



Luthra *and* Luthra

LAW OFFICES INDIA

DIRECT TAXATION UPDATES – INCOME TAX LAW

NEWSLETTER – OCTOBER 2024 EDITION

INSIDE

RECENT JUDGMENTS PASSED BY HON'BLE SUPREME COURT

- a. **Shriram Investments v. Commissioner of Income Tax III, dated 04.10.2024.**
- b. **Bank of Rajasthan Ltd. v. Commissioner of Income Tax, dated 16.10.2024.**

RECENT JUDGMENTS PASSED BY HON'BLE HIGH COURTS:

- a. **Capital Broadways Pvt. Ltd. v. Income Tax Officer dated 03.10.2024.**
- b. **Principal Commissioner of Income Tax v. ESYS Information Technologies Ltd., dated 15.10.2024.**
- c. **Principal Commissioner of Income Tax v. Sahara India Financial Corporation Ltd. dated 16.10.2024.**
- d. **The Principal Commissioner of Income Tax v. Naveen Infradevelopers & Engineers Pvt. Ltd. dated 16.10.2024.**



- e. Commissioner of Income Tax v. Dr. Kasliwal Medical Care & Research Foundation dated 21.10.2024.**
- f. National Leasing Limited v. Assistant Commissioner of Income Tax dated 21.10.2024.**
- g. Commissioner of Income Tax v. SIP Technologies & Exports Ltd. Dated 24.10.2024.**
- h. T.K.S. Builders Pvt. Ltd. V. Income Tax Officer dated 28.10.2024.**
- i. M/s. EIH Associated Hotels Ltd. V. Commissioner of Income Tax-I dated 28.10.2024.**

RECENT ORDERS PASSED BY HON'BLE INCOME TAX APPELLATE TRIBUNAL:

- a. Qognify Pte Ltd. V. Deputy Commissioner of Income Tax, Chennai, dated 01.10 2024.**
- b. Ashok Kumar Pandey v. Assistant Commissioner of Income Tax, Mumbai, dated 03.10.2024.**
- c. Vijay Jewellers v. Deputy Commissioner of Income Tax, Mumbai, dated 03.10.2024.**
- d. SKF India Limited v. Deputy Commissioner of Income Tax, Mumbai, dated 03.10.2024.**

RECENT NOTIFICATIONS AND LETTERS:

- a. Circular no. 11/2024 dated 01.10.2024.**
- b. Circular no. 12/2024 dated 15.10.2024.**
- c. Circular no. 13/2024 dated 26.10.2024.**
- d. Circular no. 14/2024 dated 30.10.2024.**



We extend our best wishes to the recipients of this newsletter.

In **October 2024 Edition** of the **Luthra and Luthra Law Offices India – ‘Direct Tax Monthly Newsletter’**, we have covered some of the pertinent developments in the field of Direct Taxation Law recently.

INCOME TAX

IMPORTANT JUDGMENTS PASSED BY HON’BLE SUPREME COURT IN THE CASES OF:

a. Shriram Investments v. Commissioner of Income Tax III, dated 04.10.2024:

The Hon’ble Supreme Court, *inter alia* held that a taxpayer cannot claim a deduction in a revised return, filed after the statutory deadline. In the present case, the Appellant had initially filed a return in 1989, later filing two revised returns, the second of which was outside the permitted timeframe under Section 139(5) of the Income Tax Act, 1961 (“**the Act**”). The Income-tax Appellate Tribunal (“**Tribunal**”) initially allowed the Appellant’s claim for deferred revenue expenditure by remanding it to the Assessing Officer (“**AO**”). However, the High Court reversed this and held that the AO lacked jurisdiction to consider the claim in a time-barred return. The Supreme Court upheld the High Court’s judgment, reaffirming that claim of deductions outside the statutory timeframe could not be entertained.

b. Bank of Rajasthan Ltd. v. Commissioner of Income Tax, dated 16.10.2024:

