filed a reply. Where such deficient service results in an ex parte adjudication and denial of an opportunity to contest the liability, the proceedings are liable to be dealt with in accordance with the principles laid down in *Luxmi Traders*.

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TAX INSIGHTS

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Tax Research Department

Direct Tax

02.09.2026

Whether reassessment proceedings under Section 148 could be initiated on the basis of an investigation report alleging an unexplained cash credit, when the alleged payment to the concerned party was not made during the relevant assessment year and the amount represented only an opening balance.

Hiramoti Texchem (P.) Ltd. v. ITO
High Court of Gujarat (3 August 2026)

Facts of the Case

- The assessee filed its return for AY 2014-15 declaring income of ₹26,24,120.
- The return was selected for scrutiny and an assessment under Section 143(3) was completed on 30-09-2016, accepting the returned income.
- Subsequently, the Assessing Officer issued a notice under Section 148 dated 22-03-2019 for reopening the assessment.
- The reasons for reopening were based substantially on an investigation report of the ADIT (Investigation).
- The report alleged that M/s Manibhadra Textile Company, a proprietorship concern, had received credits from three concerns, including the assessee, and that its proprietor subsequently withdrew the funds through self-cheques/cash.
- The assessee was alleged to have deposited approximately ₹14.14 lakh into the bank account of M/s Manibhadra Textile Company, which was considered a high-value transaction disproportionate to its returned income.

Assessee's Contentions

The assessee contended that:

- No payment whatsoever was made to M/s Manibhadra Textile Company during AY 2014-15.
- The amount of ₹14,14,883 referred to in the reasons for reopening was merely the opening balance arising from transactions of earlier years.
- The assessee had longstanding business transactions with the said concern and payments had been made in earlier years.
- The relevant facts were already available on record and there was no failure to disclose material facts.
- The reopening was based merely on information received from the Investigation Wing, without the Assessing Officer independently examining the information.
- There was no fresh tangible material establishing escapement of income.

Revenue's Contentions

The Revenue argued that:

- M/s Manibhadra Textile Company allegedly did not have sufficient creditworthiness to receive such substantial funds.
- The funds were subsequently withdrawn through self-cheques/cash.
- The transaction was therefore suspicious and warranted examination.
- The information supplied by the Investigation Wing constituted relevant material for reopening.
- The sufficiency and correctness of such information could be examined during the reassessment proceedings rather than at the stage of reopening.

Court's Findings

The High Court noted that the assessee had specifically and categorically established that no payment was made to M/s Manibhadra Textile Company during the relevant year.

Importantly, the Revenue did not dispute the assessee's assertion that the ₹14,14,883 represented an opening balance rather than a payment made during AY 2014-15.

The Court therefore held that:

- The very foundation of the reopening was based on incorrect facts.
- The alleged payment forming the basis of the reassessment did not take place in the relevant assessment year.
- In the absence of any payment during the relevant year, there could be no escapement of income on that account.
- Consequently, the jurisdictional basis for reopening under Section 148 was absent.

Decision

The Gujarat High Court allowed the writ petition and quashed and set aside the notice under Section 148 dated 22-03-2019. The decision was therefore in favour of the assessee.

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TAX INSIGHTS

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Goods & Services Tax

02.09.2026

Whether the service apartments being constructed by the applicant would qualify as:

- Construction services of multi-storeyed residential buildings/apartments, or
- Construction services of commercial buildings/apartments

for the purposes of GST under Notification No. 11/2017-Central Tax (Rate), dated 28-06-2017, as amended by Notification No. 03/2019-Central Tax (Rate), dated 29-03-2019.

M/s. SRIPSK Developers LLP, In re
Authority for Advance Ruling, West Bengal

Facts of the Case

- The applicant, SRIPSK Developers LLP, was engaged in construction and development activities.
- It obtained development rights over land situated at Matheswartala Road, Kolkata, for developing a multi-building complex.
- The land had originally been subject to a specific restriction that it could be used for a hotel-cum-convention centre and other commercial ventures, expressly excluding residential units.
- Under the Development Agreement dated 19 June 2024, the project was divided into:
 - Phase 1: Service apartments and multi-level car parking; and
 - Phase 2: Hotel.
- KMC sanctioned the building plan on 20 December 2024 for a:
 - B+G+31 storey Service Apartment Building,
 - B+G+10 storey Hotel, and
 - B+G+2 storey Multi-Level Car Park.
- The service apartment project was marketed under the name "Palladina."
- WBRERA registered the project as a "Residential Project" because there was no separate category for "Service Apartment" in its registration system.
- The applicant contended that service apartments are different from ordinary residential apartments because they:
 - are generally fully furnished;
 - may be offered for short-term as well as long-term stays;
 - provide hotel-like facilities and services; and
 - are commercially operated in a manner similar to hotel accommodation.

Relevant GST Provisions

Under Notification No. 11/2017-Central Tax (Rate), as amended by Notification No. 03/2019-Central Tax (Rate): "Residential apartment" means an apartment intended for residential use as declared to the RERA or competent authority.

"Commercial apartment" means an apartment other than a residential apartment.

Thus, the classification depends substantially upon whether the apartment is intended for residential use as declared to the relevant RERA or competent authority.

Applicant's Contention

The applicant argued that the project should be treated as commercial because:

1. The land itself was subject to a restriction prohibiting residential units.
2. KMC, which exercised control over the land and building development, had specifically sanctioned the project as a Service Apartment Building.
3. Service apartments are conceptually different from conventional residential apartments and are more akin to hotel accommodation.
4. The WBRERA classification as a "Residential Project" was only because WBRERA did not provide a separate category for service apartments.
5. Therefore, the WBRERA classification should not override the actual nature of the project and the classification made by KMC.

Findings of the AAR

The AAR examined the meaning of "apartment," "residential apartment," "commercial apartment," "competent authority" and "Real Estate Project" under the applicable provisions.

(a) Service apartment is different from residential apartment

The Authority observed that a service apartment generally combines the features of an apartment and a hotel. It is normally:

- furnished;
- available for short-term as well as long-term occupation;
- supported by hotel-like services; and
- operated with greater flexibility than a conventional residential apartment.

Therefore, merely because persons reside in such apartments, they cannot automatically be treated as residential apartments for GST purposes.

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(b) KMC qualifies as a competent authority

The AAR noted that the GST notification permits residential use to be declared not only to the RERA but also to the competent authority.

Under the RERA framework, a competent authority includes a local authority or other authority having jurisdiction over land and power to permit development.

The AAR held that Kolkata Municipal Corporation qualifies as a competent authority, since it exercises authority over land within its jurisdiction and has statutory powers relating to building construction, land use and development.

(c) KMC's sanctioned plan was significant

KMC had specifically sanctioned the construction as a "Service Apartment Building", rather than a residential apartment building.

Further, the land itself was restricted to commercial use and specifically excluded residential units.

Consequently, the AAR held that the KMC sanction was strong evidence that the apartments were not intended for residential use.

(d) WBRERA's classification did not alter the nature of the project

The AAR rejected the argument that WBRERA's registration as a "Residential Project" should determine the GST classification.

It noted that:

- WBRERA had no separate category for service apartments;
- the project was registered as residential only because of the absence of an appropriate service-apartment category; and
- such classification could not override the actual land-use restrictions and the building sanction granted by KMC.

The Authority therefore preferred the substantive nature and legally sanctioned use of the project over the nomenclature adopted for RERA registration.

Decision

The West Bengal AAR held that the service apartments constructed by the applicant constitute commercial apartments.

Accordingly, the construction service falls under:

Construction services of commercial buildings/apartments and not construction services of multi-storeyed residential buildings/apartments.

The ruling was in favour of the assessee/applicant.

Key Legal Principle

For GST classification of an apartment, the actual legally sanctioned use of the property and the declaration made by the competent authority are relevant. Where a municipal authority having jurisdiction over the land sanctions a project as a service-apartment/commercial project, and the land-use restrictions prohibit residential use, registration of the project as a "Residential Project" by RERA will not by itself make the apartments residential apartments for GST purposes.

Key Takeaway

The ruling establishes that "residential" status under GST cannot be determined merely by the fact that people will reside in the premises or by the nomenclature used in RERA registration. Where:

- the land is legally restricted to commercial use;
- the competent municipal authority sanctions the building as a service-apartment building; and
- the project has hotel-like/commercial characteristics,

the apartments may be treated as commercial apartments for GST purposes.

Result: In favour of the assessee.

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Direct Tax

03.09.2026

Whether a reassessment initiated under section 148 would be valid where the mandatory approval/sanction under section 151 obtained from the specified authority was unsigned, even though the approval had a valid Document Identification Number (DIN) and had been processed electronically.

Nikhil Nagindas Modi v. Deputy Commissioner of Income-tax
High Court of Bombay (5 August 2026)

Facts of the Case

- The assessee was an individual and proprietor of "The Link", engaged in publishing magazines and books. He also earned salary income.
- He filed his return of income under section 139(1) for AY 2017-18, declaring total income of approximately ₹67.13 lakh.
- The return was processed under section 143(1) and the returned income was accepted.
- On 30 March 2021, the Assessing Officer issued a notice under section 148 seeking to reopen the assessment.
- The notice stated that the requisite prior approval under section 151 had been obtained from the Joint Commissioner.
- The assessee subsequently requested the recorded reasons and received, along with the reasons, a copy of the section 151 approval.
- On examining the approval, the assessee noticed that it was not signed by the approving authority.
- The assessee challenged the reassessment proceedings before the Bombay High Court, contending, inter alia, that:
 - there was no valid approval under section 151;
 - the approval did not demonstrate proper application of mind; and
 - the reassessment proceedings were therefore without jurisdiction.
- 6. The approval also appeared to suffer from non-application of mind, as the alleged income escaping assessment was stated as "zero".

Revenue's Contention

The Revenue did not dispute that the approval was unsigned but argued that:

- the approval had been processed through the electronic system;
- it contained a valid DIN;
- section 282A(2) permitted authentication by mentioning the name and office of the income-tax authority; and
- therefore, a separate signature was not necessary.

The Revenue also relied upon *Asro Arcade v. ITO* and referred to section 292BC, inserted by the Finance Act, 2026.

Findings of the Bombay High Court

A. Section 151 approval is a jurisdictional safeguard

The Court relied upon the Supreme Court's decision in *Union of India v. Rajeev Bansal*, which held that sanction under section 151 is a pre-condition for the Assessing Officer to assume jurisdiction under section 148.

Section 151 is not merely procedural or an empty formality. It acts as a statutory safeguard against arbitrary reopening of assessments.

Therefore, a valid approval must exist before the section 148 notice is issued.

B. Approval must demonstrate application of mind

The Court held that the minimum requirement for a valid approval is that the sanctioning authority should:

- examine the reasons recorded by the Assessing Officer;
- consider the material available on record;
- apply its mind; and
- record its satisfaction for reopening under its signature.

Thus, the signature is an important statutory indicator that the competent authority has actually accorded the requisite sanction.

Assessee's Contention

The assessee argued that:

1. Section 151 approval is a jurisdictional pre-condition for issuance of a notice under section 148.
2. Section 282A(1) expressly provides that a notice or other document issued by an income-tax authority "shall be signed and issued".
3. The approval under section 151 constitutes an "other document" for purposes of section 282A.
4. Therefore, an unsigned approval could not constitute valid statutory sanction.
5. The fact that the approval carried a valid DIN could not cure the absence of the mandatory signature.

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03.09.2026

C. Section 282A(1) makes signature mandatory

Section 282A(1) provides that where the Act requires a notice or other document to be issued by an income-tax authority, it shall be signed and issued in the prescribed manner.

The Court held that an approval under section 151 falls within the expression "other document."

Consequently, the approval must bear the signature of the approving authority, either:

- manually, or
- digitally.

In the absence of such signature, there was no valid approval under section 151.

DIN Cannot Substitute Signature

A significant aspect of the judgment is the Court's rejection of the Revenue's argument that the presence of a valid DIN made the approval valid.

The Court clearly distinguished between:

- DIN, and
- signature.

A valid DIN does not dispense with the statutory requirement of a valid signature under section 282A(1).

Therefore:

DIN and signature are separate statutory requirements, and one cannot substitute for the other.

Section 282A(2) Also Cannot Cure the Defect

The Revenue argued that section 282A(2), which provides for deemed authentication where the name and office of the income-tax authority are mentioned, was sufficient.

The Court rejected this argument.

It held that section 282A(2) does not override section 282A(1).

There is a distinction between:

- authentication of a document, and
- legal validity of the document.

Even if an unsigned document can be identified or authenticated as having originated from a particular authority, it does not mean that the document satisfies the mandatory statutory requirement of being signed.

Distinction from Asro Arcade

The Bombay High Court specifically disagreed with the approach taken by the Delhi High Court in *Asro Arcade v. ITO*.

The Court noted that the Delhi High Court had held that mentioning the name and designation of the issuing officer could be sufficient in the digital era.

The Bombay High Court, however, observed that electronic documents can indeed bear digital signatures and that section 282A(1) expressly requires a document to be signed.

Accordingly, the Bombay High Court preferred the view taken in:

- *Vikas Gupta v. UOI* – Allahabad High Court; and
- *Ambernath City Hospital (P.) Ltd. v. UOI* – Bombay High Court.

Section 292BC Not Applicable

The Revenue also relied upon section 292BC, introduced with retrospective effect from 1 April 2021.

However, the approval in the present case had been granted on 30 March 2021.

Therefore, the Court held that section 292BC would not apply to the facts of the case and did not express any opinion on its validity or otherwise.

Decision

The Bombay High Court held that:

- the approval under section 151 was unsigned;
- an unsigned approval did not satisfy the mandatory requirement of section 282A(1);
- consequently, there was no valid statutory approval before issuance of the section 148 notice;
- the Assessing Officer therefore lacked jurisdiction to initiate reassessment proceedings.

Accordingly, the Court allowed the writ petition and quashed:

- the notice under section 148;
- the order disposing of objections;
- notices issued under section 142(1); and
- the notice under section 143(2).

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TAX INSIGHTS

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Tax Research Department

Goods & Services Tax

03.09.2026

1. Whether GST is payable on amounts recovered at subsidised rates from regular and contract employees for food supplied through a statutory in-house canteen.
2. Whether the employer is entitled to full ITC on inward supplies used for operating the statutory canteen, notwithstanding recovery of part of the food cost from employees.

Plantlipids (P.) Ltd., In re
Authority for Advance Ruling, Kerala

Facts of the Case

- The applicant, Plant Lipids Pvt. Ltd., is a manufacturer of spice oleoresins in Kerala and employed more than 590 workers.
- Since the factory employed more than 250 workers, it was required under Section 46 of the Factories Act, 1948 to provide and maintain a canteen.
- The applicant operated an in-house canteen as a statutory welfare measure and not as an independent business activity.
- Food was supplied to employees through subsidised coupons.
- The facility was available to both:
 - employees on the rolls of the company; and
 - contract employees.
- The company recovered either no amount or only a portion of the cost of food from employees.
- The applicant sought an advance ruling regarding GST liability on such recovery and availability of ITC on canteen-related inward supplies.

Applicant's Contentions

The applicant submitted that:

- The canteen was maintained solely to comply with the statutory obligation under Section 46 of the Factories Act.
- Provision of food through such canteen was a welfare measure connected with employment, rather than an activity undertaken in the course or furtherance of business.
- The employee handbook specifically incorporated the canteen policy and provided for subsidised meals.
- The statutory obligation extended to contract workers also, since the definition of "worker" under the Factories Act includes persons employed through a contractor.
- CBIC Circular No. 172/04/2022-GST dated 6 July 2022 clarified that perquisites provided by an employer pursuant to contractual obligations, including statutory obligations, are not treated as supply.
- Section 17(5)(b) permits ITC where provision of food or beverages is obligatory for the employer under any law.

Findings of the AAR

A. Subsidised Canteen Recovery is Not a Taxable Supply

The AAR examined Section 7 of the CGST Act, which requires a supply to be made in the course or furtherance of business for consideration.

It held that the canteen facility in the present case was:

- not operated as a business activity;
- provided pursuant to a statutory obligation;
- intended as an employee welfare measure; and
- an employment-related benefit.

The employee handbook also demonstrated that the canteen facility formed part of the structured employment welfare policy.

Therefore, recovery of the subsidised cost from employees did not convert the statutory welfare facility into a taxable supply.

The AAR specifically held that the position remained the same whether the employer recovered:

- the full amount,
- a partial amount, or
- no amount at all.

Accordingly, no GST was payable on the amount recovered from employees towards statutory canteen meals.

B. Treatment of Contract Workers

- A significant aspect of the ruling was the treatment of contract employees.
- Under Section 46 of the Factories Act, the canteen obligation applies to factories employing more than 250 workers.
- The definition of "worker" under Section 2(1) includes persons employed directly or through an agency/contractor for work connected with the manufacturing process.
- The AAR therefore concluded that the statutory canteen obligation extends to contract workers as well as regular employees.
- Consequently, the GST treatment could not differ merely because a worker was engaged through a contractor.

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C. ITC on Canteen Expenses

- Section 17(5)(b) generally restricts ITC relating to food and beverages.
- However, its proviso permits ITC where provision of such goods or services is obligatory for an employer under any law for the time being in force.
- The AAR relied upon CBIC Circular No. 172/04/2022-GST, which clarified that the proviso applies to the whole of clause (b) of Section 17(5).
- Since provision of the canteen was mandatory under the Factories Act, the statutory exception to the blocked-credit provision applied.

D. Does Recovery from Employees Restrict ITC?

The AAR gave an important clarification on this aspect. It held that ITC entitlement does not depend upon whether the employer recovers the canteen cost from employees.

