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DIRECT TAXATION UPDATES
INCOME TAX LAW

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In **April & May 2026 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 JUDGMENT PASSED BY HON'BLE SUPREME COURT IN THE CASE OF

Principal Commissioner of Income Tax-13 v. Pradip Kumar Jajodia dated 04.05.2026 passed by Hon'ble Supreme Court of India

The Revenue challenged the Calcutta High Court's judgment which had invalidated reassessment proceedings under Section 147 and 148 of the Income-tax Act, 1961 ("**the Act**") in connection with alleged bogus Long Term Capital Gains generated through penny stock transactions. The Hon'ble Supreme Court dismissed the Special Leave Petition ("**SLP**") by placing reliance on the earlier dismissal of a connected SLP dated 24.04.2026. The Calcutta High Court had *inter alia* held that the Assessing Officer ("**AO**") had raised only suspicion and had failed to place on record any material demonstrating actual escapement of income. The Revenue was unable to show before the High Court that the Income Tax Appellate Tribunal ("**ITAT**") had committed any error in deleting the addition and the dismissal was accordingly upheld.

The Deputy Commissioner of Income Tax v. Collector Mining Kanker dated 12.05.2026 passed by Hon'ble Supreme Court of India

The Supreme Court dismissed the Income Tax Department's SLP against the Chhattisgarh High Court's judgment which had *inter alia* held that Tax Collected at Source ("**TCS**") under Section 206C(1C) cannot be levied on compounding fees or fines recovered from persons engaged in illegal mining who hold no lease, licence or contractual rights. The Hon'ble Supreme Court upheld the High Court's conclusion that Section 206C(1C) was simply not attracted on these facts and that the District Mining Offices could not be treated as assessees in default for failing to collect TCS on such compounding fees.

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

Pr. Commissioner of Income Tax, Central-II, New Delhi v. M/S Globe Capital Market Ltd. dated 07.04.2026 passed by Hon'ble High Court of Delhi

The Respondent-assessee, engaged in the business of share broking and clearing of trades, undertook a buyback of 28,62,500 equity shares at Rs. 313.40 per share during Assessment Year ("**AY**") 2018-19. The AO noted that the fair market value of each share, as per Rule 11UA of the Income Tax Rules, 1962, was Rs. 370.46 per share, and accordingly treated the difference of Rs. 57.06 per share , aggregating to Rs. 16,33,34,250/- , as income in the hands of the assessee under Section 56(2)(x) of the Act, on the ground that the buyback constituted acquisition of property below fair market value. The Commissioner of Income Tax (Appeals) ("**CIT(A)**") allowed the assessee's appeal, holding that the buyback of a company's

own shares amounts to reduction of share capital and not acquisition of a capital asset. The Tribunal affirmed the CIT(A)'s order. The Revenue preferred a further appeal before the Hon'ble High Court.

The Hon'ble High Court of Delhi, dismissing the Revenue's appeal, *inter alia* held that a company's buyback of its own shares is fundamentally distinct from acquisition of property. It observed that Section 68 of the Companies Act, 2013, the statutory foundation for any buyback, mandates extinguishment and physical destruction of the shares upon completion of the buyback. Accordingly, the very premise that the assessee had acquired a capital asset at below fair market value is legally untenable, since the purported "property" ceases to exist upon the completion of the buyback. The Court further held that a person cannot be taxed for deemed profit arising from property which is destroyed as a consequence of the very same transaction. The provisions of Section 56(2)(x) of the Act, therefore, have no application to a buyback of a company's own shares, which in essence constitutes reduction of share capital and not acquisition of any asset.