The Hon’ble Supreme Court, *inter alia* decided in the favour of taxpayer on the issue of whether interest paid for a “broken period” on securities purchased by banks could be deducted as a revenue expenditure. The appellant, a Scheduled Bank, argued that since the securities were held as stock-in-trade, the interest paid should be deductible. The Commissioner of Income Tax (Appeals) (“**CIT(A)**”) had denied this deduction, referencing **Vijaya Bank Ltd. v. Additional Commissioner of Income Tax, Bangalore** which held that such interest was a capital expense. On further appeal, the Tribunal ruled in favour of the Appellant, however, the High Court reversed this decision, supporting the CIT(A) stance. The Hon’ble Supreme Court, however, acknowledged that post-1989, with the deletion of Section 18 to 21 of the Act, the Appellant’s interest expense could be considered a deductible expense under business income (Section 28), thereby ruling in favour of the Appellant.

IMPORTANT JUDGMENTS PASSED BY HON’BLE HIGH COURTS IN THE CASES OF:

a. Capital Broadways Pvt. Ltd. v. Income Tax Officer dated 03.10.2024 passed by Hon’ble High Court of Delhi:

The petitioner challenged the validity of a notice issued under Section 148 of the Act, for the Assessment Year (“**AY**”) 2010-11. The reassessment was based on information linking



the Petitioner to accommodation entries allegedly provided by a money-laundering network operated by Jain Brothers. The Petitioner, *inter alia* argued that the Principal Commissioner of Income Tax (“PCIT”) had mechanically approved the reopening of assessment without independent examination, merely endorsing “Yes, I am satisfied.” The Delhi High Court *inter alia* held that the approval by the PCIT lacked meaningful analysis, failing to meet the requirements of Section 151 of the Act, which mandates independent application of mind. Citing precedents, the court reiterated that mere endorsements such as “I am satisfied” do not fulfil the statutory requirements for approval. Consequently, the Delhi High Court quashed the notice passed under Section 148 of the Act as legally unsustainable.

b. Principal Commissioner of Income Tax v. ESYS Information Technologies Ltd., dated 15.10.2024, passed by the Hon’ble High Court of Delhi:

The Revenue challenged the dismissal of its appeal by the Tribunal related to an Arm’s Length Pricing (“ALP”) adjustment of INR 14,29,21,585 made by the Transfer Pricing Officer (“TPO”) for AY 2005-06. The issue concerned the comparability methods for certain transactions with the taxpayer’s associated enterprise, where the TPO rejected the taxpayer’s choice of the Resale Price Method (“RPM”) and instead applied the Transactional Net Margin Method (“TNMM”). The CIT(A) and Tribunal upheld the TNMM but limited comparable selection to entities dealing in similar hardware trading. Despite the Revenue’s claim of factual differences between AY 2004-05 and 2005-06, the Delhi High Court *inter alia* found no substantial differences that would impact the ALP calculation. Thus, the appeal was dismissed for lack of substantial question of law.

c. Principal Commissioner of Income Tax v. Sahara India Financial Corporation Ltd. dated 16.10.2024, passed by the Hon’ble High Court of Delhi:

The Delhi High Court dismissed the Revenue’s appeal challenging the Tribunal’s decision to delete the disallowance of expenditure under Section 14A of the Act. For AY 2016-17, the AO had disallowed expenses amounting to INR 6,13,17,433 on the presumption that investments made by assessee were intended to yield tax-exempt income. However, both the CIT(A) and Tribunal held that, as the taxpayer did not earn any exempt income, no disallowance under Section 14A of the Act was warranted. The Court upheld the Tribunal’s decision, referencing its earlier rulings in **Cheminvest Limited v. Commissioner of Income Tax, and Principal Commissioner of Income Tax, Central-3, New Delhi v. Alchemist Ltd.**, which established that Section 14A disallowance is inapplicable if no exempt income is earned. Additionally, the Delhi High Court *inter alia* held that the Finance Act, 2022, which introduced an explanation to Section 14A, applies only prospectively and does not affect prior AY’s. Consequently, no substantial question of law and dismissed the Revenue’s appeal.



d. The Pr. Commissioner of Income Tax v. Naveen Infradevelopers & Engineers Pvt. Ltd. dated 16.10.2024, passed by the Hon'ble High Court of Delhi:

The Delhi High Court *inter alia* addressed the issue of whether AO can make additions to an assessee's income in re-assessment proceedings when no additions are made based on the grounds stated for reopening the assessment. Initially, the AO issued a notice under Section 148 of the Act, questioning discrepancies between the turnover reported by the assessee and the credit entries in its bank accounts. The CIT(A) later ruled in favour of the assessee, finding that since no additions were made on the grounds stated for reopening, further additions made were invalid. On appeal, the Tribunal upheld this decision, citing precedents such as **CIT v. Jet Airways (I) Ltd.** and **Ranbaxy Laboratories Ltd. V. CIT**, which established that additions unrelated to the original grounds for re-assessment are not permissible. The Delhi High Court dismissed the Revenue's appeal, affirming that no substantial question of law arose for its consideration, thus supporting the Tribunal's interpretation in favour of the assessee.

e. Commissioner of Income Tax v. Dr. Kasliwal Medical Care & Research Foundation dated 21.10.2024, passed by the Hon'ble High Court of Bombay:

The Bombay High Court *inter alia* ruled in favour of assessee, affirming that the assessee trust was deemed registered under Section 12AA of the Act. The assessee had applied for registration, but the CIT failed to issue an Order within the six-month deadline. Citing a similar ruling in **Bhagwad Swarup Shri Devraha Baba Memorial Trust vs CIT**, the Bombay High Court held that the lapse in timely action from the CIT meant the trust was deemed registered, rendering any subsequent rejection Order invalid.

f. National Leasing Limited v. Assistant Commissioner of Income Tax dated 21.10.2024, passed by the Hon'ble High Court of Bombay:

The Bombay High Court upheld the Tribunal's decision to categorize income from leased properties as "Income from House Property" instead of "Business Income." Appellant contended that leasing properties was central to its business model, thus qualifying for taxation as business income. However, the Court agreed with the Tribunal's reliance on the Supreme Court's decision in **East India Housing and Land Development Trust v. CIT**, which *inter alia* held that rental income should be taxed as income from property, despite business activities centred on property leasing. The judgment reinforces that income from property ownership typically falls under "Income from House Property" for tax purposes.



g. Commissioner of Income Tax v. SIP Technologies & Exports Ltd. Dated 24.10.2024, passed by the Hon'ble High Court of Madras:

In this case the Madras High Court addressed the issue whether foreign currency expenses, excluded from "export turnover," should also be excluded from "total turnover" when calculating deductions under Section 10A of the Act. The Appellant argued that excluding these expenses only from export turnover would result in an improper tax benefit for the Respondent. The High Court *inter alia* relied on the Supreme Court's decision in **CIT v. HCL Technologies Ltd.**, which clarified that for a fair computation, expenses excluded from export turnover must also be excluded from total turnover. Following this precedent, the Madras High Court ruled in favour of assessee, allowing the exclusion of foreign currency expenses from both figures for deduction purposes. The petition was dismissed, confirming the Tribunal's decision as correct.

h. T.K.S. Builders Pvt. Ltd. V. Income Tax Officer dated 28.10.2024, passed by the Hon'ble High Court of Delhi:

A group of Petitioners *inter alia* challenged the validity of reassessment notices issued under Section 148 of the Act. These notices were issued by the Jurisdictional Assessing Officer ("**JAO**") rather than through the Faceless Assessment Scheme introduced by Section 144B and 151A of the Act, which mandates automated allocation to prevent local jurisdictional bias. The Court referred to the Supreme Court's decision in **Union of India v. Ashish Agarwal (2022)**, which treated reassessment notices issued before 2021 amendments as Show-Cause Notices under Section 148A(b) of the Act, requiring faceless procedures. Petitioners argued that their reassessment notices were issued outside this mandated framework, thus violating the faceless assessment scheme. The Court also reviewed judgments from the Telangana and Bombay High Courts, which supported the requirement of faceless assessment for such notices. The Delhi High Court dismissed the writ petitions, upholding the reassessment notices. However, the Court emphasised that future reassessment proceedings under Section 148 of the Act must comply with the Faceless Assessment Scheme to ensure procedural integrity.