Thus, ITC would remain available whether:

- the employer bears the entire cost;
- the employer partially recovers the cost; or
- the employer fully recovers the cost.

The decisive factor is that provision of the canteen is legally obligatory.

However, the AAR imposed an important condition:

The burden of GST should not have been passed on to the employees.

Accordingly, the applicant was entitled to full ITC on inward supplies used in the statutory canteen, subject to this condition.

Cases Relied Upon

The AAR referred to, inter alia:

- S.G. Chemicals and Dyes Trading Employees' Union v. S.G. Chemicals and Dyes Trading Ltd. – Supreme Court
- Dattatraya Shankarrao Kharde v. Executive Engineer, Chief Gate – Bombay High Court
- National Thermal Power Corporation Ltd. v. Karri Pothuraju – Supreme Court
- Shriram Pistons & Rings Ltd., In re – AAR, Uttar Pradesh

These decisions supported the proposition that statutory labour-welfare obligations can form part of the employment relationship, including in relation to contract workers.

Final Ruling

Question 1 – GST on Subsidised Canteen Charges

No GST is payable.

- Amounts recovered at subsidised rates from both regular employees and contract employees for food supplied through the statutory canteen are not taxable supplies under GST.

Question 2 – ITC on Canteen Inward Supplies

- Full ITC is available.
- The applicant is entitled to claim full ITC on inward supplies used for the statutory canteen because provision of the canteen is obligatory under the Factories Act.
- This is irrespective of whether the employer recovers any portion of the food cost from employees, subject to the condition that the GST burden is not passed on to employees.

Ratio Decidendi

- Where an employer is statutorily required to maintain a canteen under the Factories Act, provision of subsidised food to employees constitutes an employment-related welfare measure and not a business supply. Accordingly, recovery of subsidised canteen charges from regular or contract workers does not attract GST. Further, the statutory obligation constitutes an exception to the blocked-credit provision under Section 17(5)(b), enabling full ITC on canteen-related inward supplies, irrespective of cost recovery from employees, provided the GST burden is not passed on to them.

Key Takeaway

- The ruling is significant for employers operating statutory canteens, particularly large manufacturing units.
- In brief: Statutory canteen + employment welfare + no GST on employee recovery + full ITC, subject to non-passing of GST burden.
- The AAR also makes it clear that contract workers cannot be treated differently from regular employees where the statutory canteen obligation under the Factories Act applies to all "workers".

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TAX INSIGHTS

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Tax Research Department

Direct Tax

06.09.2026

- Whether an assessment order passed under the faceless assessment scheme (section 144B) can be revised by the Principal Commissioner under section 263?
- Whether the Assessing Officer's failure to examine the assessee's claim for bad debt deduction under section 36(1)(vii) rendered the assessment order erroneous and prejudicial to the interests of the Revenue?

Shriram Finance Ltd. v. Principal Commissioner of Income-tax
ITAT Chennai (20.05.2026)

Facts of the Case

- The assessee, Shriram Finance Ltd., an NBFC, filed its return of income for AY 2022-23.
- The case was selected for scrutiny under CASS.
- Assessment was completed under section 143(3) read with section 144B (Faceless Assessment), accepting the returned income.
- Subsequently, the Principal Commissioner (PCIT) examined the assessment records and found that:
 - In AY 2021-22, the assessee had claimed deduction for provision for doubtful debts under section 36(1)(vii).
 - In AY 2022-23, it claimed deduction for bad debts under section 36(1)(vii).
 - While allowing the bad debt deduction, the Assessing Officer failed to reduce the opening credit balance of the provision for doubtful debts as required by the first proviso to section 36(1)(vii).
 - No enquiry or verification had been conducted on this issue.
- Invoking section 263, the PCIT held the assessment order to be erroneous and prejudicial to the interests of the Revenue and directed the Assessing Officer to recompute the income.

The assessee appealed before the ITAT.

Assessee's Arguments

The assessee contended that:

- A faceless assessment order passed under section 144B is not revisable under section 263.
- A faceless assessment is made through multiple units (Assessment Unit, Verification Unit, Technical Unit and Review Unit), and therefore cannot be treated as an ordinary assessment order of an Assessing Officer.
- Since the assessment is supervised by the National Faceless Assessment Centre under the Principal Chief Commissioner, the Principal Commissioner cannot revise such an order.
- The computation error had already been corrected in the subsequent assessment year, making the issue revenue-neutral.

Revenue's Arguments

The Revenue argued that:

- An order passed under section 144B is still an order passed by the Assessing Officer in exercise of statutory powers.
- Explanation 1 to section 263 expressly covers such orders.
- The Assessing Officer never examined the allowability of the deduction.
- Mere acceptance of a claim without enquiry amounts to an erroneous order attracting section 263.

Tribunal's Decision

The ITAT dismissed the assessee's appeal and upheld the revision under section 263.

Key Findings of the Tribunal

1. Faceless assessment orders are revisable under section 263

The Tribunal held that:

- An assessment under section 144B is still an assessment order passed in the exercise of the powers and functions of the Assessing Officer.
- Such an order falls within Explanation 1(A)(ii) to section 263.
- Therefore, a faceless assessment is amenable to revision under section 263.

2. NFAC supervision does not bar revision

The Tribunal rejected the argument that:

- Since the assessment is carried out under the supervision of the Principal Chief Commissioner of the Faceless Assessment Unit, the Principal Commissioner lacks jurisdiction.

It observed that:

- Section 144B nowhere provides that the assessment order is passed by the Principal Chief Commissioner.
- The order continues to remain an order of the Assessing Officer.
- Hence, the Principal Commissioner has full jurisdiction to invoke section 263.

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TAX INSIGHTS

By

Tax Research Department

Direct Tax

06.09.2026

3. No enquiry was conducted by the Assessing Officer
The Tribunal examined:

- Notices issued under section 142(1),
- Replies filed by the assessee,
- Assessment records.

It found that:

- No query whatsoever was raised regarding the deduction under section 36(1)(vii).
- The assessee itself admitted that the issue had not been examined.

Accordingly, the assessment suffered from lack of enquiry.

4. Lack of enquiry makes an order erroneous

The Tribunal reiterated that:

- Where the Assessing Officer accepts a claim without conducting any enquiry, there is no "view" taken by the Assessing Officer.

- A view can exist only after examination and application of mind.

- Therefore, an assessment completed without enquiry is both:

- erroneous; and
- prejudicial to the interests of the Revenue.

5. Subsequent correction does not cure the error

The assessee argued that the excess deduction had been voluntarily offered to tax in AY 2023-24.

The Tribunal rejected this contention by holding that:

- Income must be assessed in the correct assessment year.
- The Assessing Officer was duty-bound to assess the correct income in AY 2022-23 itself.
- Subsequent rectification cannot validate an erroneous assessment for the earlier year.

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TAX INSIGHTS

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Tax Research Department

Goods & Services Tax

06.09.2026

Whether medicated toilet soap, classifiable under HSN 3401, would qualify for the revised concessional GST rate of 5% applicable to “Toilet Soap” under Entry No. 251 of Schedule I to Notification No. 09/2025-CT (Rate), or would continue to attract 18% GST under Entry No. 66 of Schedule II with effect from 22 September 2025.

East African India Overseas, In re
Authority for Advance Ruling, Uttarakhand (6 January 2026)

Facts of the Case

- The applicant, East African India Overseas, is engaged in the manufacture and supply of pharmaceutical formulations, including tablets, capsules, syrups, toilet soaps and medicated toilet soaps.
- Prior to 22 September 2025, the applicant classified its toilet soaps and medicated toilet soaps under HSN 3401 and paid GST at 18%.
- Notification No. 09/2025-CT (Rate), dated 17 September 2025, introduced a concessional GST rate of 5% on “Toilet Soap (other than industrial soap) in the form of bars, cakes, moulded pieces or shapes”.
- Since the notification did not expressly mention “medicated toilet soap”, the applicant sought clarification regarding the applicable rate.

Applicant's Contention

The applicant contended that:

- Both toilet soap and medicated toilet soap fall under the broad heading 3401.
- However, the notification specifically uses the expression “Toilet Soap” rather than merely referring to HSN 3401.
- Medicated toilet soap has therapeutic/medicinal properties and could therefore be treated differently.
- The applicant ultimately sought a ruling on whether medicated toilet soap should attract 5% or 18% GST.

Department's Contention

The Department argued that medicated toilet soap is a distinct product from ordinary toilet/bathing soap because:

- It has a specific therapeutic or medical purpose.
- It may contain medicinal ingredients such as ketoconazole, Cetrimide and chlorhexidine.
- Such products may be manufactured under a drug licence and marketed as medicated soaps/medicated cleansing bars.
- The concessional Entry No. 251 does not specifically cover medicated toilet soaps.

In case of ambiguity concerning a concessional notification, the benefit must be interpreted strictly in favour of revenue, relying upon *Commissioner of Customs (Import) v. Dilip Kumar & Company*.

Relevant Classification

- The Authority examined the Customs Tariff structure under Heading 3401.
- Importantly, tariff item 3401 11 10 specifically covers: Medicated toilet soaps, whereas 3401 11 90 covers other soaps for toilet use.
- Thus, although both products fall within Heading 3401, the tariff separately identifies medicated toilet soap as a specific tariff item.

Findings of the AAR

The AAR observed that:

- Entry No. 251 of Schedule I provides the 5% rate specifically for “Toilet Soap (other than industrial soap)”.
- For a product to fall under Entry 251, it must qualify as toilet soap and not merely fall somewhere within the broad HSN Heading 3401.
- Medicated toilet soap has a specific therapeutic purpose and cannot be equated with ordinary toilet/bathing soap.
- The tariff itself provides a separate specific classification for medicated toilet soap under 3401 11 10.
- The expression “Toilet Soap” in Entry 251 was therefore held to cover toilet soaps classifiable under 3401 11 90, and not medicated toilet soaps falling under 3401 11 10.

Ruling

The AAR held that:

- Medicated Toilet Soap is classifiable under tariff item 3401 11 10.
- It is not covered by the concessional 5% rate under Entry No. 251 of Schedule I.
- It falls under Entry No. 66 of Schedule II to Notification No. 09/2025-CT (Rate).
- Accordingly, medicated toilet soap attracts 18% GST — 9% CGST + 9% SGST.

Conclusion

The AAR ruled in favour of the Revenue and held that the revised 5% GST rate is restricted to ordinary toilet soaps classifiable under tariff item 3401 11 90. Medicated toilet soaps under 3401 11 10 continue to attract GST at 18%.

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TAX INSIGHTS

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Tax Research Department

Direct Tax

07.09.2026

Whether an assessee is entitled to deduction under Section 54F of the Income-tax Act, 1961, where the long-term capital gains are invested in substantial construction and structural improvements to an existing residential house (on which deduction under Section 54F had already been claimed earlier), instead of purchasing or constructing a different new residential house.

Mrs. Kaziur Narayanan Godha v. ITO
ITAT, Bangalore (25.05.2026)

Facts

- The assessee sold a vacant site on 12 April 2021, resulting in a long-term capital gain (LTCG) of ₹25.24 lakh.
- She claimed exemption under Section 54F by stating that the capital gains were invested in construction and structural improvements to a residential house purchased earlier on 13 March 2020.
- The works included:
 - Construction of an additional room and pooja room;
 - Borewell and underground sump;
 - Compound wall with gate; and
 - Other civil works.
- An engineer's certificate and supporting documents were submitted to substantiate the expenditure.

Revenue's Stand

- The Assessing Officer (AO) denied the exemption, holding that:
 - The residential house had been purchased earlier and outside the prescribed purchase period under Section 54F.
 - The expenditure was merely for renovation of an existing house and not for purchase or construction of a new residential house.
- The CIT(A) upheld the disallowance, further observing that:
 - The assessee had already claimed Section 54F deduction in an earlier year for purchase of the same property.
 - A second deduction on the same property was not permissible.

ITAT's Decision

The Tribunal allowed the assessee's appeal and held that:

- Section 54F is a beneficial provision and must be interpreted liberally to achieve its objective of encouraging investment in residential housing.
- The expression "construction of a residential house" should not be interpreted narrowly or hyper-technically.

- The expenditure incurred was not limited to routine repairs but involved substantial structural additions and construction activities.
- The assessee had produced adequate evidence, including an engineer's certificate, and the Revenue failed to disprove the genuineness of the expenditure.
- Merely because the assessee had earlier claimed deduction under Section 54F for purchase of the same property, a subsequent deduction cannot be denied where a fresh capital gain is invested in further construction or structural improvement within the prescribed time.
- The assessee had substantially complied with the conditions of Section 54F.

Reliance Placed

The Tribunal followed the decision of the Karnataka High Court in CIT v. Smt. B.S. Shanthakumari (2015), which held that:

- Section 54F should receive a liberal interpretation.
- What is material is the investment of capital gains in construction, not the completion of construction within the stipulated period.
- Substantial compliance with the statutory conditions is sufficient.

Key Takeaways

- Section 54F should be construed liberally as a beneficial provision.
- Structural additions and significant improvements can qualify as construction for the purposes of Section 54F.
- A prior Section 54F claim on the same residential property does not automatically bar a subsequent claim if fresh capital gains are invested in further construction within the statutory time limit.
- The focus is on the utilisation of capital gains for eligible construction rather than a rigid interpretation of "new residential house."
- Documentary evidence such as engineer's certificates and proof of expenditure plays a crucial role in establishing eligibility for the exemption.

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TAX INSIGHTS

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Tax Research Department

Goods & Services Tax

07.09.2026

Whether Section 16(3) of the CGST Act disallows the entire Input Tax Credit (ITC) on capital goods where a banking company, after opting for the 50% ITC scheme under Section 17(4), claims depreciation under the Income-tax Act on the remaining 50% of the GST component that had lapsed.

South Indian Bank Ltd. v. Additional Commissioner of Central Tax & Central Excise
High Court of Kerala (18.02.2026)

Facts

- The petitioners were banking companies registered under the CGST Act.
- They exercised the option under Section 17(4), under which:
 - 50% of eligible ITC on capital goods was availed; and
 - the remaining 50% automatically lapsed.
- The unavailed 50% formed part of the cost of the capital assets and depreciation was claimed under the Income-tax Act.
- Following investigations by the DGCI, the department alleged that:
 - since depreciation had been claimed on the GST component, Section 16(3) prohibited ITC on the entire GST component.
- Show Cause Notices (SCNs) and an Order-in-Original (OIO) were issued denying ITC.

Petitioners' Contentions

The banking companies contended that:

- Section 17(4) itself restricts them to 50% ITC.
- The remaining 50% lapses by operation of law and cannot thereafter be claimed as ITC.
- Since no ITC is claimed on the lapsed portion, claiming depreciation on that amount does not result in any double benefit.
- Section 16(3) prohibits ITC only on the tax component on which depreciation is claimed, not on the entire GST component.

Revenue's Contentions

The department argued that:

- Section 16(3) bars ITC wherever depreciation is claimed on the tax component of capital goods.
- Since depreciation had been claimed on the GST element, the taxpayer became ineligible for ITC on the entire tax component.

Decision

The Kerala High Court allowed the writ petitions and held that the department's interpretation of Section 16(3) was erroneous.

1. Section 16(3) applies only to the tax component on which depreciation is claimed

The Court emphasized the words: "the said tax component" appearing in Section 16(3).

According to the Court, the statutory prohibition extends only to that portion of the tax component on which depreciation has actually been claimed, and not to any other portion.

2. Object of Section 16(3) is to prevent double benefit:

The Court observed that the purpose of Section 16(3) is to prevent a taxpayer from simultaneously obtaining:

- Input Tax Credit under the CGST Act; and
- depreciation under the Income-tax Act,

on the same tax component. Where no ITC has been claimed, there is no double benefit.

3. Effect of Section 17(4):

The Court explained the scheme applicable to banks:

- Banking companies may either: follow the apportionment mechanism under Section 17(2), or opt for the simplified scheme under Section 17(4).
- Under Section 17(4):
 - only 50% ITC is admissible; and
 - the remaining 50% lapses automatically.

Therefore, the unavailed portion ceases to be available as ITC.

4. Lapsed credit loses the character of input tax credit:

The Court held that once the remaining 50% ITC lapses under Section 17(4):

- it no longer possesses the character of "input tax credit";
- consequently, Section 16(3) cannot operate on that lapsed amount.

Depreciation claimed on that portion merely reflects capitalization of cost and does not amount to a double tax benefit.

5. Harmonious interpretation of Sections 16(3), 17(2) and 17(4):

The Court interpreted the provisions together and observed:

- Under Section 17(2), ITC attributable to exempt supplies is anyway unavailable.
- Section 17(4) creates a statutory substitute by deeming only 50% of eligible ITC to be available.
- Treating the lapsed 50% differently from ITC attributable to exempt supplies would amount to an unreasonable classification.

Therefore, Section 16(3) cannot be interpreted to deny the admissible 50% ITC merely because depreciation is claimed on the lapsed portion.

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TAX INSIGHTS

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Tax Research Department

Direct Tax

08.09.2026

Whether handing over possession of land to a developer under a Joint Development Agreement (JDA), when such possession is given only for the limited purpose of developing the land into flats, constitutes a “transfer” under section 2(47) of the Income-tax Act, 1961 read with section 53A of the Transfer of Property Act, 1882, thereby attracting capital gains tax under section 45?