M/S Supreme Build-Cap Pvt. Ltd. v. Assistant Commissioner of Income Tax, Central Circle (5), Delhi dated 08.04.2026 passed by Hon'ble High Court of Delhi

The Petitioner challenged the assessment order dated 29.03.2026, contending that the reassessment proceedings initiated vide notice dated 30.08.2024 issued under Section 148 of the Act for AY 2016-17 were fundamentally time-barred, as the applicable limitation period for issuance of such notice was six years. The Petitioner had raised this jurisdictional objection before the AO in response to the Show Cause Notice dated 21.03.2026; however, the same remained unheeded and undecided, culminating in the impugned assessment order. The Revenue raised a preliminary objection regarding maintainability of the writ petition on the ground that a statutory appellate remedy was available to the Petitioner.

The Hon'ble High Court of Delhi, *inter alia* held that the initiation of reassessment proceedings vide notice dated 30.08.2024 was fundamentally void being beyond the prescribed period of limitation. The Court, relying on the settled principles governing exercise of writ jurisdiction under Article 226 of the Constitution of India 1950 *inter alia* held that where an order is without jurisdiction on the face of it, the Petitioner cannot be made to undergo the rigmarole of appellate proceedings merely as a formality. Accordingly, the Court quashed both the notice dated 30.08.2024 issued under Section 148 as well as the consequential assessment order.

VRG Electronics Pvt. Ltd. v. Principal Commissioner of Income Tax, Delhi-7 & Anr. dated 09.04.2026 passed by Hon'ble High Court of Delhi

The Petitioner, a company, failed to file Form 10IC within the prescribed due date under Section 139(1) of the Act, which is a mandatory condition precedent for exercising the option of concessional tax rate under Section 115BAA of the Act. The delay was attributed to a lapse on the part of the accountant. Although the Return of Income was filed within the extended period under Section 139(4), the Form could not be filed within the stipulated timeline. The Petitioner accordingly filed an application under Section 119(2)(b) of the Act seeking condonation of delay before the Principal Commissioner of Income Tax. The said application was rejected on the ground that CBDT Circular No. 17/2024 dated 18.11.2024, which empowers the authorities to condone delay in filing prescribed forms in cases of genuine hardship,

expressly referred only to AY's 2020-21, 2021-22 and 2022-23, and did not include AY 2023-24, which was the relevant year.

The Hon'ble High Court of Delhi, setting aside the rejection order, *inter alia* held that a beneficial CBDT Circular issued under Section 119(2)(b) of the Act, aimed at mitigating genuine hardship, cannot be restricted to specific AY's in the absence of any rational basis or conscious justification for such restriction. The Court observed that no direct nexus exists between the Assessment Year and the purpose for which the said Circular was issued, and that confining its benefit to particular years would defeat the very object of the Circular. Accordingly, the Court *inter alia* held that Circular No. 17/2024 dated 18.11.2024 shall apply to all genuine and bona fide cases, irrespective of the Assessment Year, unless the CBDT, by way of a conscious application of mind, provides otherwise. The Commissioner was directed to decide the Petitioner's application afresh in accordance with law.

VNG Automotive P. Ltd. v. Assistant Commissioner of Income Tax dated 10.04.2026 passed by Hon'ble High Court of Delhi

The Petitioner was incorporated in 1992 with the object of manufacturing and exporting ecological brake-shoes. For AY's 1993-94 and 1994-95, the Petitioner raised funds through share capital and interest-free loans from its Directors, which were utilised towards acquiring technical know-how from a Singapore-based entity, purchase of land, import of raw materials, and advances for machinery. The remaining funds, not immediately required for meeting these committed obligations, were deposited in banks, earning interest of Rs. 1,33,151/- and Rs. 2,37,770/- for the respective years. The Petitioner adjusted this interest income against pre-operative expenses and filed returns declaring nil income. The AO, relying upon the Supreme Court's judgment in *Tuticorin Alkali Chemicals & Fertilizers Ltd.*, treated the deposits as surplus funds and taxed the interest as "income from other sources" after reopening the assessment under Section 148 of the Act. The CIT(A) allowed the appellant's claim, holding that the deposits were directly linked to project obligations. However, the ITAT reversed the CIT(A)'s order, holding that the facts were akin to *Tuticorin Alkali Chemicals* and that the interest was taxable as income from other sources.