i. M/s. EIH Associated Hotels Ltd. V. Commissioner of Income Tax-I dated 28.10.2024, passed by the Hon'ble High Court of Madras:

The assessee challenged an Order under Section 263 of the Act, arguing that its foreclosure premium on a high-interest loan refinanced at a lower rate should be classified as revenue expenditure under Section 37(1) of the Act. The Respondent had revised the original assessment, contending that the foreclosure premium was capital in nature and disallowed it. The Delhi High Court, referencing decisions such as **CIT v. Gujarat Guardian Ltd., inter alia** ruled that the foreclosure premium was a revenue expense incurred for business expediency, not a capital expenditure, as the loan restructuring directly benefited the company by reducing future interest expenses. Consequently, the appeal was allowed in favour of assessee, and the revision order was set aside.

**AS HELD BY HON'BLE INCOME TAX APPELLATE TRIBUNAL ("ITAT") IN THE CASES OF:****a. Qognify Pte Ltd. V. Deputy Commissioner of Income Tax, Chennai, dated 01.10 2024 by ITAT, Chennai Bench:**

The Tribunal *inter alia*, held that payments received by Appellant a Singapore-based company, for the supply, installation, and maintenance of video management software for a smart city project in Vizag, could not be classified as "Royalty" under the Act or the India-Singapore Double Taxation Avoidance Agreement ("DTAA"). The Appellant argued that the amount received was for the use of software without the transfer of copyright, relying on the terms outlined in the End-User License Agreement ("EULA"), which clearly restricted any transfer of copyright or ownership. The Tribunal referenced the Supreme Court's decision in **Engineering Analysis Centre of Excellence Pvt. Ltd. V. CIT**, affirming that payments solely for software usage, without transferring copyright, do not constitute "royalty." Consequently, the Tribunal ruled that the payment of Rs.1,38,85,200/- was not taxable in India as royalty, setting aside the Assessment Order.

b. Ashok Kumar Pandey v. Assistant Commissioner of Income Tax, Mumbai, dated 03.10.2024, by ITAT, Mumbai Bench:

The Tribunal deliberated on the residential status of the assessee under the India-USA DTAA, impacting the taxability of his foreign income. Despite taxpayer's claim of U.S. residency based on the DTAA's "centre of vital interest" test, the AO found his economic and personal ties closer to India. Supporting this, the CIT(A) deemed him an Indian resident, thus taxing his global income in India. The Tribunal upheld this view, noting taxpayer's significant business activities in India, and dismissed the appeal, affirming his Indian tax residency.

c. Vijay Jewellers v. Deputy Commissioner of Income Tax, Mumbai, dated 03.10.2024, by ITAT, Mumbai Bench:

The Tribunal examined penalties levied under Section 271(1)(c) for taxpayer's due to estimated additions on alleged bogus purchases. The AO imposed a penalty for concealment based on an estimated 5% addition to income. The Tribunal, referencing similar cases, *inter alia*, held that penalties are unsustainable when additions are based solely on estimation without concrete evidence of concealment. The Tribunal set aside the penalty order, emphasising that estimated additions cannot justify penalties under Section 271(1)(c) of the Act.

d. SKF India Limited v. Deputy Commissioner of Income Tax, Mumbai, dated 03.10.2024, by ITAT, Special Bench, Mumbai:

The Special Bench of the Tribunal *inter alia* examined whether capital gains from the sale of depreciable assets should be taxed at short-term capital gains ("STCG") rates or long-term capital gains ("LTCG") rates under Section 112 of the Act. The taxpayer contended



that the assets while producing gains deemed as STCG under Section 50 of the Act, retained their intrinsic long-term nature, qualifying for LTCG tax treatment. The Tribunal, referencing the Bombay High Court's ruling in **CIT v. Ace Builders** and other similar cases, determined that although Section 50 deems gains from depreciable assets as STCG, it does not alter the asset's fundamental long-term status. Therefore, the gains were eligible for LTCG rates under Section 112 of the Act, aligning with established legal precedents.