Mahipal Reddy Molugu v. Income-tax Officer
ITAT Hyderabad (5 August 2026)

Facts of the Case

- The assessee was an individual and jointly owned land with twelve other co-owners at Kushaiguda.
- The co-owners entered into a Joint Development Agreement-cum-General Power of Attorney (JDA) with a developer on 25 February 2010 for construction of residential flats.
- Under the JDA, possession of the land was handed over to the developer only for the limited purpose of carrying out development and constructing residential flats.
- A survey under section 133A conducted in the case of the developer brought the JDA to the knowledge of the Assessing Officer (AO).
- The AO initially completed reassessment proceedings under sections 143(3) read with 147, accepting the returned income.
- Subsequently, the PCIT exercised revisionary jurisdiction under section 263 and directed the AO to redo the assessment.
- In the fresh assessment, the AO treated the handing over of possession under the JDA as a transfer under section 2(47), read with section 53A of the Transfer of Property Act.
- Accordingly, the AO made an addition of approximately ₹2.28 crore as Long-Term Capital Gains.
- The CIT(A) partly allowed the assessee's appeal, following the decision of the Andhra Pradesh High Court in Potla Nageswara Rao v. DCIT.
- The assessee therefore approached the ITAT.

Assessee's Contentions

The assessee contended that:

- The possession given to the developer was not possession in the legal sense contemplated under section 53A of the Transfer of Property Act.
- It was merely permissive possession/licence for development purposes.
- Therefore, there was no “transfer” within the meaning of section 2(47) of the Income-tax Act.
- Consequently, the charging provision under section 45 could not be invoked.

- Reliance was placed particularly on:

- Seshasayee Steels (P.) Ltd. v. ACIT — Supreme Court
- Smt. Shantha Vidyasagar Annam v. ITO — Telangana High Court

Tribunal's Analysis

- The ITAT examined the relevant clause of the JDA and noted that the land was entrusted to the developer specifically for development and construction of multi-storied residential apartments.
- The Tribunal held that such possession was limited and permissive in nature and did not amount to the kind of possession contemplated under section 53A of the Transfer of Property Act.

Reliance on Supreme Court ruling:

- The Tribunal relied heavily on the Supreme Court's decision in Seshasayee Steels (P.) Ltd. v. ACIT.
- The Supreme Court had held that where permission is granted to a developer merely to enter the land and undertake construction/development, such permission constitutes a licence or permissive possession, rather than possession contemplated under section 53A.
- Importantly, section 53A requires, among other things, that the transferee has taken possession in part performance of the contract. Mere permission to undertake development does not necessarily satisfy this requirement.

Decision

The ITAT allowed the assessee's appeal and directed the AO to delete the addition of Long-Term Capital Gains.

The Tribunal specifically held that:

1. Possession handed over under the JDA was only for the limited purpose of development of the land into flats.
2. Such permissive possession did not constitute possession under section 53A of the Transfer of Property Act.
3. Therefore, there was no “transfer” under section 2(47) of the Income-tax Act.
4. In the absence of a transfer, section 45 was not attracted.
5. Accordingly, the capital gains addition was directed to be deleted.

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TAX INSIGHTS

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Tax Research Department

Goods & Services Tax

08.09.2026

Whether used jute gunny bags, received by a manufacturer along with raw materials and subsequently sold through auction, are to be classified as “scrap/waste” or as reusable packing bags under Heading 6305, and consequently what GST rate is applicable on their sale.

Kerala Cooperative Milk Marketing Federation Ltd., In re
Authority for Advance Ruling, Kerala (28.04.2026)

Facts of the Case

- The applicant, Kerala Cooperative Milk Marketing Federation Ltd. (MILMA), manufactures cattle feed and other dairy-related products.
- Its cattle-feed plant procures agricultural raw materials such as maize, de-oiled rice bran, coconut cake and cotton seed.
- Certain raw materials are received in jute gunny bags without plastic coating, while other materials are received in PP bags.
- After the raw materials are removed, the empty gunny bags are periodically disposed of through e-tender/auction.
- Buyers purchase these used gunny bags for reuse, particularly for packing agricultural produce such as maize and cereals.
- The bags are generally sold in bundles and remain intact, identifiable and capable of being reused as packing bags.
- The applicant treated used PP bags as plastic scrap under HSN 391590. However, it contended that the used jute gunny bags should not be treated as scrap because they retained their original character and utility.
- The applicant sought a ruling on the appropriate classification and GST rate.

Applicant's Contention

The applicant submitted that:

- The bags are jute woven sacks used for packing goods.
- They continue to be capable of reuse for the same purpose.
- Therefore, they merit classification under Heading 6305, particularly the entry relating to jute sacks and bags.
- They should not be classified as waste or scrap merely because they have been previously used.
- The applicant also relied upon photographs and sample invoices demonstrating that the bags were intact and sold as “old gunny bags” for reuse.

Key Classification Issue

The AAR distinguished between:

Reusable used bags: Bags remain intact, retain their shape and function, and are capable of being reused as packing bags.

Scrap/waste: Goods that have become torn, worn out, cut into pieces or otherwise lost their original utility and are sold essentially for recovery of material.

Thus, prior use by itself does not convert a product into scrap.

AAR's Findings

The AAR observed that the gunny bags:

- remained intact;
- were sold as identifiable old gunny bags;
- retained their original form and structure;
- were capable of being reused for packing agricultural produce; and
- were not sold in shredded, torn or unusable condition.

Accordingly, they continued to possess the essential character of sacks and bags used for packing goods.

Why Heading 6305 Was Applicable

- **Heading 6305 covers:** Sacks and bags, of a kind used for the packing of goods.
- The AAR held that classification should be determined with reference to the nature, condition, commercial identity and functional use of the goods at the time of supply.
- The fact that the goods were described as “scrap” in auction documents was not decisive. Commercial nomenclature cannot override the actual nature and condition of the goods.

The AAR also considered Headings 6309 and 6310:

- Heading 6309 – worn clothing and other worn textile articles – was not applicable, as sacks and bags showing signs of wear are excluded from this heading.
- Heading 6310 – rags, scrap and worn-out textile articles – was also not applicable because the bags were not worn out, torn, cut or reduced to waste.

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Goods & Services Tax

08.09.2026

GST Rate

Based on Notification No. 9/2025-Central Tax (Rate), dated 17 September 2025, the AAR held that the applicable GST rate depends upon the sale value per piece:

<u>Sale value per piece</u>	<u>CGST</u>	<u>SGST</u>	<u>Total GST</u>
Up to ₹2,500	2.5%	2.5%	5%
Above ₹2,500	9%	9%	18%

Ruling

The AAR ruled that:

1. Used jute gunny bags without plastic coating are not scrap merely because they have been previously used.
2. Where the bags remain intact and reusable, they retain their essential character as packing bags.
3. Such bags are classifiable under Heading 6305.
4. GST is applicable at:
 - 5% where sale value does not exceed ₹2,500 per piece; and
 - 18% where sale value exceeds ₹2,500 per piece.
5. The ruling is restricted to bags that remain intact and reusable.
6. Bags which are worn out, torn, cut into pieces or otherwise rendered unfit for reuse would require separate examination and may fall under a different classification.

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TAX INSIGHTS

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Tax Research Department

Direct Tax

09.09.2026

Whether the Principal Commissioner of Income Tax (PCIT) could validly continue and conclude revisionary proceedings under section 263 of the Income-tax Act during the subsistence of the moratorium imposed under section 14 of the IBC after the NCLT had admitted insolvency proceedings against the assessee.

Reliance Home Finance Limited, Lower Parel v. Pr. Commissioner of Income Tax-8, Mumbai
Income Tax Appellate Tribunal, Mumbai (8 September 2026)

Facts of the Case

1. The assessee, Reliance Home Finance Ltd., was assessed for AY 2017-18 pursuant to an assessment order passed by the Assessment Unit under section 147 read with section 144B on 25 May 2023.
2. Subsequently, the PCIT passed an order under section 263 on 12 December 2025, revising the assessment order.
3. In the meantime, the NCLT, by order dated 16 September 2025, admitted an application under section 7 of the IBC against the assessee and commenced the Corporate Insolvency Resolution Process (CIRP). Consequently, the statutory moratorium under section 14 of the IBC came into operation.
4. The Resolution Professional informed the Income-tax Department about the NCLT proceedings through an e-mail dated 20 November 2025.
5. The assessee challenged the jurisdiction of the PCIT, contending that proceedings under the Income-tax Act could not be instituted or continued during the period of moratorium.

Assessee's Contentions

The assessee argued that:

- Section 14 of the IBC prohibits the institution or continuation of proceedings against a corporate debtor during the moratorium.
- By virtue of section 238 of the IBC, the IBC has an overriding effect over anything inconsistent contained in another enactment, including the Income-tax Act.
- Since the NCLT had admitted the insolvency application before the section 263 order was passed, the PCIT lacked jurisdiction to conclude the revisionary proceedings during the moratorium.

Revenue's Contentions

The Department supported the revisionary proceedings but submitted that, at the very least, appropriate liberty should be granted to the Revenue to revive the proceedings after cessation of the moratorium, subject to the applicable law.

Tribunal's Analysis

- The ITAT relied substantially on the decision of the Bombay High Court in Smaaash Entertainment Pvt. Ltd. v. ACIT, which had considered the effect of sections 14 and 238 of the IBC on Income-tax proceedings.
- The Bombay High Court had followed the decision in PCIT v. Monnet Ispat and Energy Ltd., where it was held that the moratorium prevents the continuation of proceedings against the corporate debtor. The Supreme Court had affirmed the overriding effect of the IBC, observing that section 238 makes the IBC prevail over inconsistent provisions of other enactments, including the Income-tax Act.
- The ITAT therefore held that the principle applies not merely to ordinary assessment proceedings but also to revisionary proceedings under section 263 when they are sought to be continued and concluded during the moratorium.

Held

The ITAT held that:

The section 263 revisional order passed during the subsistence of the IBC moratorium could not be sustained.

Since the NCLT had admitted the insolvency proceedings on 16 September 2025, and the impugned section 263 order was passed thereafter, on 12 December 2025, the PCIT could not validly conclude the revisionary proceedings during the moratorium.

Accordingly, the Tribunal:

- Set aside the impugned section 263 order;
- Restored the matter to the file of the PCIT;
- Granted liberty to the PCIT to revive and reframe the revisionary proceedings after cessation of the moratorium, subject to the IBC, Income-tax Act and applicable law;
- Kept all issues on merits open; and
- Directed the Resolution Professional to intimate the PCIT immediately when the moratorium ceases.

The assessee's appeal was consequently allowed for statistical purposes.

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Tax Research Department

Goods & Services Tax

09.09.2026

The principal issue was whether the various charges recovered from inpatients towards pathological/radiological tests, bed or room charges, medicines, consumables, nursing, doctors' services and other facilities constituted a single/composite supply of healthcare services and whether the entire amount was exempt from GST under Sl. No. 74 of Notification No. 12/2017-CT (Rate)

Laxmi Health Care Centre & ICCU, In re
Authority for Advance Ruling, Maharashtra (28 November 2025)

Facts of the Case

1. The applicant, Laxmi Health Care Centre & ICCU, is a partnership firm operating as a nursing home registered under the Maharashtra Nursing Home Registration Act, 1949.
2. The nursing home provides healthcare services through professional doctors and has an in-house pharmacy operating as LAXMI CHEMIST for medicines and allied items.
3. Patients were broadly classified as:
 - Inpatients – admitted for treatment and continuously monitored by doctors and nursing staff; and
 - Outpatients – persons visiting for consultation, diagnosis or check-up without being admitted.
4. In the case of inpatients, the nursing home provided a bundle of facilities, including:
 - Doctors' consultation and treatment;
 - Bed/room facilities;
 - Nursing care;
 - Pathological and other diagnostic tests;
 - X-ray/scanning;
 - Medicines and consumables;
 - Equipment; and
 - Food during treatment.
5. A single invoice was issued to the inpatient, although the invoice contained separate/bifurcated amounts for room rent, nursing, laboratory charges, medicines, consumables, equipment and doctors' fees.
6. The applicant contended that all these elements were naturally bundled and provided as part of the overall medical treatment, with healthcare being the principal objective of the patient.

Applicant's Contention

The applicant argued that the inpatient did not come to the nursing home to independently purchase medicines, accommodation or diagnostic tests. Rather, the dominant purpose was medical treatment, and the other goods and services were incidental and necessary for providing such treatment.

Accordingly, the applicant claimed that the entire transaction constituted healthcare services and qualified for exemption under Sl. No. 74 of Notification No. 12/2017-CT (Rate).

The applicant also relied upon CBIC Circular No. 32/06/2018-GST dated 12 February 2018, which clarifies that the entire amount charged by hospitals from patients for healthcare services, including payments to doctors and food supplied to inpatients as advised by doctors/nutritionists, is covered by the healthcare exemption.

Department's View

The jurisdictional officer initially took the view that the various supplies were not a single healthcare supply. However, the officer also acknowledged that the ancillary services provided by the hospital were covered by the healthcare exemption.

AAR's Findings

The AAR examined the nature of inpatient services under SAC 999311 – Inpatient Services.

It observed that inpatient healthcare encompasses a complete range of services provided under the direction of medical doctors, including medical, pharmaceutical, paramedical, nursing, laboratory, technical and radiological services. The entire gamut of activities from admission until discharge constitutes a composite supply.

The Authority further noted that:

- Medicines and consumables;
- Room/bed charges;
- Food; and
- Other ancillary services

are naturally bundled and supplied in conjunction with healthcare services, which constitute the principal supply.

Thus, the fact that the invoice separately identifies different components does not alter the essential character of the inpatient transaction as a composite supply.

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By

Tax Research Department

Goods & Services Tax

09.09.2026

GST Exemption

- The AAR held that the applicant qualifies as a clinical establishment and the services provided to inpatients constitute healthcare services within the meaning of Sl. No. 74 of Notification No. 12/2017-CT (Rate).
- Accordingly, the composite supply is taxable according to the treatment applicable to the principal supply, i.e. healthcare services, which are exempt.
- However, the exemption is not absolute.
- Under the proviso to Sl. No. 74, the exemption does not apply to room charges exceeding ₹5,000 per day, except rooms forming part of ICU/CCU/ICCU/NICU or similar specified categories. Therefore, such room charges remain taxable.

Ruling

The AAR answered the two questions as follows:

Issue

- Whether pathological, radiological and other medical tests, bed charges, medicines and consumables provided to inpatients constitute a single supply?
- Whether exemption under Sl. No. 74 of Notification No. 12/2017-CT (Rate) is available?

Ruling

- Yes, as a composite supply of goods and services, with healthcare services as the principal supply.
- Yes, subject to the conditions/proviso in the notification. Room charges exceeding ₹5,000 per day, other than specified ICU/CCU/ICCU etc. rooms, remain taxable.

The final ruling expressly states that the composite supply comprising healthcare, food, room charges, medicines etc. follows the tax treatment of healthcare services, while room charges exceeding ₹5,000 per day in the specified non-ICU categories remain taxable.

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TAX INSIGHTS

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Tax Research Department

Direct Tax

10.09.2026

Whether a notice issued under section 148A(b) of the Income-tax Act, 1961 is valid when the assessee is not given at least seven clear days to respond to the show-cause notice.

Agrawal Sponge Private Limited v. JCIT (OSD), Circle 1(1), Raipur
ITAT Raipur (7 September 2026)

Facts and Background

1. The case concerned AY 2019-20.
2. Reassessment proceedings were initiated against Agrawal Sponge Pvt. Ltd.
3. The assessee challenged the validity of the notice issued under section 148A(b).
4. The notice was issued on 20.03.2023 and the assessee was required to respond by 27.03.2023.
5. According to the assessee, after excluding both terminal dates, the notice did not provide seven clear days for responding.
6. The assessee therefore argued that the notice was invalid and void ab initio, and consequently all proceedings flowing from it were also invalid.

Relevant Statutory Provision

Section 148A(b) requires the Assessing Officer to provide the assessee an opportunity of being heard by serving a show-cause notice allowing a period of: "not less than seven days" and not exceeding thirty days from the date of issue of the notice.

The Tribunal relied on the interpretation that "not less than seven days" means seven clear days, with both the date of issuance and the last date for compliance excluded from the computation.

Tribunal's Reasoning

The ITAT followed its own recent decision in DCIT-1(1), Raipur v. Avani Ferro Alloys Pvt. Ltd., where the same issue had been considered.

In that case, the Tribunal relied upon decisions including:

- PCCIT v. Smt. Komarla Yogendra Keertana – Karnataka High Court
- Bijendra Singh v. PCCIT – Rajasthan High Court
- Atul Mahavirprasad Paldecha v. ITO – Gujarat High Court
- Pioneer Motors (P.) Ltd. v. Municipal Council, Nagercoil – Supreme Court

The principle derived from these decisions was that where legislation requires "not less than" a specified number of days, the terminal dates are excluded in calculating the prescribed period.

Pioneer Motors principle

The Tribunal particularly relied upon the Supreme Court's principle that where a provision requires "not less than" a particular number of days, both terminal days are excluded in computing the period.

Thus, merely giving seven calendar days between the date of issue and the response date is not sufficient. There must be seven complete intervening days available to the assessee.

Supporting Jurisprudence Considered

- The Tribunal also referred to the decision of the Chhattisgarh High Court in MM Wonder Park Private Limited v. Union of India & Others.
- There, the High Court held that providing only seven days in the notice under section 148A(b), without the requisite clear period, was unreasonably short and violated the principles of natural justice. The consequential section 148A(d) order and section 148 notice were consequently quashed.
- The Tribunal further referred to the Jharkhand High Court's decision in Ranchi District Bar Association v. Pr. CIT, which similarly held that section 148A(b) requires seven clear days, calculated by excluding the date of issue and the last date of submission.