The Hon'ble High Court of Delhi, setting aside the order of the ITAT, *inter alia* held that the funds were not lying as surplus but were earmarked to facilitate balance payments for plant and machinery and other committed liabilities. The Court held that the interest income was inextricably linked to the setting up of the business and accordingly, the ratio of the Supreme Court's judgment in *CIT v. Bokaro Steel Ltd.* , and not *Tuticorin Alkali Chemicals* , would apply, rendering such interest a capital receipt not liable to tax as income from other sources. On the question of reassessment, however, the Court upheld the Revenue's position, holding that since the original assessment was processed only under Section 143(1) and no order under Section 143(3) had been passed, the AO could not be said to have formed any opinion, and the reopening under Section 148 was therefore not vitiated by mere change of opinion. Accordingly, the appeals were disposed of as allowed.

Puneet Kanodia v. National Faceless Assessment Centre New Delhi & Anr. dated 17.04.2026 passed by Hon'ble High Court of Delhi

The Petitioner jointly purchased a property with his wife both contributing equally towards the investment from independent sources. During assessment proceedings under Section 143(3) read with Section 144B

of the Act, the AO made an addition of INR 2,85,00,000 under Section 69C, treating the entire investment in the jointly owned property as unexplained expenditure in the hands of the Petitioner alone, despite the assessment order itself recording that the property was jointly owned. The AO failed to conduct any inquiry into the independent tax position of wife, notwithstanding that her PAN and other relevant material were available on record.

The Hon'ble High Court of Delhi, *inter alia* held that the AO proceeded on an erroneous premise that the entire source of investment was unexplained in the hands of the Petitioner. The Court reaffirmed the settled principle that an assessee can only be called upon to explain his own share of investment, and that a co-owner's independent financial contribution cannot be fastened upon another assessee merely by virtue of a marital relationship. Accordingly, the impugned assessment order was set aside and the matter remanded for fresh consideration, with a direction to the National Faceless Assessment Centre to issue a fresh notice and provide the Petitioner an opportunity to file his reply.

Commissioner of Income Tax, Chennai v. M/s Vijay Shanthi Builders Ltd. dated 20.04.2026 passed by Hon'ble High Court of Judicature at Madras

The assessee, engaged in construction activity, filed its return of income for AY 1996-97 disclosing income of Rs. 61,070/-. The AO disallowed the assessee's claim of construction expenses on the ground that the assessee had adopted a hybrid system of accounting, recognising sale income on receipt basis while claiming construction expenses on accrual basis. Additionally, the AO disallowed depreciation claimed at 50%/100% on cinematograph films purchased from M/s Sri Veeru Creations and immediately leased back to the same party, treating the sale and leaseback transaction as not genuine and a colourable device to evade tax. Similar disallowances were made for AY 1997-98. Both assessment orders were challenged before the CIT(A), which partly allowed the appeals. The ITAT confirmed the view of the CIT(A), holding that the hybrid accounting method was permissible in view of the Hon'ble Supreme Court's judgment in Calcutta Company Limited v. CIT [(1959) 37 ITR 1 (SC)], and that the sale and leaseback transaction could not be treated as a colourable device merely because it resulted in tax advantages, so long as the transaction was otherwise permissible in law.

The Hon'ble High Court of Madras, upholding the concurrent findings of the CIT(A) and the ITAT, *inter alia* held that the question of adopting a hybrid system of accounting stands settled by the Hon'ble Supreme Court in Calcutta Company Limited (cited supra), and found no reason to interfere with the findings based on that judgment. In respect of the depreciation on cinematograph films, the Court held that since the title over the films had been transferred in favour of the assessee and the entire sale consideration was paid by cheque and duly encashed, the depreciation claim could not be disallowed merely on suspicion without any material to substantiate the same. The Court further held that sale and leaseback is a recognised business transaction and the AO had disallowed the depreciation purely on the basis of surmises and conjectures. Accordingly, both the Appeals filed by the Revenue were dismissed.