RECENT NOTIFICATIONS AND LETTERS ISSUED BY CENTRAL BOARD OF DIRECT TAXES ("CBDT"):

a. Circular no. 11/2024 dated 01.10.2024:

Central Board for Direct Taxes ("CBDT") updates the guidelines under Section 119(2)(b) of the Act for handling delays in filing refund claims and carrying forward losses.

Authority limits for condoning delays are specified by claim amount:

- Principal Commissioners can handle claims up to **₹1 crore**, Chief Commissioners up to **₹3 crores**, and Principal Chief Commissioners beyond that.
- Claims older than five years from the relevant AY won't be considered. Effective from October 1, 2024, the circular also excludes time spent in court proceedings from this period and includes conditions for supplementary refund claims due to overpaid tax.

b. Circular no. 12/2024 dated 15.10.2024:

CBDT provides a Guidance Note on the **Direct Tax Vivad Se Vishwas Scheme, 2024**, which is designed to simplify resolving tax disputes. Effective from October 1, 2024, this guidance answers common questions about eligibility, case types, and necessary forms, laying out clear steps and timelines for finalising cases. It focuses on taxpayers with outstanding tax arrears, encouraging resolution and aiming to reduce litigation through straightforward processes.

c. Circular no. 13/2024 dated 26.10.2024:

CBDT extends the filing deadline for Income Tax Returns for **AY 2024-25**. Using its authority under Section 119 of the Act, the CBDT has moved the deadline for taxpayers under clause (a) of Explanation 2 to Sub-Section (1) of Section 139 of the Act. The original deadline of **October 31, 2024**, is now extended to **November 15, 2024**, giving taxpayers additional time to complete their filings.



d. Circular No. 14/2024 dated 30.10.2024:

The circular addresses delayed filings by co-operative societies for AY 2023-24, especially those seeking deductions under Section 80P of the Act. The CBDT received feedback that delays in getting audited accounts under state laws affected these societies' filing timelines. In response, the Board extended the condonation period, allowing these societies to submit returns as if filed within the due date under Section 139(1) of the Act, with conditions as outlined in **Circular No. 13/2023**.



This newsletter is only for general informational purposes, and nothing in this edition of newsletter could possibly constitute legal advice (which can only be given after being formally engaged and familiarizing ourselves with all the relevant facts). However, should you have any queries, require any assistance, or clarifications with regard to anything contained in this newsletter (or Direct Tax in general), please feel free to contact Rubal Bansal, at the below mentioned coordinates.

© Luthra and Luthra Law Offices India 2024. All rights reserved.

The Team



RUBAL BANSAL

Partner

Email - rbansal@luthra.com



PRAKHAR PANDEY

Associate



SATVIK SAREEN

Associate

OFFICES



NEW DELHI

1st and 9th Floors, Ashoka Estate,
24 Barakhamba Road, New Delhi - 110 001
T: +91 11 4121 5100 F: +91 11 2372 3909
E: delhi@luthra.com



MUMBAI

20th Floor, Indiabulls Finance Center,
Tower 2 Unit A2, Elphinstone Road,
Senapati Bapat Marg, Mumbai - 400 013
T: +91 22 4354 7000
F: +91 22 6630 3700
E: mumbai@luthra.com



BENGALURU

3rd Floor, Onyx Centre, No. 5, Museum Road,
Bengaluru - 560 001
T: +91 80 4112 2800 / +91 80 4165 9245
F: +91 80 4112 2332
E: bengaluru@luthra.com



HYDERABAD

Regus Midtown, Office No.131
Level 1, Midtown Building
Road No.1, Banjara Hills,
Opp. Jalgam Vengal Rao Park
Hyderabad, Telangana - 500034
T: +91 40 7969 6162
E: hyderabad@luthra.com



CHENNAI

Prestige Palladium Bayan,
8th Floor, Greams Road, Nungambakkam Division,
Egmore, Chennai - 600 006,
Tamil Nadu
T: +91 95604 88155
E: chennai@luthra.com