Finding

The ITAT allowed the assessee's cross-objection. It held that the notice under section 148A(b) was:

- non-compliant with the statutory requirement;
- invalid;
- void ab initio.

Consequently, the assessment order passed pursuant to that notice was also quashed.

The Tribunal observed that an invalid/void ab initio notice cannot confer validity upon subsequent proceedings. Therefore, the subsequent assessment proceedings became non-est in law.

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TAX INSIGHTS

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Tax Research Department

Goods & Services Tax

10.09.2026

Whether general penalty under Section 125 can be imposed for delayed filing of GST returns when the statute already specifically provides for levy of late fee under Section 47.

Caussa Tec Solutions (P.) Ltd. v. Assistant Commissioner (ST)

High Court of Madras (29.04.2026)

Facts of the Case

- The assessee, Caussa Tec Solutions (P.) Ltd., delayed filing GST returns.
- The department issued a DRC-01 show cause notice proposing:
 - levy of late fee, and
 - levy of general penalty under Section 125 under both CGST and SGST laws.
- The assessee:
 - did not file a reply,
 - and did not appear for personal hearing despite reminders.
- Consequently, the department passed an order confirming:
 - late fee of ₹95,498 each under CGST and SGST, and
 - general penalty of ₹25,000 each under CGST and SGST.
- The assessee challenged the order before the Madras High Court through a writ petition.

Petitioner's Contention

The assessee argued that:

- delayed filing of returns is specifically governed by Section 47,
- once late fee is leviable for such default,
- the department cannot additionally impose residual/general penalty under Section 125.

Court's Observations

1. Issue Already Covered by Earlier Judgment

The Court held that the issue was squarely covered by the earlier decision in:

Kandan Hardware Mart v. Assistant Commissioner (ST) (FAC)

2. Nature of Section 125 Penalty

The Court observed that:

- Section 125 is a residual/general penalty provision,
- it applies only where no specific penalty or statutory levy exists for a contravention.

3. Late Fee Specifically Covers Delayed Returns

Since Section 47 specifically prescribes late fee for delayed filing of returns:

- the department cannot superimpose an additional general penalty under Section 125 for the same default.

4. Double Penal Consequence Not Permissible

The Court effectively held that:

- once the statute has chosen a specific consequence (late fee),
- resort to residual penalty provision becomes impermissible.

Relevant Provisions

- Section 47 – Late Fee for Delayed Filing of Returns
- Section 125 – General Penalty
- Section 73 – Determination of Tax Not Paid/Short Paid

under the:

- Central Goods and Services Tax Act, 2017
- Tamil Nadu Goods and Services Tax Act, 2017

Holding

The Madras High Court held that:

- imposition of general penalty under Section 125 was unsustainable,
- only late fee under Section 47 could be levied for delayed filing of returns.

Accordingly:

- the writ petition was partly allowed,
- general penalty was deleted,
- the assessee remained liable to pay the late fee.

The Court directed payment of late fee within 30 days if not already paid.

Key Legal Principle

Section 125 (general penalty) under GST law can be invoked only where:

- no separate penalty or statutory levy exists for the contravention.

Where delayed filing of returns is already specifically covered by:

- late fee provisions under Section 47,

a separate general penalty under Section 125 cannot be imposed for the same default.

Importance of the Judgment

This judgment is important because it:

- restricts excessive penal action by GST authorities,
- clarifies the limited scope of Section 125,
- prevents duplication of penalties for the same offence,
- reinforces the principle that specific provisions override general provisions.

The ruling provides significant relief to taxpayers facing:

- simultaneous levy of late fee and general penalty for delayed GST return filing.

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TAX INSIGHTS

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Tax Research Department

Direct Tax

11.09.2026

Whether a regular scrutiny assessment under section 143(3) of the Income-tax Act, 1961, is legally valid when the Assessing Officer, without any statutory mandate, discusses the assessment proceedings with the Additional Commissioner of Income Tax and obtains his prior approval before passing the assessment order?

M. Power Energy India Pvt. Ltd. & Ors. v. ACIT, Central Circle-8, New Delhi
ITAT Delhi (10 September 2026)

Facts of the Case

- The assessments of five different assesseees for AY 2021-22 were completed under section 143(3) by the ACIT, Central Circle-8, Delhi.
- The assessment order in the lead case, M. Power Energy India Pvt. Ltd., was passed on 31 December 2022.
- The assessment order specifically stated that it was passed with the prior approval of the Additional Commissioner of Income Tax, Central Range-2, Delhi.
- It also recorded that discussions regarding the assessment were held with the Additional Commissioner from time to time during the assessment proceedings.
- The assessee challenged the assessment on the ground that a normal scrutiny assessment under section 143(3) does not require prior approval of the Additional Commissioner, nor does the statute authorise the Assessing Officer to surrender or share his assessment-making discretion with a superior officer.
- The assessee contended that assessment is a quasi-judicial function vested in the Assessing Officer, which must be exercised independently unless the statute specifically provides otherwise.

Assessee's Arguments

The assessee relied upon various statutory provisions to demonstrate that whenever the Legislature intended prior approval or superior-authority involvement, it expressly provided for it.

The assessee referred, inter alia, to:

- Section 144A – directions by Joint Commissioner;
- Section 148B – prior approval in specified reassessment circumstances;
- Section 153D – prior approval in search-related assessments;
- Section 158BG – approval in block assessments.

According to the assessee, the absence of a similar requirement in a simple section 143(3) scrutiny assessment showed that such approval could not be imposed administratively.

Revenue's Arguments

The Department contended that:

- Approval by the Additional Commissioner and discussions with him were a regular departmental practice.
- At most, the action constituted a technical breach.
- Such a breach should not invalidate the assessment.
- If necessary, the matter could be remanded to the Assessing Officer so that the assessment could be reframed independently.

Tribunal's Findings

The ITAT rejected the Revenue's contentions.

The Tribunal observed that there was no provision in law requiring prior approval of the Additional Commissioner or permitting such discussions in a simple scrutiny assessment under section 143(3).

The Tribunal emphasised that:

The power to frame an assessment is a quasi-judicial power vested exclusively with the Assessing Officer.

Therefore, in the absence of a statutory mandate, the Assessing Officer could not allow another officer to participate in the decision-making process.

Decision

The ITAT held that:

- The Assessing Officer had no statutory mandate to involve the Additional Commissioner throughout the assessment proceedings.
- The Assessing Officer nevertheless held discussions with the Additional Commissioner and subsequently obtained his approval before passing the assessment order.
- Such involvement was not permissible in law in a regular assessment under section 143(3).
- The assessment was therefore not the result of the Assessing Officer's independent application of mind and exercise of statutory discretion.
- Consequently, the assessment was held to be void ab initio and unsustainable in law.

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TAX INSIGHTS

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Goods & Services Tax

11.09.2026

- Whether the arrest and detention were illegal due to non-compliance with procedural safeguards under law.
- Whether absence of: place of arrest in the arrest memo and CBIC-DIN on the grounds of arrest, rendered the detention unconstitutional and illegal.
- Whether subsequent remand by the Magistrate cured the defects in the arrest procedure.

Ashish Tyagi v. Director General of GST Intelligence
High Court of Allahabad

Facts of the Case

- The petitioner, Ashish Tyagi, was arrested by the Directorate General of GST Intelligence (DGGI) for alleged offences under Section 132 of the CGST Act.
- After arrest, he was produced before the Special Chief Judicial Magistrate (SCJM), Meerut, who remanded him to custody.
- The petitioner filed a habeas corpus writ petition before the Allahabad High Court challenging:
 - his arrest,
 - detention, and
 - remand order.
- The petitioner argued that the arrest process violated mandatory legal safeguards because:
 - the arrest memo did not mention the grounds of arrest,
 - the grounds were allegedly not supplied as an annexure,
 - the arrest memo did not disclose the place of arrest,
 - the "jama talashi" columns were left blank,
 - the grounds of arrest did not contain a mandatory CBIC-DIN number,
 - the remand magistrate ignored these defects while granting remand.
- The respondents filed a counter affidavit but failed to produce material rebutting these allegations.

Court's Observations

1. Non-disclosure of Place of Arrest:

The Court observed that the arrest memo failed to mention the place of arrest, which violated the safeguards laid down by the Supreme Court in *D.K. Basu v. State of West Bengal*.

2. Absence of CBIC-DIN:

The Court found that the grounds of arrest dated 10.12.2025 did not bear a CBIC-DIN. The petitioner's contention that every departmental document must contain a DIN under the departmental circular remained unrebutted by the respondents.

3. Mere Endorsement Was Insufficient:

Although the petitioner had signed an endorsement stating:

- he received the arrest memo and grounds of arrest, and
 - informed a friend about his arrest,
- the Court held that such endorsements could not cure the foundational procedural defects.

4. Failure of Respondents to Rebut Allegations:

The respondents failed to produce any material disproving the procedural violations alleged by the petitioner.

Holding

The Allahabad High Court held that:

- the arrest and detention of the petitioner were illegal,
- statutory instructions and constitutional safeguards had been violated,
- continued custody was therefore unlawful.

Accordingly, the Court:

- allowed the writ petition,
- declared the detention illegal, and
- directed immediate release of the petitioner.

However, the Court clarified that the authorities were free to proceed afresh against the petitioner strictly in accordance with law.

Key Legal Principle Evolved

Non-compliance with mandatory arrest safeguards under GST law and constitutional protections especially:

- failure to disclose place of arrest, and
- absence of mandatory CBIC-DIN on arrest-related documents -

can render GST detention and custody illegal, even after judicial remand.

Significance of the Judgment

This judgment reinforces:

- procedural safeguards in GST arrests,
- strict compliance with CBIC circulars,
- accountability of DGGI officers during arrest,
- constitutional protection against arbitrary detention.

It also shows that judicial remand does not automatically validate an otherwise illegal arrest process.

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Direct Tax

12.09.2026

The Revenue challenged the order of the CIT(A) deleting additions made during a search under section 132 of the Income-tax Act, 1961, concerning:

1. Jewellery weighing 3,233.11 grams valued at ₹1,56,77,954, claimed to belong to the assessee's deceased ancestors; and
2. Cash of ₹40,00,000, claimed to represent the cash balance of the assessee's firm, M/s D J Shah & Co.

The principal question was whether the assessee had satisfactorily explained the ownership/source of the jewellery and the source of the cash found during search.

Deputy Commissioner of Income Tax, Central Circle 1(1), Kolkata v. Miraj Digvijay Shah
ITAT Kolkata (11 September 2026)

Facts of the Case

- A search and seizure operation under section 132(1) was conducted on 21 June 2022 at the residential and business premises of the assessee.
- During the search, jewellery and bullion worth approximately ₹14.69 crore were found, out of which assets worth about ₹14.00 crore were seized because the authorities were not satisfied with the explanation regarding their source.
- The assessee subsequently furnished reconciliation and supporting documents, including a master report and valuation reports. The Assessing Officer accepted part of the explanation but treated the remaining jewellery as unexplained/unaccounted.
- The CIT(A), however, granted substantial relief after examining the ownership documents, valuation reports and affidavits.

Issue 1 – Jewellery of 3,233.11 grams

Assessee's Explanation:

The assessee contended that jewellery weighing 3,233.11 grams, valued at ₹1,56,77,954, did not belong to him personally. It belonged to deceased family members, namely:

- Late Smt. Chandubai Jagjivan Shah;
- Late Shri Jagjivan Runchordas Shah;
- Late Shri Digvijay Shah; and
- HUF of Late Shri Digvijay Shah.

The jewellery was primarily found in UCO Bank lockers held in the names of various family members, including the assessee's mother, deceased father and grandfather, brother and other relatives.

The assessee had also stated during his section 132(4) statement that he was not aware of the UCO Bank lockers and had not operated them for approximately five to seven years.

Evidence Supporting Ownership:

The assessee relied upon:

- 1997 valuation reports obtained by his deceased family members;
- Correlation between the description of jewellery in the old valuation reports and the jewellery found during the search;
- Sworn affidavit of his mother, Smt. Rekha Shah, confirming ownership;
- The fact that the jewellery was found in lockers standing in the names of family members rather than in the assessee's exclusive locker; and
- Absence of any admission by the assessee that the jewellery belonged to him or represented his undisclosed assets.

The CIT(A) also noted that the assessee was neither executor nor legal heir of the estates of the deceased family members and, therefore, could not reasonably be expected to produce their wealth-tax returns.

CIT(A)'s Decision on Jewellery:

- The CIT(A) held that the assessee had successfully demonstrated the lineage and ownership of the ancestral jewellery.
- The valuation reports of 1997 had not been disproved by the Assessing Officer and their contents substantially correlated with the jewellery found during the search. The mother's affidavit further corroborated the assessee's explanation.
- Accordingly, jewellery weighing 3,233.11 grams, valued at ₹1,56,77,954, was treated as explained and the addition was deleted.
- The CIT(A) also separately accepted the explanation for 1,293.43 grams of jewellery valued at ₹64,93,280 belonging to the assessee's mother. The Revenue did not challenge this particular relief before the Tribunal.

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ITAT's Decision on Jewellery:

The ITAT upheld the CIT(A)'s deletion of the addition. The Tribunal placed particular emphasis on the following facts:

- The jewellery was not found in the personal possession of the assessee;
- It was not found in a bank locker held exclusively in his name;
- The lockers were held in the names of several family members;
- The assessee had stated that the UCO Bank lockers belonged to his mother and that he had not accessed them for several years;
- The 1997 valuation reports of the deceased family members were not disputed by the Revenue;
- The description of the jewellery in those reports corresponded with the jewellery recovered during the search; and
- The mother's affidavit supporting the ownership claim remained uncontroverted.

The Tribunal relied upon the principle laid down in *Priyanka Lalitkumar Raizada v. DCIT*, where contemporaneous valuation reports in the name of a deceased father, supported by the mother's affidavit, were held sufficient to establish the existence and ownership of inherited jewellery.

Finding:

The ITAT held that the CIT(A) had correctly deleted the addition of ₹1,56,77,954.

Ground No. 1 of the Revenue was dismissed.

Issue 2 – Unexplained Cash of ₹40 lakh

Facts:

During the search, cash amounting to ₹2,89,50,000 was found, out of which ₹2,48,00,000 was seized.

The AO accepted that ₹50 lakh was reflected in the books of the group entity M/s Priority Vintrade LLP, but treated the balance ₹1.98 crore as unexplained.

The assessee claimed that ₹40 lakh represented cash belonging to his firm, M/s D J Shah & Co.

The firm's cash book had itself been found and seized during the search.

Reconciliation of Cash:

The cash book initially showed a balance of ₹52,76,052 as on 18 August 2022. However, the CIT(A) noticed that certain post-dated cash receipts had inflated the balance.

After eliminating those future/post-dated entries, the actual cash balance as on the date of search, 21 June 2022, worked out to ₹40,98,502, which adequately explained the cash of ₹40 lakh.

ITAT's Decision on Cash:

The Tribunal agreed with the CIT(A).

It held that the inflated balance of ₹52,76,052 could not simply be relied upon because it contained post-dated entries. However, after removing those entries, the actual cash balance as on 21 June 2022 was ₹40,98,502.

This was sufficient to explain the physical cash of ₹40 lakh found during the search.

The Tribunal also noted that:

- The cash book had been seized during the search;
- The firm's books were subsequently audited;
- The relevant cash collections were offered to tax;
- The firm's assessments accepted the book results; and
- The Revenue could not controvert these facts.

Accordingly, deletion of the ₹40 lakh addition was upheld.

Ground No. 2 of the Revenue was dismissed.

Final Decision

The ITAT Kolkata dismissed the Revenue's appeal in its entirety.

Particulars	Amount	ITAT's finding
Ancestral jewellery – 3,233.11 gms	₹1,56,77,954	Addition deleted
Cash belonging to M/s D J Shah & Co.	₹40,00,000	Addition deleted
Revenue's appeal	—	Dismissed

Key Legal Insight

The case demonstrates that jewellery discovered during a search cannot automatically be treated as the assessee's unexplained asset merely because it is found in premises/lockers connected with the family. Where credible contemporaneous evidence—such as old valuation reports, locker ownership details, and an uncontroverted affidavit—establishes that the jewellery belonged to deceased family members, the statutory presumption can be rebutted.

Similarly, in respect of cash, the presence of post-dated entries in books does not necessarily invalidate the entire cash book. The actual cash balance as on the date of search can be determined after eliminating future entries and reconciling it with contemporaneous financial records.

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Whether an assessee opting for the new tax regime under section 115BAC(1A) and having total income below ₹7 lakh is entitled to claim rebate under section 87A on tax payable on Short-Term Capital Gains (STCG) taxable under section 111A, for AY 2024-25.

Aman Dani v. Income Tax Officer, Beawar
ITAT Jaipur, 11 September 2026

Facts of the Case

- The assessee filed her return of income on 21 July 2024 under the new tax regime under section 115BAC.
- Total income declared was ₹4,54,020, which was below the ₹7 lakh threshold prescribed for section 87A rebate.
- The total income included STCG of ₹2,45,610 under section 111A, taxable at the special rate of 15%.
- Tax on normal-rate income was ₹Nil, while tax on STCG was ₹23,019.
- The assessee claimed section 87A rebate of ₹23,019, contending that her total income was below ₹7 lakh.
- CPC, while processing the return under section 143(1), disallowed the rebate.
- The assessee filed a rectification application under section 154, which was also rejected.
- The CIT(A) upheld the denial, relying upon the amended proviso to section 87A and the view that income taxable at special rates under Chapter XII could not qualify for the rebate.