The Deputy Commissioner of Income Tax & Anr. v. Sri C. R. Ram Mohan Raju dated 24.04.2026 passed by Hon'ble High Court of Karnataka

The Karnataka High Court *inter alia* held that Section 132 of the Act is person-centric and not premises-centric. The expression "searched person" refers to the person in respect of whom satisfaction is recorded

under Section 132(1), and not merely the person whose premises are searched. On the facts, the search in the premises of the respondent was only on the basis of suspicion that documents belonging to the searched person were kept there. The Court therefore held that the respondent was correctly proceeded against under Section 153C as an "other person", and not under Section 153A.

The Court further held that Section 153C does not require separate year-wise satisfaction notes; a consolidated jurisdictional satisfaction note is sufficient so long as it records that the seized material belongs to or pertains to the other person. The Court also held that Sunil Kumar Sharma was per incuriam as it had not considered earlier binding Karnataka precedents, including C. Ramaiah Reddy and Associated Mining Company, along with other High Court authorities on the same issue. It also clarified that dismissal of the SLP by a non-speaking order does not amount to affirmation of that judgment, consistent with Kunhayammed v. State of Kerala. Accordingly, the appeal was allowed, the Single Judge's order was set aside, and the notices under Section 153C were restored.

Mentaura Technologies Pvt. Ltd. v. Principal Commissioner of Income Tax Delhi dated 29.04.2026 passed by Hon'ble High Court of Delhi

The Delhi High Court dismissed a writ petition filed by Petitioner challenging the rejection of its application for condonation of delay in filing Form 10-IC under the Act. The assessee had opted for the concessional tax regime under Section 115BAA for AY 2020-21 but had not filed the mandatory Form 10-IC within the prescribed due date. The Court *inter alia* held that CBDT circulars, including in particular the circular dated 18.11.2024, clearly prescribe a firm three-year time limit from the end of the relevant AY for entertaining such condonation applications. The application had been filed well beyond this three-year window and the reasons put forward, including COVID-19 difficulties, were held to be insufficient given that the company had successfully filed its income tax return during the very same period. The Commissioner's order rejecting the condonation application was upheld and the writ petition was dismissed.

Kapil Agarwal v. CPIO Income Tax Officer Moradabad and Anr. dated 28.04.2026 passed by Hon'ble High Court of Delhi

The Delhi High Court *inter alia* held that a wife cannot seek disclosure of her husband's income tax returns through the Right to Information Act, 2005 for the purpose of pursuing a maintenance claim. The court held that income tax returns fall within the category of personal information protected from disclosure under Section 8(1)(j) of the RTI Act, relying on the Supreme Court's judgment in Girish Ramchandra Deshpande v. CIC. The Court explained that the concept of larger public interest under the RTI Act must be understood in the context of the Act's object of promoting transparency in the working of public authorities and not as a tool for disclosure of purely private information in personal disputes. The Central Information Commission direction was set aside and the writ petition was disposed of accordingly.

Food Safety and Standards Authority of India v. Commissioner of Income Tax (Exemptions) dated 02.05.2026 passed by Hon'ble High Court of Delhi

The Delhi High Court allowed the writ petition filed by the Food Safety and Standards Authority of India, a registered charitable entity, against the rejection of its application for condonation of delay in filing

Form 10 for AY 2016-17. The Form 10 filing was required for claiming exemption under Sections 11 and 13 of the the act. The Division Bench held that the tax department must adopt a liberal and purposive approach when dealing with delay condonation applications, especially those guided by beneficial Central Board of Direct Taxes ("**CBDT**") circulars. The Court observed that the relevant CBDT circular had been issued specifically to address the practical difficulties faced by assessees during the first year of mandatory electronic filing of Form 10, and that a hyper-technical approach to such circulars entirely defeats the intent behind the relief measures. The rejection order was set aside and the condonation application was allowed.