Assessee's Contentions

The assessee argued that:

1. Section 87A did not expressly exclude STCG taxable under section 111A.
2. The assessee's total income was below ₹7 lakh.
3. Section 112A specifically contains a restriction concerning rebate under section 87A in respect of specified long-term capital gains, whereas no corresponding restriction exists for section 111A STCG.
4. Therefore, the rebate should be available on the entire tax liability, including tax arising from STCG under section 111A.

Revenue/CIT(A)'s View

The CIT(A) held that, after the amendment to section 87A by the Finance Act, 2023 with effect from 1 April 2024, the rebate under section 87A was available only against tax computed under section 115BAC and not against tax payable at special rates under Chapter XII, including section 111A.

The CIT(A) also relied upon the CBDT Circular dated 19 September 2025, which clarified the treatment of income taxable at special rates. Accordingly, the CIT(A) sustained the denial of the ₹23,019 rebate.

ITAT's Analysis and Decision

The Jaipur ITAT disagreed with the CIT(A).

The Tribunal noted that various ITAT Benches had consistently taken a view in favour of the assessee on the availability of section 87A rebate on STCG taxable under section 111A. It specifically referred to decisions including:

- Pranay M. Kothari v. DCIT
- Manojbhai C. Kamdar v. ITO
- Jayshreeben Jayantibhai Palsana v. ITO
- Basti Keshava Shenoy v. ITO
- ITO v. Rajshree Kothari

The Tribunal observed that section 87A, as applicable to AY 2024-25, did not expressly distinguish between:

- income taxable at normal rates; and
- income taxable at special rates under section 111A.

It also relied upon the principle that where Parliament intended to restrict the rebate for a particular category of income, it expressly provided so—as in section 112A(6) for specified long-term capital gains. The absence of a similar restriction for section 111A was considered significant.

The Tribunal further noted that subsequent amendments proposed by the Finance Bill, 2025 were prospective. Therefore, they could not be used to impose a restriction for AY 2024-25 which was not contained in the law applicable to that year.

Reliance on Bombay High Court Decision

The Tribunal also took note of the decision in The Chamber of Tax Consultants v. Director General of Income Tax (Systems), wherein the Bombay High Court dealt with system-based denial of section 87A rebate on STCG under section 111A.

The Tribunal emphasized that automated/system configuration at the CPC level cannot override statutory rights and that the claim has to be examined on its legal merits.

Final Decision

The ITAT held that the CIT(A) was incorrect in denying the section 87A rebate on the tax payable on STCG under section 111A.

Accordingly:

- The CPC/AO was directed to allow rebate under section 87A of ₹23,019.
- The tax liability was to be recomputed accordingly.
- The appeal of the assessee was allowed in full.

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TAX INSIGHTS

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Goods & Services Tax

13.09.2026

Whether the entire GST registration of a registered person could be cancelled under Section 29 of the CGST/KGST Act merely because allegedly fabricated documents were used subsequently to obtain an amendment of the registration, when the original registration itself was not obtained through fraud or suppression of facts.

N. Suveendran v. State Tax Officer
High Court of Kerala (06.07.2026)

Facts of the Case

- The third respondent was already holding a valid GST registration for his business.
- Subsequently, he applied for an amendment of his GST registration to include certain business premises.
- For obtaining the amendment, he relied upon permission letters purportedly issued by his father and brother.
- The State Tax Officer found the documents to be fraudulent, particularly because the documents carried a date after the death of the respondent's father.
- On this basis, the State Tax Officer cancelled the original GST registration itself under Section 29(2)(e) of the CGST Act.

Proceedings Before the Appellate Authority and Single Judge

The first appellate authority set aside the cancellation, holding that the State Tax Officer did not have the power to cancel the registration on the facts of the case.

The matter was thereafter considered by the High Court. The Single Judge took a balanced approach by:

- cancelling the amendments made to the GST registration on the basis of the disputed documents;
- keeping the original GST registration intact; and
- permitting the taxpayer to seek a fresh amendment in accordance with law.

The appellant challenged the Single Judge's decision, arguing that once the amendments had been obtained through fraudulent documents, the entire GST registration ought to have been cancelled.

High Court's Findings

1. Section 29 primarily concerns the validity of the registration itself

The Court observed that Section 29(2) permits cancellation where registration was obtained by fraud, wilful misstatement or suppression of facts, or where the registered person contravenes the Act or Rules. The Court distinguished fraud affecting the initial grant of registration from an alleged fraud committed later while seeking an amendment.

2. Alleged fraud occurred only at the amendment stage

In the present case, the alleged fabrication related only to documents submitted for amending the existing registration. There was no finding that the original GST registration itself had been obtained through fraud or suppression. Therefore, cancellation of the original registration was not warranted merely because the subsequent amendment was defective.

3. Amendment could be cancelled without cancelling the original registration

The Court approved the Single Judge's approach of cancelling the disputed amendments while allowing the original registration to continue. According to the Court, this constituted a "median course" that secured substantial justice between the parties.

4. Dispute related only to the business premises

The amendment concerned the premises of the business and did not affect the business activity itself. Since civil litigation concerning ownership/rights over the premises was pending, the taxpayer was permitted to seek a fresh amendment after obtaining valid supporting documents or appropriate orders from the competent civil court.

5. No prejudice caused by retaining the original registration

The Court noted that cancelling the entire GST registration would provide no meaningful benefit to the appellant and would essentially operate as a form of retribution. Retaining the original registration while cancelling the defective amendment did not prejudice the parties.

Decision

The Kerala High Court dismissed the appeal and upheld the Single Judge's order.

Thus:

- Cancellation of original GST registration: Not justified.
- Disputed amendment: Cancelled.
- Original GST registration: Continued.
- Fresh amendment: Permitted, subject to valid documents/orders and applicable law.

Key Takeaway

Fraud or irregularity committed at the amendment stage of a GST registration does not automatically justify cancellation of the original registration where the initial registration itself was validly obtained.

The appropriate action may be to cancel the tainted amendment while preserving the original registration, particularly where the amendment concerns only business premises and the underlying dispute is pending before a civil court.

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TAX INSIGHTS

By

Tax Research Department

Direct Tax

14.09.2026

Whether penalty under section 271(1)(c) of the Income-tax Act, 1961 could be levied merely because the assessee's claim of interest expenditure as revenue expenditure was disallowed and treated as capital expenditure, particularly when the claim was a debatable and legally sustainable claim?

Popular India Vacations Pvt. Ltd. v. Income Tax Officer, Jaipur
ITAT Jaipur (14 September 2026)

Facts of the Case

- During AY 2014-15, the assessee advanced ₹91.50 lakh to M/s Jai Bajrang Agri-Farm Pvt. Ltd. for purchase of land intended to be used for developing parking space for its fleet of vehicles.
- The advance was financed through the assessee's bank overdraft facility.
- Subsequently, a dispute arose between the parties and the proposed land transaction was abandoned. The assessee sought refund of the advance.
- During AY 2015-16, the assessee incurred ₹19,55,613 as bank interest on the overdraft facility.
- Out of this, ₹19 lakh was claimed as revenue expenditure in the computation of income.
- The AO treated the ₹19 lakh interest expenditure as capital expenditure, disallowed the deduction and added it back to the taxable income.
- The disallowance was confirmed by the CIT(A). Thereafter, the AO imposed a penalty of ₹5,87,100 under section 271(1)(c), equivalent to 100% of the tax sought to be evaded. The CIT(A) confirmed the penalty.

Assessee's Arguments

The assessee contended that:

1. The expenditure was incurred wholly for business purposes.
2. The proposed acquisition of land did not materialise and the advance was subsequently sought to be refunded.
3. Since no capital asset actually came into existence, the interest expenditure could legitimately be regarded as revenue expenditure.
4. The issue was at least debatable, and therefore merely making a claim which was ultimately disallowed could not amount to concealment or furnishing of inaccurate particulars.
5. Reliance was placed on the Supreme Court's decision in CIT v. Reliance Petroproducts (P.) Ltd. [2010] and the Calcutta High Court decision in Binani Cement Ltd. v. CIT [2015].

Revenue's Arguments

The Revenue relied upon the orders of the lower authorities and contended that:

- The interest expenditure was capital in nature because it related to acquisition of a capital asset.
- The assessee itself had treated the expenditure as capital/deferred revenue expenditure in its books.
- By claiming the amount as revenue expenditure in the income-tax computation, the assessee had knowingly reduced its taxable income.
- Therefore, the claim amounted to concealment of income warranting penalty under section 271(1)(c).

Tribunal's Analysis

The ITAT disagreed with the Revenue.

The Tribunal noted that although the assessee's treatment of the interest expenditure as revenue expenditure had been rejected in the quantum proceedings, the claim was not outrightly unsustainable.

The Tribunal placed significant reliance on Binani Cement Ltd. v. CIT, where the Calcutta High Court had held that expenditure relating to a project subsequently abandoned could be treated as revenue expenditure because the proposed capital asset had not ultimately come into existence.

Applying this principle, the Tribunal observed that:

- The interest was incurred on funds used for making an advance towards acquisition of land.
- The proposed acquisition did not fructify.
- The advance was subsequently refunded.
- No capital asset was ultimately acquired.
- The expenditure was incurred for the purposes of the assessee's business.

Accordingly, the Tribunal found that the assessee's claim for treating the interest as revenue expenditure had legal support and could not be characterised as a false or untenable claim.

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Finding on Penalty

- The Tribunal further held that the issue regarding the character of expenditure incurred for acquisition of a capital asset which was subsequently abandoned was clearly debatable.
- Therefore, merely because the Revenue took a different view and disallowed the expenditure, it could not be concluded that the assessee had concealed income or furnished inaccurate particulars.
- The Tribunal accordingly held that the denial of the deduction did not amount to concealment or furnishing of inaccurate particulars under section 271(1)(c).

Decision

- The ITAT deleted the penalty of ₹5,87,100 imposed under section 271(1)(c).
- The assessee's appeal was allowed.

Key Legal Principle

Where an assessee makes a bona fide and legally sustainable claim for deduction, and the claim is ultimately disallowed because the Revenue takes a different view on the nature of the expenditure, penalty under section 271(1)(c) cannot be imposed merely on account of such disallowance.

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Whether late fee under section 234E could be levied through an intimation under section 200A for delay in filing TDS statements pertaining to FY 2012-13, when the enabling provisions in section 200A permitting computation of such fee became effective only from 1 June 2015.

Gokul Distributors, Pune v. Income Tax Officer (TDS-1), Pune
ITAT Pune (15 September 2026)

Facts of the Case

- The assessee, Gokul Distributors, Pune, had filed TDS statements in Form No. 26Q for Q2 and Q4 of FY 2012-13 with delay.
- Subsequently, correction statements under section 200A were filed.
- An intimation under section 154 dated 21 August 2021 was issued, levying late fee under section 234E:
 - Q2 – ₹12,078
 - Q4 – ₹6,000
- The assessee challenged the levy before the CIT(A)/NFAC.
- The CIT(A) confirmed the levy and dismissed the appeals.
- The assessee thereafter approached the ITAT Pune.

Assessee's Contention

- The assessee argued that the machinery provision under section 200A, enabling the levy/computation of late fee under section 234E while processing TDS statements, was effective only from 1 June 2015.
- Since the relevant TDS statements related to FY 2012-13, the late fee could not validly be imposed through section 200A for that earlier period.

Revenue's Stand

The Revenue supported the order of the CIT(A) and contended that the levy of late fee was valid.

Tribunal's Analysis

- The ITAT noted that the provision relating to computation of late fee under section 234E through section 200A became applicable with effect from 1 June 2015.
- The Tribunal relied upon the decision of the Karnataka High Court in Fatehraj Singhvi v. Union of India, which held that the amendment to section 200A enabling computation and intimation of fee under section 234E was prospective and not retrospective.

The High Court had held, inter alia, that:

- The amendment to section 200A effective from 1 June 2015 conferred substantive power on the authority to compute and demand the fee.
- Such amendment could not be treated as having retrospective effect.
- Consequently, a demand under section 200A for fee under section 234E relating to periods prior to 1 June 2015 was without authority of law.

The ITAT also referred to the Supreme Court's principle in CIT v. Vegetable Products Ltd., 88 ITR 192 (SC) that where conflicting judicial views exist, the interpretation favourable to the assessee should be adopted.

Decision

The ITAT Pune held that:

Late fee under section 234E could not be levied for the relevant TDS statements pertaining to FY 2012-13/A.Y. 2013-14 through section 200A, since the enabling amendment was effective only from 1 June 2015.

Accordingly, the Tribunal:

1. Set aside the orders of the CIT(A);
2. Directed the Assessing Officer to delete the late fee levied under section 234E; and
3. Allowed both appeals in favour of the assessee.

Result

Appeals allowed – In favour of the Assessee.

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TAX INSIGHTS

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Direct Tax

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Whether the assessee could exercise the option for taxation under the new tax regime under section 115BAC when:

- the return was electronically filed on 31 July 2023, within the time prescribed under section 139(1); but
- it was e-verified on 22 September 2023, beyond the prescribed 30-day period; and
- CPC had consequently processed the return under section 143(1) without allowing the benefit of section 115BAC.

The Tribunal also considered whether the CIT(A) was justified in upholding the rejection of the assessee's rectification application despite CBDT Circular No. 10/2025 dated 28 July 2025.

Nisha Khurana, Gwalior v. Income Tax Department, Gwalior
ITAT Agra (15 September 2026)

Facts of the Case

- The assessee filed her return of income for AY 2023-24 on 31 July 2023.
- The return was e-verified on 22 September 2023, beyond the 30-day verification period prescribed under Rule 12 read with CBDT Notification No. 5/2022.
- The return declared total income of ₹15,26,039.
- CPC processed the return under section 143(1) on 18 December 2023 and raised a demand of ₹93,640.
- While processing the return, CPC did not allow the assessee's claim to be taxed under the new tax regime under section 115BAC.
- The assessee subsequently filed rectification applications under section 154 on 28 March 2025 and 12 August 2025.
- These applications were rejected by CPC on 20 August 2025.
- The assessee appealed to the CIT(A), but the CIT(A) dismissed the appeal, observing that the return had already been processed under section 143(1).

Assessee's Contention

The assessee contended that:

1. The return was actually filed electronically on 31 July 2023, within the time allowed under section 139(1).
2. The assessee had opted for the new tax regime under section 115BAC while filing the return.
3. Merely because e-verification was completed later, the return should not be treated as having been filed on the date of e-verification for the purpose of denying the section 115BAC benefit.
4. CBDT Circular No. 10/2025 dated 28 July 2025, issued under section 119, specifically directed CPC to process electronically filed returns which had been erroneously invalidated due to technical reasons.
5. The Circular was binding on the departmental authorities and ought to have been considered while deciding the rectification application.

Tribunal's Observations

- The ITAT observed that the assessee's return was filed electronically on 31 July 2023, i.e., before the cut-off date of 31 March 2024 specified in CBDT Circular No. 10/2025.
- The Tribunal found that both CPC and the first appellate authority had failed to take effective and constructive note of the CBDT Circular while dealing with the assessee's claim.
- The Tribunal further held that the fact that the return had already been processed by CPC could not, by itself, justify denial of the assessee's claim for the new tax regime.
- It emphasised that procedural requirements should not be applied in a manner that defeats substantial justice, particularly when the CBDT itself had issued directions intended to address erroneous processing of electronically filed returns.

Decision

The ITAT Agra held that:

- the assessee's return was filed on 31 July 2023;
- the authorities ought to have considered the effect of CBDT Circular No. 10/2025;
- the assessee's claim for the new tax regime under section 115BAC could not be rejected merely because the return had already been processed by CPC; and
- procedural technicalities could not be permitted to obstruct substantial justice in the circumstances of the case.

Accordingly, the Tribunal set aside the impugned order of the CIT(A) and held that the assessee was entitled to exercise the option for the new tax regime under section 115BAC.

Result

Appeal allowed – In favour of the Assessee.

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Whether the Transfer Pricing Officer (TPO), acting under section 92CA of the Income-tax Act, 1961, could determine the existence of a Permanent Establishment (PE) of the Singapore assessee in India and consequently determine the taxability and attribution of its business profits, particularly when the Tribunal had earlier restored the PE issue specifically to the Assessing Officer (AO) for fresh examination.

DCIT (IT) 2(2)(1), Mumbai v. Ingram Micro (India) Exports Pte. Ltd.
ITAT Mumbai (15 September 2026)

Facts of the Case

- The assessee, Ingram Micro (India) Exports Pte. Ltd., was a company incorporated in Singapore and a wholly owned subsidiary of Ingram Micro India Pvt. Ltd. (IMIPL). IMIPL was engaged in distribution of IT products.
 - The Singapore assessee's business was managed from Singapore. It obtained certain sales-processing, marketing and bookkeeping support services from IMIPL.
 - The remuneration for these services was stated to have been received by IMIPL through rebate incentives paid by third-party vendors on sales made in India.
 - The assessee did not initially file its return, taking the position that its business profits were not taxable in India because it had no PE in India under Article 5 of the India-Singapore DTAA. Subsequently, pursuant to notice under section 142(1), it filed a return declaring nil income under protest.
 - In the first round, the AO treated IMIPL as the assessee's PE and proposed taxation of the relevant income. The DRP confirmed the position.
 - The assessee appealed to the Tribunal.
 - By order dated 7 February 2013, the Tribunal set aside the assessment and directed the AO to:
 - provide an opportunity to the assessee to cross-examine persons whose statements had been relied upon by Revenue, and
 - freshly examine the issue concerning the existence of the assessee's PE in India.
- The AO subsequently proposed to attribute 100% of the revenue earned by IMIPL to the assessee's Indian activities, resulting in proposed income of approximately ₹72.40 crore.
- The DRP upheld the existence of the PE but restricted the attribution to 95% of the profits, while holding that the transfer-pricing adjustment could not exceed the assessee's total Indian-operation profits of ₹11.07 crore.
- Consequently, the AO assessed income at approximately ₹10.52 crore, being 95% of ₹11.07 crore.

Assessee's Main Arguments

The assessee challenged the assessment on several grounds, particularly:

1. The TPO reference was invalid because the AO had not identified any specific international transaction for which ALP was required to be determined.
2. The TPO's jurisdiction under section 92CA was restricted to determining the ALP of an identified international transaction.
3. Determination of whether an assessee had a PE under Article 5 of the DTAA was a matter for the AO and not the TPO.
4. The AO had failed to independently examine the PE issue and had substantially relied upon the TPO's conclusions.
5. The assessee also challenged the assessment on limitation grounds and raised issues concerning Form 3CEB and relevant CBDT instructions.

Proceedings in the Second Round

During the set-aside proceedings, instead of examining the PE issue himself, the AO referred the matter to the TPO under section 92CA(1) for determination of the arm's length price (ALP).

The TPO concluded that:

- the assessee had a PE in India; and
- an adjustment of approximately ₹61.32 crore was warranted.

Revenue's Arguments

Revenue contended that:

- the assessee had not denied entering into international transactions with its associated enterprise;
- therefore, the AO was justified in making a reference to the TPO;

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- merely because Form 3CEB had not been furnished, the reference could not automatically be treated as invalid;
- the assessee had participated in the TPO proceedings without raising an objection at the appropriate stage; and
- the subsequent CBDT instructions relied upon by the assessee could not retrospectively invalidate the reference.

Tribunal's Analysis and Decision

A. TPO's jurisdiction is confined to ALP determination:

The Tribunal held that determination of the existence of a PE is fundamentally different from determination of the ALP of an international transaction.

Under section 92CA(1), the TPO's jurisdiction is confined to determining the ALP in relation to the specific international transaction referred to him by the AO. It does not confer general jurisdiction upon the TPO to determine the assessee's taxable income or applicability of a DTAA.

The Tribunal further observed that section 92CA(3) requires the TPO to determine the ALP of the international transaction referred to him, and the expression "in relation to" cannot be interpreted as giving the TPO unrestricted jurisdiction over matters outside ALP determination.

B. Reference itself was not transaction-specific:

The AO's reference did not identify any particular international transaction between the assessee and IMIPL for which ALP determination was sought.

Instead, the reference was based on a general observation that IMIPL was carrying on the actual business of the assessee and that the transactions required examination from an arm's-length perspective.

The Tribunal held that such a general reference, without identifying the relevant international transaction, could not constitute a valid reference for ALP determination.

C. TPO exceeded his statutory jurisdiction:

The TPO did not restrict himself to determining ALP. He proceeded to decide:

- whether the assessee had a PE in India; and
- whether the assessee's business profits were taxable in India.

The Tribunal held that these questions involved interpretation and application of Articles 5 and 7 of the India-Singapore DTAA, and therefore concerned determination of the assessee's tax liability rather than determination of ALP.

D. AO could not transfer the remanded PE issue to TPO:

The Tribunal's earlier order had specifically restored the PE issue to the AO for fresh examination, including

cross-examination of persons whose statements were relied upon.

Therefore, the AO was required to discharge the responsibility specifically entrusted to him. He could not, merely by making a reference under section 92CA, transfer determination of the PE issue to the TPO.

E. AO failed to independently apply his mind:

The Tribunal also found that the AO had not independently verified the PE issue. The assessment and addition were founded essentially on the TPO's order.

Since the TPO itself had exceeded its jurisdiction in determining the PE and consequent taxability, the assessment based solely on that order could not survive.

Final Ruling

The ITAT Mumbai allowed the assessee's appeal and dismissed the Revenue's cross-objection.

The Tribunal held that:

The TPO cannot determine the existence of a PE or consequent taxability of business profits while exercising jurisdiction under section 92CA; his jurisdiction is confined to determining the ALP of the specific international transaction referred to him.

The findings of the TPO regarding the existence of PE and consequent taxability were therefore not sustainable.

Result

Particulars

Assessee's appeal:

Revenue's Cross-Objection:

TPO's determination of PE:

TPO's determination of treaty taxability:

General/non-specific TP reference:

AO's assessment based solely on TPO order:

Decision

Allowed

Dismissed

Held beyond jurisdiction

Held beyond jurisdiction

Not a valid reference for ALP determination

Not sustainable

Key Legal Insight

Section 92CA gives the TPO a specialised and transaction-specific jurisdiction to determine the ALP of an international transaction. It does not empower the TPO to determine whether a foreign enterprise has a PE in India or whether its business profits are taxable under the applicable DTAA.

Where a Tribunal specifically remands the PE issue to the AO, the AO must independently adjudicate that issue and cannot shift the responsibility to the TPO through a general reference under section 92CA.

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TAX INSIGHTS

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Tax Research Department

Direct Tax

21.09.2026

Whether the assessee could claim exemption from TDS under section 194C(6) on transportation payments merely on the basis of declarations obtained from transporters stating that they owned ten or fewer goods carriages, along with their PAN, when:

- the declarations contained omissions/discrepancies;
- the declarations did not contain details such as freight amounts and vehicle registration numbers; and
- the declarations were not in the format specified in CBDT Circular No. 19/2015.

Voltamp Transformers Ltd. v. DCIT, TDS Circle, Vadodara
ITAT Ahmedabad (14 September 2026)

Facts of the Case

The assessee, Voltamp Transformers Ltd., was engaged in manufacturing industrial transformers.

A spot verification under section 133A(2A) was conducted at its premises on 31 January 2023 to examine TDS compliance. The Assessing Officer found that the assessee had made substantial transportation payments without deducting TDS under section 194C.

The assessee claimed the benefit of section 194C(6), contending that the transporters had furnished declarations confirming that they owned ten or fewer goods carriages and had provided their PAN.

However, during verification, the following issues were noticed:

- declarations did not contain freight/payment amounts;
- registration numbers of goods carriages were absent;
- the assessee had itself circulated declaration forms to transporters;
- declarations were not in the format contemplated by CBDT Circular No. 19/2015;
- substantial payments had been made to certain large transport operators; and
- some transporters maintained audited books and reported substantial turnover while claiming the benefit of section 44AE.

The assessee argued that section 194C(6) imposed only an obligation to obtain the declaration and PAN and did not require the deductor to independently verify the truthfulness of the declaration.

Assessment Proceedings

The Assessing Officer rejected the assessee's contention and held that the declarations had material discrepancies and omissions.

The assessee was consequently treated as an assessee-in-default under section 201(1) and interest was charged under section 201(1A).

The total demand was ₹31,34,257 for AY 2021-22.

The assessee also invoked the first proviso to section 201(1), arguing that the transporters had included the freight receipts in their income and paid tax thereon. However, the Assessing Officer rejected this plea because the assessee had furnished Form 26A manually/physically, rather than electronically through TRACES as contemplated by Rule 31ACB.

CIT(A)'s Decision

The assessee appealed before the CIT(A).

The CIT(A), by order dated 27 January 2026, dismissed the appeal and confirmed the action of the Assessing Officer. The assessee therefore approached the ITAT Ahmedabad.

Assessee's Arguments Before ITAT

The assessee primarily contended that:

1. Section 194C(6) does not require independent verification
2. The deductor's statutory obligation is to obtain a declaration from the transporter that it owns ten or fewer goods carriages along with its PAN.
3. CBDT Circular No. 19/2015 does not prescribe a mandatory format
4. The format contained in the Circular was argued to be merely suggestive/illustrative.
5. Form 26A should be accepted
6. Even though Form 26A had been furnished physically, the assessee contended that it demonstrated that the transporters had included the freight receipts in their returns and paid tax thereon.

ITAT's Analysis and Findings

A. Mere declaration with PAN is not sufficient where material discrepancies exist

The Tribunal did not accept the assessee's argument in absolute terms.

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It noted that the declarations contained errors and omissions, particularly concerning:

- freight/transport payment details; and
- registration numbers of the goods carriages.

The Tribunal held that a declaration containing such deficiencies cannot, by itself, be treated as sufficient evidence for granting the benefit of section 194C(6), particularly where spot enquiries reveal discrepancies.

B. Distinction from Sikandarkhan V. Tunvar

The assessee relied upon the Gujarat High Court decision in Principal CIT-3 v. Sikandarkhan V. Tunvar.

The ITAT held that reliance on that decision was misplaced because, in that case, the Assessing Officer had not carried out the necessary inquiry/verification.

In the present case, a spot verification under section 133A(2A) had been conducted and the statement of an employee of the assessee had also been recorded. Therefore, the factual circumstances were different.

Important Finding on CBDT Circular No. 19/2015

This is a significant aspect of the ruling.

The ITAT accepted the assessee's contention that the format prescribed in CBDT Circular No. 19/2015 was not mandatory merely because it was specified in the Circular.

The purpose of the prescribed format was to ensure uniformity.

However, the Tribunal simultaneously held that the substantive details contained in that format are relevant, particularly:

- freight/transport charges; and
- registration numbers of the goods carriages.

These details are relevant to ascertain whether the transporter actually falls within the statutory condition of owning ten or fewer goods carriages.

Legislative Purpose of Section 194C(6)

The Tribunal considered the legislative history of section 194C(6).

Earlier, transport payments could escape TDS merely upon furnishing PAN. The provision was amended with effect from 1 June 2015 so that the benefit would be available where the transporter owned ten or fewer goods carriages and furnished the requisite declaration along with PAN.

The Tribunal observed that the amendment was intended to restrict the benefit to small transport operators and prevent its misuse by larger transport operators.

Therefore, the declaration should contain sufficient basic information to establish the eligibility of the transporter.

Tribunal's Key Principle

The Tribunal laid down an important practical principle:

A declaration under section 194C(6) which does not contain basic details such as freight/transport charges and registration numbers of goods carriages cannot be the sole basis for granting the benefit where spot enquiries reveal discrepancies, errors or omissions.

However, the assessee must first be confronted with the discrepancies before the declaration is rejected.

Thus, the Tribunal did not hold that every declaration must strictly reproduce the exact CBDT Circular format. Instead, the substantive information necessary to establish eligibility must be available.

Final Decision

The ITAT found that the assessment order did not specifically identify the deficiencies in the declarations relating to each of the nine transporters for whom the assessee had been treated as an assessee-in-default.

Therefore, instead of confirming the demand, the Tribunal:

- set aside the order of the Assessing Officer;
- restored the matter to the AO for fresh/denovo consideration;
- directed the AO to reconsider the declarations in light of the Tribunal's findings;
- clarified that the assessee's claim should not be rejected merely because verification was not carried out or because the declaration was not in the exact format of Circular No. 19/2015, provided the necessary substantive details were stated.

Result

Appeal allowed for statistical purposes.

The matter was remanded to the Assessing Officer for fresh adjudication. All the assessee's grounds were treated as allowed for statistical purposes, with the rights and contentions of the assessee left open.

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TAX INSIGHTS

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The principal issues before the Tribunal concerned transfer-pricing adjustments made in respect of:

1. Sale of two- and three-wheelers to Associated Enterprises (AEs);
2. Corporate guarantee provided by the assessee for an AE; and
3. Interest on outstanding receivables from AEs.

The key question was whether the assessee was entitled to the 3% tolerance band under section 92C(2) read with Rule 10CA(7), where the TPO used the assessee's non-AE/domestic segment as an internal comparable for benchmarking its AE transactions.

TVS Motor Co. Ltd. v. DCIT, Corporate Circle-3(1), Chennai

ITAT Chennai (9 September 2026)

Facts of the Case

TVS Motor Co. Ltd. is engaged in the manufacture and sale of two-wheelers, three-wheelers, spare parts and related products.

For AY 2022-23, the assessee filed its return declaring total income of approximately ₹1,120.52 crore, subsequently revising it to approximately ₹1,104.33 crore. Since the assessee had international transactions, the Assessing Officer referred the matter to the Transfer Pricing Officer (TPO).

The TPO proposed three major transfer-pricing adjustments:

Particulars	TPO Adjustment	Adjustment after DRP
Sale of 2 & 3 wheelers	₹12.24 crore	₹11.45 crore
Corporate guarantee	₹2.96 crore	₹0.73 crore
Int. on o/s receivables	₹1.81 crore	₹2.28 crore

The assessee challenged the final assessment order before the ITAT.

Issue 1 – Sale of Two- and Three-Wheelers

The assessee used TNMM as the Most Appropriate Method and OP/OC as the Profit Level Indicator.

Initially, the assessee's margin was:

- AE segment: 4.98%
- Non-AE segment: 2.18%

The assessee therefore contended that its AE transactions were at arm's length. The TPO, however, rejected the assessee's depreciation allocation between AE and non-AE segments and recomputed the margins.

After revised allocation of depreciation, the margins became:

- AE segment: (-)0.46%
- Non-AE/domestic segment: 1.31%

The TPO treated the latter margin as the benchmark for the AE transactions and proposed an adjustment.

Assessee's contention

The assessee argued that the difference between its AE margin and the benchmark margin was within the 3% tolerance band notified for AY 2022-23.

Revenue's contention

The TPO argued that the tolerance band was unavailable because there was only one comparable margin and no arithmetic mean of multiple ALPs.

Tribunal's Decision

- The ITAT rejected the TPO's interpretation.
- The Tribunal observed that the TPO itself had used the assessee's non-AE/domestic segment as an internal comparable for determining the arm's-length margin. Therefore, the TPO could not simultaneously contend that there was no comparable for purposes of applying the tolerance band.
- Importantly, the Tribunal held that under Rule 10CA(7), an arithmetic mean of a dataset containing even one value remains that value itself. The Rule did not impose a condition that the dataset must contain multiple values before the tolerance provision could operate.
- Since the variation was within the notified 3% tolerance, the price declared by the assessee was deemed to be at arm's length.

Result

The Tribunal deleted the transfer-pricing adjustment relating to the sale of two- and three-wheelers. The other grounds concerning segmental allocation, depreciation and treatment of export incentives became academic.

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TAX INSIGHTS

By

Tax Research Department

Direct Tax

22.09.2026

Issue 2 – Corporate Guarantee

- The assessee had provided a corporate guarantee for an AE in respect of an outstanding loan of approximately ₹151.58 crore.
- The TPO initially applied a guarantee rate of 1.95%. The DRP reduced it to 1%, considering the actual guarantee exposure period of 175 days.
- The assessee relied upon an earlier decision in its own case for AY 2013-14, where the corporate guarantee fee had been determined at 0.5%.
- The Tribunal noted that the earlier decision had relied upon the principle laid down in Everest Kento Cylinder Ltd. that a corporate guarantee provided by a parent company is materially different from a bank guarantee and should not automatically be benchmarked using commercial bank guarantee rates.

Tribunal's Decision

Following the earlier decision in the assessee's own case, the Tribunal directed the TPO to restrict the corporate guarantee fee to 0.5% and recompute the adjustment accordingly.

Result

Assessee partly succeeded on this issue.

Issue 3 – Interest on Outstanding Receivables

The TPO noticed outstanding receivables of approximately ₹314.06 crore from AEs and treated them as akin to a loan.

The TPO allowed a credit period of 60 days and computed notional interest using LIBOR + 350 basis points, i.e. 3.84%, resulting in an adjustment.

The assessee contended that:

- it also had transactions with non-AEs;
- no interest was charged on delayed receivables from non-AE customers; and
- therefore, there was no justification for making a separate adjustment only in respect of AE receivables.

The assessee relied on the Chennai Tribunal's decision in Elgi Rubber Company Ltd. v. DCIT.

Tribunal's Observation

The Tribunal noted the principle from Elgi Rubber Company Ltd. that where:

- the underlying international transactions have already been benchmarked under TNMM;
- the margins are found to be at arm's length; and
- the assessee consistently does not charge interest on delayed receivables from both AEs and non-AEs,

a separate transfer-pricing adjustment for outstanding receivables may not be warranted.

However, in the present case, the assessee's claim that it did not charge interest to third-party export customers required verification from documentary evidence.

Tribunal's Decision

The Tribunal remitted the issue to the TPO for verification.

The TPO was specifically directed not to charge interest if the assessee substantiated through documentary evidence that it did not charge interest on outstanding receivables from third-party export customers.

Final Decision

The appeal was allowed for statistical purposes.

Issue

Sale of 2 & 3 wheelers
Corporate guarantee
Outstanding receivables
Overall appeal

ITAT Decision

Adjustment deleted; 3% tolerance benefit allowed
Guarantee rate restricted to 0.5%
Remanded to TPO for verification
Allowed for statistical purposes

Key Legal Insight

The significant proposition emerging from the case is that the tolerance band under the third proviso to section 92C(2) read with Rule 10CA(7) cannot be denied merely because the internal comparable consists of a single value. Where the TPO itself adopts an internal comparable and the resulting variation falls within the notified tolerance limit, the transaction price can qualify for the tolerance benefit.

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TAX INSIGHTS

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Tax Research Department

Direct Tax

23.09.2026

Whether the Principal Commissioner of Income Tax (PCIT) was justified in exercising revisionary jurisdiction under section 263 when the Assessing Officer (AO), while completing the assessment under section 147, had already made enquiries on the relevant issues and the assessee had furnished detailed responses to the queries raised during assessment.