Raunaq International Ltd. v. Commissioner of Income Tax-I dated 14.05.2026 passed by Hon'ble High Court of Delhi

The Delhi High Court reversed an ITAT order that had *inter alia* upheld the income tax disallowance of one-sixth of the assessee-company's telephone and car expenses by treating them as personal expenditure. The Court held plainly that expenses incurred by a company cannot by their very nature constitute personal expenditure. The ITAT had departed from its own consistent earlier position by applying the Supreme Court's judgment in Standard Chartered Bank v. Directorate of Enforcement, which the High Court found had been decided in an entirely different statutory context and had no application to the question of whether routine business expenses of a company should be treated as personal. The question of law was answered in favour of the assessee and the ITAT order was set aside.

Pr. Commissioner of Income Tax-1 v. M/S American Express (India) Pvt. Ltd. dated 18.05.2026 passed by Hon'ble High Court of Delhi

The Delhi High Court *inter alia* held that a company with only Rs. 86.10 lakh in ITeS turnover cannot be used as a comparable for transfer pricing benchmarking of American Express India Pvt. Ltd., which had ITeS turnover of Rs. 782.63 crore. The dispute arose out of AY 2009-10 and related to transfer pricing adjustments made in the assessee's case. The Division Bench answered both substantial questions of law in favour of the Revenue and against the assessee, holding that functional similarity and turnover comparability are essential prerequisites for a company to be selected as a comparable in a transfer pricing analysis. Allowing a company with such a vast difference in scale to be used as a benchmark would fundamentally distort the arm's length analysis and was therefore impermissible.

Alice Arun Thomas v. The Income Tax Officer dated 20.05.2026 passed by Hon'ble High Court of Kerala

The Kerala High Court dismissed an Income Tax Appeal filed by a partner seeking a deduction under Section 36(1)(iii) for interest paid on borrowed capital that had been invested as capital in a partnership firm. The Court *inter alia* held that this deduction is simply not available when the assessee does not independently carry on any business or profession. The business in question was run entirely by the firm and not by the appellant in her individual capacity, which meant the borrowed capital could not be said to have been used for the purpose of her own business or profession. The conditions for claiming the deduction under Section 36(1)(iii) were not met and the appeal was dismissed.

Shivam Dealcom Private Limited v. The Joint Commissioner of Income Tax dated 21.05.2026 passed by Hon'ble High Court of Calcutta

The Calcutta High Court *inter alia* held that reassessment notices for AY 2015-16 were barred by limitation under the amended provisions of Section 149 of the Act. The Court observed that the issue was no longer res integra in light of the Supreme Court's judgment in Income Tax Officer and Anr. v. Sri Sai Kumar Mateti, where the Apex Court had categorically held that all reassessment proceedings must conform to the amended provisions of Section 149 effective from 01.09.2024. The Court found that the impugned notice had been issued beyond three years from the end of the relevant AY and there was no material before the AO to demonstrate that income escaping assessment amounted to Rs. 50 lakhs or more, which is the condition required for invoking the extended limitation period under Section 149(1)(b). The Show Cause Notice and the Order passed under Section 148A(d) were accordingly quashed and set aside.

AS HELD BY HON'BLE INCOME TAX APPELLATE TRIBUNAL IN THE CASES OF:

DCIT Central Circle 8(2), Mumbai v. M/s Skyline Greathills, Mumbai dated 17.04.2026 passed by Hon'ble Income Tax Appellate Tribunal, Mumbai Bench

The assessee, a partnership firm engaged in real estate development, filed its return of income for AY 2012-13 declaring total income of Rs. 22.85 crores. During a survey conducted under Section 133A on 20.01.2012, a statement of a partner was recorded wherein an admission was made to declare unaccounted income of Rs. 12 crores on account of unexplained cash expenditure. Though the assessee offered this amount as income in the Profit & Loss Account, it simultaneously capitalised the same amount as work-in-progress in its books of account. The AO completed the assessment making additions of Rs. 17,51,910/- under Section 2(22)(e) and Rs. 17,66,44,500/- on account of additional consideration under a Joint Development Agreement on a protective basis. On appeal, the CIT(A) deleted both additions made by the AO, but issued a Show Cause Notice under Section 251(1) and enhanced the income by reducing the work-in-progress by Rs. 11,96,87,000/-, on the ground that the capitalization of the survey disclosure had nullified the effect of the income declaration. Both the assessee and the Revenue filed cross-appeals before the Tribunal.

The ITAT, allowing the assessee's appeal and dismissing the Revenue's appeal, *inter alia* held as follows. First, on the question of enhancement by the CIT(A), the Tribunal held that Section 251(1) of the Act restricts the CIT(A) to assume jurisdiction for enhancement of income only in respect of an issue or source of income which was dealt with or considered by the AO during the assessment proceedings. Since the AO had not examined the capitalization of the survey disclosure in work-in-progress at all, a fact evident from the CIT(A)'s own observation that "the AO did not examine other components of the financial statement", the CIT(A) had no jurisdiction to enhance the income on that basis. The Tribunal held that such issues, if required to be examined, may be taken up through proceedings under Section 263, Section 147, or Section 154, as the law permits, but cannot be introduced by way of enhancement in appellate proceedings. Accordingly, the enhancement was set aside on jurisdictional grounds. Second, on the addition under Section 2(22)(e), the Tribunal held that since the assessee firm was neither a registered shareholder nor a beneficial shareholder of the company M/s Skyline Mention Pvt. Ltd. which had deposited the security amounts, the provisions of Section 2(22)(e) were not attracted, following the

decision of the ITAT and the Bombay High Court in the assessee's own case for AY 2009-10. Third, on the addition of Rs. 17,66,44,500/- under the Joint Development Agreement, the Tribunal held that the assessee was entitled only to 16,500 sq. mtrs. of constructed area as consideration under the JDA, and the AO's approach of adopting the stamp duty value of the entire land parcel of 32,262 sq. mtrs. as the consideration was incorrect and contrary to the consideration clause of the JDA, following the findings of the ITAT in the assessee's own case for AY 2009-10.

Shree Vaidehi Impex Pvt. Ltd. v. Deputy Commissioner of Income Tax, Circle-4(1)(1), Ahmedabad dated 21.04.2026 passed by Hon'ble Income Tax Appellate Tribunal, Ahmedabad Bench

The Assessee sold an immovable property which had earlier formed part of its block of depreciable business assets and on which depreciation had been claimed up to AY 2010-11. The AO invoked Section 50 of the Act, applied the deeming fiction thereunder, and treated the entire capital gain of Rs. 3,59,64,670/- as short-term capital gains, irrespective of the period of holding. On appeal, the CIT(A) held that the deeming fiction under Section 50 is restricted only to the computation mechanism under Sections 48 and 49 and does not alter the character of the asset as a long-term capital asset, relying upon the decision of the Hon'ble Bombay High Court in CIT v. Ace Builders Ltd. (281 ITR 410). The CIT(A) accordingly held the gain to be long-term capital gain taxable at the rate under Section 112. However, on the issue of cost of acquisition, the CIT(A) rejected the assessee's claim to adopt the original purchase cost for indexation and instead adopted the Written Down Value as on 31.03.2010 at Rs. 73,36,162/- as the cost of acquisition, recomputed the long-term capital gain at Rs. 2,86,99,314/-, and also rejected the claim of cost of improvement for want of documentary evidence.