Ayati Gems Private Limited, Nagpur v. Principal Commissioner of Income Tax (Central), Nagpur
ITAT Nagpur (7 September 2026)

Facts of the Case

- Ayati Gems Private Limited, Nagpur, was the assessee for AY 2019-20.
- The assessment was completed by the ACIT/DCIT, Central-2(2), Nagpur under section 147 of the Income-tax Act, 1961.
- The assessment order was passed on 1 November 2023.
- Subsequently, the PCIT (Central), Nagpur exercised revisionary jurisdiction under section 263.
- The PCIT passed the impugned revisionary order dated 24 March 2026.
- Aggrieved by the revisionary order, the assessee filed an appeal before the ITAT Nagpur Bench.

Assessee's Contention

The assessee challenged the invocation of section 263 primarily on the following grounds:

1. Relevant enquiries had already been conducted by the AO during the assessment proceedings.
2. The AO had raised queries regarding the relevant issues and the assessee had furnished detailed replies/responses.
3. The AO had therefore applied his mind to the issues before completing the assessment.
4. The PCIT had subsequently re-examined the same issues afresh while exercising revisionary jurisdiction.
5. According to the assessee, the PCIT had neither:
 - conducted any further substantive enquiry, nor
 - pointed out any specific substantive error in the assessment order.
6. Consequently, the assessee contended that the conditions prescribed under section 263 were not satisfied.

Issue Before the Tribunal

The Tribunal was required to examine whether the assessment order passed under section 147 could validly be revised under section 263 where the assessment record allegedly demonstrated that:

AO → made enquiries → raised queries → assessee furnished detailed replies → AO completed assessment but the PCIT subsequently considered the assessment to be erroneous and prejudicial to the Revenue.

Legal Principle Involved

Section 263 empowers the PCIT/Commissioner to revise an assessment order if it is erroneous insofar as it is prejudicial to the interests of the Revenue.

Both conditions are required to be satisfied:

- the order must be erroneous, and
- the error must be prejudicial to the interests of the Revenue.

A significant distinction in section 263 jurisprudence is between:

Lack of enquiry: Where the AO has failed to examine a relevant issue altogether.

Inadequate enquiry: Where the AO has examined the issue but the PCIT believes that the enquiry should have been more extensive.

The assessee's case was essentially that the present matter fell in the latter category and that the PCIT could not invoke section 263 merely because he desired a deeper or different enquiry.

Tribunal's Observations in the Supplied Extract

The Tribunal recorded that the assessee had challenged the section 263 order primarily on the ground that:

- all relevant enquiries had been made by the AO;
- the assessee had provided detailed responses to the queries;
- the revisionary authority had examined the issues afresh; and
- the revisionary authority had allegedly done so without conducting further enquiry or pointing out any substantive reason showing why the assessment order was erroneous and prejudicial to Revenue.

The Tribunal also recorded the assessee's submission concerning the fact that the assessment itself had been completed under section 147.

Decision

The concluding portion of the Tribunal's order is not included in the text provided. Therefore, the exact final result whether the assessee's appeal was allowed, dismissed, or otherwise disposed of cannot be reliably stated from this extract alone. The supplied portion establishes the section 263 controversy but does not contain the Tribunal's final operative finding.

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TAX INSIGHTS

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Tax Research Department

Direct Tax

24.09.2026

- Whether the discount on issue of shares to employees under an ESOP scheme amounting to ₹72.73 crore was allowable as revenue expenditure under section 37(1), although no corresponding debit was made in the Profit & Loss Account.
- Whether legal and professional fees of ₹17.08 crore incurred in connection with business strategy, growth opportunities and identification of a strategic partner were allowable under section 37(1).
- Whether interest under section 234C was leviable on performance fees of ₹18.18 crore, which could not be estimated in advance as its quantum depended upon the market position at the end of the financial year.

Ask Investment Managers Ltd. v. DCIT
ITAT Mumbai (21 September 2026)

Facts of the Case

The assessee was engaged in investment advisory, portfolio management, financial advisory and related services. For AY 2017-18, it declared a loss of ₹33.54 crore and book profit under section 115JB of ₹38.04 crore.

During assessment under section 143(3), the Assessing Officer disallowed:

- ESOP discount – ₹72.73 crore;
- Legal and professional fees – ₹17.08 crore; and
- Interest under section 234C – ₹16.89 lakh.

The assessee challenged the disallowances before the Tribunal.

Decision

1. ESOP Discount – ₹72.73 crore

- The assessee had issued 60,154 shares to employees pursuant to exercise of ESOPs and claimed the difference between the fair market value and exercise price as employee compensation expenditure.
- The AO disallowed the claim mainly because no corresponding debit was made in the books and questioned the valuation adopted by the assessee.
- The Tribunal relied upon Biocon Ltd. v. DCIT, wherein ESOP discount had been held to constitute employee compensation expenditure allowable under section 37(1). The Tribunal also noted that the assessee had furnished the ESOP scheme, grant letters, exercise applications, employee-wise details, merchant-banker's valuation report and Form 16 evidencing taxation of the ESOP benefit in the employees' hands.
- It held that accounting treatment in the books was not conclusive for determining tax allowability. The subsequent transfer of shares by employees also did not change the character of the expenditure.

- **Decision:** The disallowance of ₹72.73 crore was deleted and the ESOP discount was allowed under section 37(1).

2. Legal & Professional Fees – ₹17.08 crore

- The assessee incurred professional fees to Moelis and Company India Pvt. Ltd., Shardul Amarchand Mangaldas & Co. and Alvarez & Marsal India Pvt. Ltd. for business strategy, growth opportunities, scaling up operations and identification of a strategic partner.
- The AO treated the expenditure as benefiting shareholders, while the CIT(A) regarded it as expenditure connected with expansion of share capital.
- The Tribunal observed that the services were not confined to the issue or transfer of shares but related to the assessee's broader business strategy and growth. The fact that shareholders also received an incidental benefit did not, by itself, make the expenditure non-business expenditure.
- The Tribunal applied the test of commercial expediency and purpose of the existing business.
- **Decision:** The expenditure was held allowable under section 37(1), and the disallowance of ₹17.08 crore was deleted.

3. Interest under Section 234C – Performance Fees of ₹18.18 crore

- The assessee earned performance fees of ₹18.18 crore from portfolio-management services. The quantum of such fees depended upon the market position and portfolio performance ascertained on the last day of the financial year.

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24.09.2026

- The assessee contended that the amount could not reasonably be estimated at the dates prescribed for payment of advance tax. The Tribunal noted that the same issue had already been decided in favour of the assessee in its own case for AY 2016-17.
- The Tribunal held that where the performance fee could not reasonably be ascertained in advance, the assessee could not be treated as having defaulted in payment of advance tax merely because the income was ultimately earned at year-end.
- **Decision:** Interest under section 234C was held not leviable on the performance fees of ₹18.18 crore, and the AO was directed to delete the corresponding interest.

Key Insight

The Tribunal reaffirmed that:

- ESOP discount represents employee compensation expenditure and is allowable under section 37(1), subject to supporting evidence.
- Book entries are not conclusive in determining tax deductibility.
- Business expenditure does not become non-deductible merely because it also results in an incidental benefit to shareholders.
- Section 234C interest is not leviable on performance-linked income which could not reasonably be estimated at the prescribed advance-tax instalment dates.

Final Outcome

The Tribunal allowed the appeal of the assessee and deleted the impugned disallowances and section 234C interest.

Result: In favour of the assessee.

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TAX INSIGHTS

By

Tax Research Department

Direct Tax

25.09.2026

Whether the CIT(A), Pune-13 had jurisdiction to adjudicate the assessee's appeal when the case involved an order passed by the Transfer Pricing Officer (TPO), but no transfer pricing adjustment was made and no ground of appeal related to determination of Arm's Length Price (ALP).

whether the Revenue could challenge the jurisdiction of CIT(A)-13 before the ITAT after the appeal had been automatically allocated to CIT(A)-13 under the Faceless Appeal Scheme and the Revenue had not raised any jurisdictional objection before the CIT(A).

Dy. Commissioner of Income Tax, Circle-1(1), Pune v. Baramati Agro Limited
ITAT Pune (24 September 2026)

Facts of the Case

- Baramati Agro Ltd. is engaged in manufacturing animal feed, poultry feed, sugar and ethanol, along with co-generation of power and allied activities.
- For AY 2020-21, the assessee filed its return on 12 February 2021, declaring Nil income after claiming deductions under Chapter VI-A.
- The case was selected for complete scrutiny under CASS.
- During assessment, the AO referred specified domestic transactions to the TPO under section 92CA(1).
- The TPO, by order dated 4 May 2023 under section 92CA(3), accepted the assessee's ALP and did not propose any transfer pricing adjustment.
- Despite there being no TP adjustment, the AO issued a Draft Assessment Order under section 144C(1) on 27 September 2023.
- The assessee contended that section 144C was not applicable because it was not an "eligible assessee" under section 144C(15)(b), since no variation arose as a consequence of the TPO's order and the assessee was neither a non-resident nor a foreign company.
- The final assessment order was passed on 30 October 2023 under sections 143(3) r.w.s. 144C(3) r.w.s. 144B.
- Before CIT(A), the assessee argued that the wrongful invocation of section 144C resulted in an incorrect extension of the limitation period under section 153, making the assessment time-barred.
- CIT(A)-13, Pune accepted this contention and quashed the assessment order as barred by limitation, deleting the consequential additions.

Revenue's Contention

The Revenue challenged the order of CIT(A)-13 primarily on jurisdictional grounds. According to the Revenue, CBDT Notification dated 13 October 2022 assigned CIT(A)-13, Pune jurisdiction over cases involving a TPO order where one or more grounds related to ALP under Chapter X and related penalties. Since the TPO had accepted the assessee's ALP without making any adjustment, and there was no dispute concerning ALP, the Revenue argued that CIT(A)-13 did not have jurisdiction.

Assessee's Contention

The assessee argued that:

1. Appeals under the Faceless Appeal Scheme, 2021 are electronically filed and automatically allocated by the Department.
2. The assessee had no option to choose CIT(A)-13.
3. The appeal had been automatically assigned to CIT(A)-13 through the electronic system.
4. The AO was informed about the appellate proceedings and was given an opportunity to participate, but no jurisdictional objection was raised before CIT(A).

The assessee also argued that the word "and" in the CBDT notification should not be interpreted literally if doing so produces an absurd or unworkable result. According to the assessee, the jurisdictional conditions should be interpreted harmoniously so that the notification remains workable.

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Direct Tax

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ITAT's Findings

1. Assessee had no role in allocation of CIT(A)

The Tribunal examined the Faceless Appeal Scheme, 2021 and noted that the National Faceless Appeal Centre assigns appeals to a Commissioner (Appeals) through an automated allocation system.

Therefore, the assessee had no role in selecting CIT(A)-13.

2. Revenue had been informed about the appeal

The CIT(A)-13's report showed that:

- The appeal was transferred by NFAC to the office of CIT(A)-13 on 16 July 2024.
- An Appeal Memo was generated through the ITBA portal on 22 January 2025.
- The AO was specifically asked whether he desired to be present at the hearing.
- The AO subsequently admitted that the Appeal Memo had been received but no response or option was exercised.

The Tribunal therefore noted that the Revenue was aware that the appeal was being heard by CIT(A)-13 but did not raise any jurisdictional objection before the CIT(A).

3. Interpretation of CBDT Notification

The Tribunal examined the CBDT Notification dated 13 October 2022 and observed that a literal reading of the three conditions could lead to an absurd consequence.

For example, an assessee could have a genuine dispute concerning ALP but, if the related penalty was not challenged, the appeal could fall outside the jurisdiction of CIT(A)-13, while there would be no other CIT(A) in Pune specifically assigned jurisdiction over such ALP appeals.

The Tribunal therefore held that all three conditions need not be satisfied cumulatively. The notification had to be interpreted harmoniously to give effect to its purpose.

Decision

The ITAT dismissed the Revenue's appeal.

It held that:

- The assessee had no control over the automatic allocation of its appeal to CIT(A)-13.
- The Revenue had received the Appeal Memo and had an opportunity to participate.
- The Revenue did not raise any objection to the jurisdiction of CIT(A)-13 before that authority.
- A literal interpretation of the CBDT notification would lead to an absurd and unworkable result.
- Accordingly, the jurisdictional objection raised by the Revenue before the ITAT had no merit.

The Tribunal dismissed Ground Nos. 1 and 2 of the Revenue and also dismissed the general Ground No. 3. Importantly, the ITAT did not examine the merits of CIT(A)'s finding that the assessment was time-barred, because the Revenue had challenged only the jurisdictional aspect and had not raised any ground concerning the merits of the CIT(A)'s order.

Result

Appeal of the Revenue – Dismissed.

The order of CIT(A)-13, Pune was therefore left undisturbed in the present appeal.

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TAX INSIGHTS

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Tax Research Department

Direct Tax

26.09.2026

Whether the reassessment proceedings and assessment order could be sustained when the CIT(A) held that the foundation of the assessment was invalid, but instead of quashing the assessment, set it aside for fresh assessment, and whether the CIT(A)'s findings regarding the notice under section 148, recording of reasons, invocation of section 144 and absence of notice under section 143(2) required reconsideration.

SNT Derivative Broking Pvt. Ltd. v. Income Tax Officer, Ward-24(1), Delhi
ITAT Delhi (23 September 2026)

Facts of the Case

- The assessee filed its return of income for AY 2015-16 on 17 September 2015, declaring a loss of ₹93,178.
- The Department received information alleging that the assessee had booked fictitious profits/losses from derivative transactions involving Odyssey Securities Pvt. Ltd.
- After obtaining administrative approval, the AO issued a notice under section 148 dated 31 March 2021.
- The assessee filed its return in response to the notice only on 8 March 2022, shortly before the assessment was becoming time-barred.
- The AO proceeded under section 144, stating that the assessee had not complied with the reassessment proceedings in a timely manner.
- The CIT(A) also held that invocation of section 144 on account of the assessee's delayed filing of return in response to section 148 was not in accordance with law.
- Consequently, the CIT(A) held that the very foundation of the assessment order was invalid.

However, instead of quashing the assessment, the CIT(A), exercising powers under section 251, set aside the assessment order to the AO for making a fresh assessment.

Since the assessment was set aside, the CIT(A) did not adjudicate the merits of the addition of ₹29,52,250.

Assessee's Contentions Before ITAT

The assessee contended that once the CIT(A) had found the very foundation of the assessment to be invalid, the assessment ought to have been quashed rather than merely set aside.

The assessee also raised several legal objections, including:

- The section 148 notice was dated 31 March 2021 but, according to the ITBA portal records, was actually issued on 1 April 2021.
- The notice was allegedly received by email only on 16 April 2021.
- The reassessment procedure under the amended law was not followed, including the alleged absence of notice under section 148A(b) and order under section 148A(d).
- No notice under section 143(2) was issued.
- The assessee relied upon various judicial precedents, including Union of India v. Ashish Agarwal.

During assessment, the assessee furnished details relating to derivative transactions. The AO examined the contract notes and other information and concluded that the transactions were non-genuine derivative transactions undertaken to reduce taxable income. Accordingly, the AO treated the alleged derivative loss/profit of ₹29,52,250 as non-genuine/unexplained income under section 68 read with section 115BBE.

Proceedings Before CIT(A)

The assessee challenged the assessment before the CIT(A), raising both legal/jurisdictional grounds and grounds on merits.

The CIT(A) observed that:

1. The reopening notice under section 148 was issued on 31 March 2021, and therefore the provisions applicable prior to the amendments effective from 1 April 2021 were relevant.
2. According to the CIT(A), the AO had not recorded proper reasons for reopening and had proceeded merely on the basis of information.

ITAT's Findings

1. Discrepancy regarding date of issue of notice under section 148

The Tribunal noted a factual conflict.

The AO and CIT(A) had recorded that the notice under section 148 was issued and served on 31 March 2021.

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However, the assessee produced ITBA portal records indicating that the notice was issued on 1 April 2021 and subsequently received by email on 16 April 2021.

The Tribunal held that this factual issue required verification from the assessment records and the records of proceedings.

2. CIT(A)'s finding regarding recording of reasons was contrary to record

The Tribunal noted that the CIT(A) had held that reasons for reopening had not been recorded.

However, the assessee itself had obtained information under RTI showing that the Department had stated that reasons for reopening had been duly recorded by the AO.

Accordingly, the Tribunal held that the CIT(A)'s finding on this aspect was contrary to the available record and described it as a perverse finding of fact.

3. Applicability of section 144

The Tribunal also disagreed with the CIT(A)'s reasoning that section 144 could not be invoked merely because the assessee had failed to file the return in response to section 148.

The Tribunal noted that:

- The assessee did not file the return until 8 March 2022.
- The AO had issued notices under section 142(1) on 15 November 2021 and 24 February 2022, which were not complied with.
- The assessee filed the return only after the notice under section 142(1) dated 4 March 2022.
- It thereafter furnished responses on 11 March and 15 March 2022.

The Tribunal referred to the deeming mechanism in section 148, under which a return filed pursuant to section 148 is treated, so far as may be, as a return filed under section 139. It therefore observed that section 144 could apply in case of non-compliance, including failure to comply with section 142(1) notices.

4. Notice under section 143(2)

The Tribunal observed that the assessee had raised various legal and jurisdictional issues which required proper adjudication.

In the circumstances, the absence of a section 143(2) notice could not, by itself, be treated as fatal at this stage, particularly considering the assessee's failure to comply with the earlier section 142(1) notices.

Decision

The ITAT set aside the order of the CIT(A).

The matter was remitted back to the CIT(A) for fresh adjudication with directions to:

- pass a detailed, speaking and reasoned order;
- adjudicate all legal and jurisdictional grounds raised by the assessee;
- adjudicate the grounds on merits as well; and
- provide the assessee with a proper opportunity of being heard.

Thus, the ITAT did not finally decide the validity of the reassessment notice, the section 148A issue, the section 143(2) issue, or the addition of ₹29,52,250 on merits. These matters were left for fresh consideration by the CIT(A).

Result: Assessee's appeal – Allowed for statistical purposes.

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TAX INSIGHTS

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Direct Tax

27.09.2026

Whether the fresh notices issued under section 148 on 29.07.2022 were within the surviving limitation period prescribed under section 149, after the original notices dated 29.06.2021 were treated as notices under section 148A(b) pursuant to Union of India v. Ashish Agarwal, and in light of the Supreme Court's subsequent decision in Union of India v. Rajeev Bansal.

Vardhaman Gem Exports Pvt. Ltd. v. ITO, Ward 5(3)(1), Mumbai
ITAT Mumbai (23 September 2026)

Facts of the Case

- The Assessing Officer completed reassessment proceedings for both AYs under sections 143(3) read with 147 by orders dated 21.03.2023.
- For AY 2013-14, an addition of ₹20,76,17,499 was made under section 68 read with section 115BBE.
- For AY 2014-15, an addition of ₹8,89,55,823 was made on similar grounds.
- The original notices under section 148 were issued on 29.06.2021.
- Pursuant to the Supreme Court's decision in Ashish Agarwal, these notices were treated as notices under section 148A(b).
- The relevant information and material were supplied to the assessee on 25.05.2022, and the two-week period for response expired on 08.06.2022.
- The assessee did not furnish a reply.
- The Assessing Officer thereafter passed orders under section 148A(d) on 28.07.2022 for AY 2013-14 and 27.07.2022 for AY 2014-15, followed by fresh notices under section 148 on 29.07.2022.

Assessee's Contentions

The assessee contended that:

1. The fresh notices under section 148 dated 29.07.2022 were issued beyond the surviving period of limitation.
2. In terms of Union of India v. Rajeev Bansal, the period available after treating the original notices as section 148A(b) notices was required to be calculated from the balance period remaining as on 30.06.2021.
3. Consequently, the subsequent section 148 notices, reassessment proceedings and assessment orders were without jurisdiction and liable to be quashed.

Tribunal's Analysis

- The Tribunal examined the limitation period prescribed by the Supreme Court in Rajeev Bansal.
- Since the original notices were issued on 29.06.2021, only two days -29.06.2021 and 30.06.2021 -remained in the surviving limitation period.
- The period between the deemed section 148A(b) notice and supply of information, along with the additional two-week response period, was required to be excluded.

The relevant information was supplied on 25.05.2022 and the two-week response period expired on 08.06.2022. Therefore, the limitation clock resumed on 09.06.2022, and the surviving two-day period expired on 10.06.2022.

Even assuming the Revenue's more favourable computation and granting the additional seven days contemplated under the fourth proviso to section 149, the outer limit could extend only up to 15.06.2022. The section 148A(d) orders dated 27/28.07.2022 and fresh section 148 notices dated 29.07.2022 were therefore clearly beyond limitation.

The Tribunal also considered an alternative computation based on the Revenue's more favourable assumption that the relevant information could be supplied up to 02.06.2022. Even under this computation, the maximum permissible date was 23.06.2022, whereas the fresh notices were issued only on 29.07.2022.

Decision

The ITAT held that:

- The fresh notices issued under section 148 on 29.07.2022 were barred by limitation.
- Compliance with the limitation prescribed under section 149 is a jurisdictional precondition.
- The fact that the alleged escaped income exceeded ₹50 lakh or involved bank deposits could not extend the surviving limitation period.
- Since the notices were beyond the permissible period, the Assessing Officer lacked jurisdiction to initiate reassessment proceedings.

Accordingly, the Tribunal quashed:

- orders passed under section 148A(d);
- notices issued under section 148;
- reassessment proceedings initiated pursuant thereto; and
- assessment orders dated 21.03.2023.

Result

Appeals allowed in favour of the assessee.

Since the reassessment itself was held to be without jurisdiction due to limitation, the Tribunal did not adjudicate the other grounds relating to:

validity of sanction, absence of DIN, asset condition, additions under section 68, and denial of cross-examination.

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TAX INSIGHTS

By

Tax Research Department

Direct Tax

28.09.2026

The principal issues before the Tribunal were:

1. Whether the assessee's agricultural income could be treated as taxable income in the absence of supporting documentary evidence.
2. Whether the reopening of assessment under section 147 for AY 2012-13 required fresh examination.
3. Whether additions made in AY 2017-18 towards unexplained cash deposits under section 69A, agricultural income under section 68, unsecured loans under section 68 and disallowance of expenses required reconsideration after allowing the assessee an opportunity to produce supporting evidence.
4. Whether the assessee's 267-day delay in filing appeals before the ITAT could be condoned

Jagrutiben Manishbhai Trivedi v. ITO, Ward-6(1)(1), Ahmedabad
ITAT Ahmedabad (28 September 2026)

Facts of the Case

AY 2012-13

The assessee had originally filed her return declaring total income of ₹28,960. The assessment was subsequently reopened under section 147 and notice under section 148 was issued on 19 March 2019.

The Assessing Officer noticed that the assessee had declared substantial agricultural income despite not owning agricultural land. Since the assessee did not respond to notices issued under section 142(1) or furnish land records, lease agreements and other evidence regarding agricultural activities, the assessment was completed ex parte under section 144 read with section 147.

The AO treated the agricultural receipts as non-exempt and made an addition of approximately ₹37.70 lakh.

The CIT(A) also dismissed the appeal after observing that the assessee had failed to substantiate the agricultural income despite several opportunities.

Before the ITAT, the assessee submitted that she had actually carried out agricultural activities on leased agricultural land and was now able to produce lease agreements, land records, crop details, purchase bills for seeds and fertilizers, labour expenses, sale bills and bank statements.

AY 2017-18

The assessee filed her return declaring total income of ₹14,51,581. The case was selected for scrutiny under CASS because of an abnormal increase in cash deposits during the demonetisation period.

As the assessee failed to comply with notices under sections 143(2) and 142(1), the AO completed the assessment ex parte under section 144 and made, inter alia, the following additions/disallowances:

- ₹45,20,250 – unexplained cash deposits under section 69A;
- ₹2,46,073 – disallowance of expenses;
- ₹27,54,845 – agricultural income treated as unexplained under section 68;
- ₹3,24,170 – unsecured loans treated as unexplained under section 68.

The CIT(A) dismissed the appeal after the assessee failed to effectively participate in the appellate proceedings.

Delay in Filing Appeals

- Both appeals before the ITAT were delayed by 267 days.
- The assessee explained that the delay occurred due to failure of her tax counsel to take timely steps and properly represent her before the lower authorities.
- The ITAT accepted the explanation and relied upon the Supreme Court decision in Collector, Land Acquisition, Anantnag v. Mst. Katiji, holding that a liberal approach should be adopted in condoning delay where substantial justice is involved.
- Accordingly, the 267-day delay was condoned.
- However, considering the assessee's negligence in properly representing the matters before the lower authorities, the Tribunal imposed costs of ₹10,000 for each assessment year, to be deposited in the Prime Minister's Relief Fund within 60 days.

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Tribunal's Observations

The Tribunal noted that both the assessment proceedings and the first appellate proceedings had effectively been completed ex parte.

The assessee claimed that she could now produce substantial documentary evidence supporting:

- agricultural activities and ownership/lease of agricultural land;
- crops cultivated;
- purchase of seeds and fertilizers;
- labour expenses;
- agricultural sale receipts;
- corresponding bank statements;
- cash deposits;
- unsecured loans; and
- expenses claimed in the profit and loss account.

The Tribunal observed that these documents required factual verification by the Assessing Officer, which had not been undertaken earlier because of the assessee's non-appearance.

With respect to the AY 2012-13 reopening, the Tribunal also observed that the issue required examination as to

whether the notice under section 148 was issued within or beyond four years from the end of the relevant assessment year, and, where applicable, whether there was a failure on the part of the assessee to disclose fully and truly all material facts.

Decision of the ITAT

The Tribunal set aside the orders of the CIT(A) for both assessment years and restored the matters to the file of the Assessing Officer for fresh adjudication.

The AO was directed to:

- provide the assessee a reasonable opportunity of being heard;
- examine the documentary evidence to be furnished by the assessee;
- verify the agricultural activities and related evidence;
- examine the cash deposits, unsecured loans and expenses for AY 2017-18; and
- pass a fresh speaking order in accordance with law.

The assessee was directed to furnish all relevant evidence and fully cooperate with the AO.

Final Outcome

Both appeals were allowed for statistical purposes.

Assessment Year

Major Issues

ITAT Decision

2012-13	Agricultural income, validity of reopening u/s 147	Matter restored to AO for fresh adjudication
2017-18	Cash deposits u/s 69A, agricultural income u/s 68, unsecured loans u/s 68, expenses	Matter restored to AO for fresh verification

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Whether the reassessment proceedings under section 147 were valid when the reason recorded for reopening related to verification of unsecured loans of ₹1,55,48,922, but the Assessing Officer ultimately made additions under section 40(a)(ia) for non-deduction of TDS on interest and showroom rent, without making any addition relating to the unsecured loans that formed the basis of reopening.

Manoj Kumar Agarwal v. Assistant Commissioner of Income Tax
ITAT Agra (28 September 2026)

Facts of the Case

The assessee filed his original return for AY 2019-20 on 31 October 2019, declaring total income of ₹37,12,120.

The assessment was subsequently reopened under section 147. Notice under section 148 was issued on 25 March 2023, pursuant to information available with the Department regarding unsecured loans of ₹1,55,48,922 received by the assessee from various parties, including family members and relatives.

The reasons recorded for reopening specifically stated that the unsecured loans required verification regarding the identity, genuineness and creditworthiness of the lenders.

The assessee furnished the details called for by the AO. However, during reassessment, the AO did not make any addition in respect of the unsecured loans.

Instead, the AO examined the assessee's expenditure and made two disallowances under section 40(a)(ia):

- ₹1,20,432 – 30% of interest of ₹4,01,443 paid/credited to the tractor agency, on which TDS under section 194A had allegedly not been deducted.
- ₹1,05,852 – 30% of showroom rent of ₹3,52,840, on which TDS had allegedly not been deducted.

The CIT(A) upheld these disallowances.

Legal Issue Before the ITAT

The assessee primarily challenged the validity of the reassessment itself, contending that the additions made by the AO had no connection with the reasons recorded for reopening.

The Tribunal therefore first considered whether the AO could make additions on issues completely different from the issue forming the basis of reopening, particularly when no addition was ultimately made on the issue for which the assessment was reopened.

Tribunal's Observations

The Tribunal examined the reasons recorded under section 148A(b).

It found that the reassessment proceedings were initiated specifically to verify the unsecured loan of ₹1,55,48,922. However:

- no addition was made in respect of the unsecured loan;
- the additions actually made related to non-deduction of TDS on interest and rent;
- these additions did not emanate from the reason recorded for reopening.

The Tribunal referred to judicial precedents, including the Delhi High Court decision in *ATS Infrastructure Ltd. v. ACIT* and the principles relating to reassessment laid down in earlier judicial decisions.

The Tribunal noted that although, after a valid reopening, the AO may examine other escaped income, this power is subject to the requirement that the reassessment remains legally sustainable on the basis of the issue which formed the foundation for reopening.

Decision of the ITAT

- The ITAT held that the impugned additions did not emanate from the reasons recorded for reopening.
- Since the reopening was based on verification of the unsecured loan of ₹1,55,48,922, but no addition was ultimately made on that issue, while additions were made only under section 40(a)(ia) on interest and rent, the Tribunal held that the assumption of jurisdiction under section 147 was bad in law.
- Consequently, the reassessment order was quashed.
- The Tribunal therefore did not adjudicate the remaining factual and legal grounds concerning the individual disallowances, as the entire reassessment had already been quashed.

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Delay in Filing Appeal

The appeal was filed with a delay of approximately 188 days.

The assessee explained that the delay occurred because he could not timely consult his legal representative.

The ITAT accepted the explanation and, in the interest of justice, condoned the delay and admitted the appeal for adjudication on merits.

Final Result

Appeal allowed in favour of the assessee.

Particulars

Finding

Reason for reopening	Verification of unsecured loans of ₹1,55,48,922
Addition on recorded reason	Nil
Actual additions	₹1,20,432 u/s 40(a)(ia) – interest; ₹1,05,852 u/s 40(a)(ia) – rent
Connection with recorded reason	No
Validity of reopening	Held bad in law
Reassessment order	Quashed
Remaining grounds	Not adjudicated
Final outcome	Appeal allowed

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Whether the receipts of ₹22.36 crore earned by the assessee from offshore supply of equipment to Power Grid Corporation of India Ltd. (PGCIL) were taxable in India on the ground that the assessee had a business connection/permanent establishment (PE) in India through its Indian associate, GE T&D India Ltd. (GETDIL).

Grid Solutions Oy Limited, Finland v. Assistant Commissioner of Income Tax
ITAT Delhi (29 September 2026)

Facts of the Case

- The assessee, Grid Solutions Oy Limited, Finland, is a foreign company engaged in manufacturing products for efficient power transmission, reactive power compensation and related project engineering. During AY 2022-23, it received ₹22.36 crore from offshore supply of goods to Power Grid Corporation of India Ltd. (PGCIL) and its associated enterprise, GE T&D India Ltd. (GETDIL). The assessee filed its return declaring nil income and claimed a refund of ₹97.69 lakh.
- The assessee had entered into an agreement dated 22 February 2019 relating to a TCR System project at Kurukshetra. The arrangement comprised three parts:
 1. Supply of goods from abroad;
 2. Supply of goods from within India; and
 3. Supply of services from within India.
- The assessee undertook the offshore portion, while GETDIL was proposed as the associate for the Indian supply and services portions. The contract also contained a cross-fall-breach clause under which Grid Solutions remained overall responsible for execution of all three contracts.

Assessment Proceedings

The Assessing Officer (AO), following the approach adopted in AY 2020-21, held that the three contracts constituted a single composite contract and that the arrangement had effectively been split to avoid taxation in India.

The AO relied, inter alia, on:

- the acceptance test for the equipment;
- performance bank guarantee;
- CIF terms of offshore supply;
- the overall responsibility of the assessee under the contract; and
- a survey conducted on GETDIL.

On this basis, the AO/DRP concluded that GETDIL constituted a fixed-place PE and dependent-agent PE (DAPE) of the assessee in India. They further held that the assessee had a business connection in India.

The AO consequently attributed 10% of the offshore supply receipts of ₹22,36,62,891, i.e. approximately ₹2.24 crore, as taxable income in India under section 9(1)(i) read with Article 7 of the India-Finland DTAA, taking guidance from section 44BBB

Assessee's Arguments

- The assessee contended that the three contracts were separate contracts reflecting the customer's requirements and were not artificially split for tax avoidance. It argued that its role under the first contract was confined to offshore supply of goods.
- Regarding transfer of title, the assessee relied on the contractual clause providing that ownership of the imported plant and equipment transferred upon loading for transportation from the country of origin and endorsement of dispatch documents. The assessee argued that the subsequent acceptance test and performance guarantee related to quality/performance and did not postpone transfer of title.
- The assessee also argued that GETDIL was an independent Indian entity having its own business and substantial revenue, and that its participation in customer meetings did not establish a dependent-agent relationship. It further submitted that the survey on GETDIL did not relate specifically to the assessee.
- On section 44BBB, the assessee argued that the provision was inapplicable because the receipts related to offshore supplies and not to construction, erection, testing or commissioning activities of a turnkey power project in India.

Findings of the ITAT

The ITAT noted that identical issues concerning the assessee's group/sister concerns, including UK Grid Solutions Ltd. and GE Hydro France, had previously been decided in favour of the respective assessee.

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A. No artificial splitting of the contract

The Tribunal held that the existence of three contracts did not establish that a single composite contract had been artificially split to avoid Indian taxation. It relied on earlier decisions concerning similar contractual arrangements and observed that overall responsibility for successful completion of a project did not, by itself, convert separate contractual scopes into one inseparable contract.

B. No Fixed Place PE or DAPE

The Tribunal found that GETDIL had its own separate business and was not legally, economically or otherwise dependent upon the assessee.

The mere involvement of GETDIL employees in meetings with PGCIL, particularly where such participation related to GETDIL's own scope of work, was not sufficient to establish a DAPE. The Tribunal also noted that the survey under section 133A(2A) was not related to the assessee.

Accordingly, the Tribunal held that GETDIL did not constitute either a DAPE or a fixed-place PE of Grid Solutions in India.

C. Transfer of ownership in offshore supply

The Tribunal accepted the principle that the transfer of ownership in the offshore supplies occurred outside India. It relied upon the contractual terms and judicial precedents concerning offshore supplies.

The Tribunal specifically noted that the acceptance test did not postpone transfer of title and that the CIF basis of supply did not, by itself, make the offshore supply taxable in India.

D. Section 44BBB not applicable

The Tribunal also held that section 44BBB could not be applied to the offshore supply receipts in the absence of the requisite PE and because the assessee's receipts were attributable to offshore supplies rather than construction, erection, testing or commissioning activities in India.

Held

The ITAT allowed the appeal of the assessee.

It held that:

- the three contracts were not an artificially split single contract;
- GETDIL did not constitute a fixed-place PE or DAPE of the assessee in India;
- the offshore supply transaction was not taxable in India;
- the transfer of ownership of the goods took place outside India;
- the survey findings relating to GETDIL could not establish a PE of the assessee;
- section 44BBB was not applicable; and
- the addition made by the AO was therefore liable to be deleted.

Result: Appeal allowed in favour of the assessee.