The ITAT, dismissing the assessee's appeal, *inter alia* held that a taxpayer cannot claim depreciation on an asset in earlier years and thereafter seek to revive its original cost of acquisition to claim higher indexation benefits while computing capital gains on its sale. The ITAT observed that accepting the assessee's contention would lead to an anomalous situation where depreciation benefits are availed in earlier years and yet the original cost is revived for the purpose of indexation benefits, which is contrary to the intent of the Act. The ITAT further upheld the rejection of the cost of improvement claim on the ground that no documentary evidence was furnished and the claim was not reflected in the audited financial statements. Accordingly, the appeal filed by the assessee was dismissed.

DCIT-19(1), Mumbai v. Dinesh Gulab Mirchandani, dated 30.04.2026 paased by Income Tax Appellate Tribunal, Mumbai Bench

The Assessee, filed his return of income for AY 2020-21 declaring total income of Rs. 2,44,02,200/-. The primary issue arose in respect of taxability of consideration of Rs. 3,67,68,000/- received by the assessee on surrender of tenancy rights in respect of two premises situated at Senapati Bapat Marg, Lower Parel, Mumbai, in favour of Phoenix Mills (P) Ltd. The assessee had treated the said transaction as giving rise to long-term capital gains, adopting indexed cost of acquisition at Rs. 2,23,45,645/- and computing capital gain of Rs. 1,44,22,355/-, which was claimed as exempt under Section 54F on account of investment in residential property, resulting in nil taxable capital gain. The AO observed that the assessee failed to furnish documentary evidence substantiating the cost of acquisition and held that since the cost of acquisition was not established, the same was to be treated as NIL. Consequently, the AO assessed the entire amount of Rs. 3,67,68,000/- under the head "Income from Other Sources" and completed the

assessment determining total income at Rs. 5,98,38,100/-. The CIT(A) deleted the addition, holding that tenancy rights constitute a capital asset and that consideration received on surrender thereof is a capital receipt chargeable, if at all, only under the head "Capital Gains", and that if such receipt is not chargeable under that head, the same cannot be taxed under the residuary head "Income from Other Sources". Aggrieved, the Revenue filed an appeal before the ITAT.

The ITAT dismissed the Revenue's appeal and upheld the order of the CIT(A). The Tribunal *inter alia* held that even assuming the cost of acquisition is not ascertainable or is taken as NIL, the legal position is well settled by the Supreme Court in CIT v. D.P. Sandu Bros. Chembur Pvt. Ltd. that a receipt arising from transfer of a capital asset cannot be brought to tax under the residuary head "Income from Other Sources". The Tribunal further held that once the nature of a receipt is held to be capital in nature arising from transfer of a capital asset, the same cannot be re-characterised under a residuary head. It also found merit in the assessee's submission that documentary evidence in the form of tenancy acquisition agreements dated 12.02.1994 and surrender agreements dated 28.08.2019 were placed on record, and that the AO had not recorded any adverse finding with regard to their genuineness, the conclusion that cost of acquisition was NIL appearing to be based on non-acceptance of the working rather than absence of material. Accordingly, the grounds raised by the Revenue were dismissed.

Capgemini IT Solutions India Private Limited v. ACIT Circle-15(1)(2), Mumbai dated 30.04.2026 passed by Hon'ble Income Tax Appellate Tribunal, Mumbai Bench

The assessee, engaged in rendering information technology and IT-enabled services from a Special Economic Zone, commenced its business operations only on 17.10.2019 upon receipt of approval from the Development Commissioner. It filed its return declaring nil income after claiming deduction under Section 10AA. The AO accepted the returned income but did not reflect the deduction in the computation sheet, resulting in determination of taxable income and consequential levy of interest under Section 234C for non-payment of advance tax in the first two instalments falling due in June and September 2019. The CIT(A) upheld the levy of interest under Section 234C on the ground that it was consequential and that the assessee could have anticipated its turnover, while directing verification of the Section 10AA deduction and grant of MAT credit.

The ITAT, allowing the assessee's appeal, *inter alia* held that interest under Section 234C cannot be levied for the period prior to commencement of business, as the condition precedent for applicability of Section 234C , namely, the existence of income capable of estimation, itself fails where no business activity existed before that date. The Tribunal held that Section 3 of the Act provides that in the case of a newly set up business, the previous year commences from the date of setting up of the business, and accordingly no income under the head "Profits and gains of business or profession" could be said to have arisen before 17.10.2019. It further held that the Act does not contemplate estimation of income in anticipation of a business that has not yet been set up, and that the case squarely falls within the exception provided in the proviso to Section 234C, as the income arose for the first time only after commencement of operations. Accordingly, the Tribunal held that the levy of interest under Section 234C in respect of instalments falling due prior to 17.10.2019 was not sustainable in law, and directed the AO to recompute the interest by excluding the first and second instalments and restricting any levy only to the period subsequent to commencement of business.

Boeing India Defense Private Limited v. DCIT, Circle 4(2), New Delhi dated 06.05.2026 passed by Hon'ble Income Tax Appellate Tribunal, Delhi Bench

The ITAT Delhi Bench *inter alia* held that the Transfer Pricing Officer had wrongly recharacterised Boeing India Defense Private Limited as a full-risk service provider despite the fact that the Associated Enterprise had assumed the entire contractual and operational risks relating to defence support services rendered to the Indian Air Force. The Tribunal found no valid basis for the re-characterisation and directed the Revenue to accept the benchmarking as presented by the assessee.

Mayuri Hitendra Shah v. Assessing Officer dated 06.05.2026 passed by Hon'ble Income Tax Appellate Tribunal, Mumbai Bench

The ITAT Mumbai Bench *inter alia* held that the registered sale value of a property and stamp duty valuation, taken together, cannot be treated as conclusive proof of unaccounted cash payment in a property transaction. The ITAT set aside the addition of Rs. 1 crore made against the assessee and remanded the matter for fresh adjudication, directing the AO to first provide the assessee a proper opportunity for cross-examination of the witnesses whose statements had been relied upon. The ITAT observed that the AO had placed heavy reliance on an investigation report and third-party statements without conducting any independent enquiry of its own, which amounted to a denial of natural justice.

A2Z Waste Management (Ranchi) Limited v. DCIT, Circle-1(1) dated 13.05.2026 passed by Hon'ble Income Tax Appellate Tribunal, Delhi Bench

The ITAT Delhi Bench quashed reassessment proceedings that had been initiated solely on the basis of a Revenue Audit objection. The ITAT found that the AO had merely revisited material that was already on record and available during the original scrutiny assessment, without bringing any fresh tangible material to justify reopening. Relying on the judgments in CIT v. Kelvinator of India Ltd. and CIT v. Simbhaoli Sugar Mills Ltd. and other precedents, the ITAT *inter alia* held that such reopening amounted to an impermissible change of opinion and was therefore unsustainable in law.

IMAX Theatre Services Ltd. v. The Assistant Commissioner of Income Tax dated 13.05.2026 passed by Hon'ble Income Tax Appellate Tribunal, Delhi Bench

The ITAT Delhi Bench *inter alia* held that remote access to client systems and the provision of virtual services do not create a Permanent Establishment in India under the India-Canada Double Taxation Avoidance Agreement. The ITAT explicitly rejected the Revenue's theory of a "Virtual Service permanent establishment and emphasised that physical presence is a prerequisite for constituting a Service PE under the treaty. The ITAT relied on the Delhi High Court's decision in CIT v. Clifford Chance Pte. Ltd. and held that courts cannot artificially read concepts like a "Virtual Service PE" into treaty provisions where they are expressly absent.

Luthra and Luthra
LAW OFFICES INDIA

This newsletter is only for general informational purposes, and nothing in this edition of the 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.

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