Luthra and Luthra

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DIRECT TAXATION UPDATES – INCOME TAX LAW

NEWSLETTER – JUNE & JULY 2025 EDITION

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

In **June and July 2025 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:

a) Hyatt International Southwest Asia Ltd. v. Additional Director of Income Tax, dated 24.07.2025 passed by Hon'ble Supreme Court of India

The Hon'ble Supreme Court of India, *inter alia*, held that that Hyatt International Southwest Asia Ltd., a company based in the United Arab Emirates and engaged in rendering hotel consultancy and advisory services to Indian hotels under long-term Strategic Oversight Services Agreements **('SOSA')**, constituted a 'Fixed Place Permanent Establishment' **('PE')** in India pursuant to Article 5 of the India-UAE Double Taxation Avoidance Agreement **('DTAA')**. The Court observed that the Assessee exercised continuous and extensive control over hotel operations, covering staffing, financial oversight, strategic planning, and brand compliance through on-site presence and active supervisory authority. By applying the '*disposal test*' and the '*functionality test'*, the Hon'ble Court came to a conclusion that even in the absence of an office or designated place in India, the hotel's infrastructure and personnel were effectively at the disposal of the Assessee. This level of operational control and commercial integration with core hotel functions satisfied the criteria for establishing a Fixed Place PE under Article 5(1) of the DTAA. Furthermore, the Court clarified that profits may be attributed to a PE in India even in instances where the foreign enterprise, in its entirety, has incurred losses.

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

a) Commissioner of Income-tax v. Ganga Textiles Ltd., dated 01.07.2025 passed by Hon'ble High Court of Madras

The Hon'ble Madras High Court dismissed departmental appeal and upheld the Tribunal's decision that the revision order passed under Section 263 of Income-tax Act, 1961 **('the Act')** was time-barred. In the original assessment for Assessment Year (AY) 2004–05, conducted under Section 143(3) of the Act, the Assessee had claimed a deduction under Section 43B. Subsequently, the Assessing Officer (AO) reopened the assessment under Section 147 to scrutinize capital gains arising from the sale of land and buildings, without

making any examining the Section 43B deduction. Thereafter, invoked assessment under Section 263 specifically on the issue of the Section 43B claim. The Hon'ble Court, *inter alia,* held that, since the reassessment order did not address or dispute the Section 43B claim, the original assessment order remained unaffected and did not merge with the reassessment order. Consequently, the limitation period under Section 263(2) of the Act was to be calculated from the date of the original assessment order, i.e., 31.08.2006. As the revision order was passed on 30.03.2012, it exceeded the prescribed two-year limitation period and was therefore held to be time-barred.

b) Principal Commissioner of Income-tax v. NOCIL Ltd., dated 02.07.2025 passed by Hon'ble High Court of Bombay

The Hon'ble Bombay High Court dismissed the Revenue's appeal and affirmed the Tribunal's decision that Section 72A(4) of the Act was not applicable to the restructuring carried out by the Assessee. The AO had denied the carry forward of business losses to Assessee, contending that the transfer of assets and liabilities between the Assessee and its group entities constituted a demerger. However, upon subsequent appeal both the Commissioner of Income Tax (Appeals) and the Tribunal held that the restructuring, although sanctioned by the Company Court, did not fulfil the statutory criteria of a '*demerger*' as defined under Section 2(19AA) of the Act. Specifically, it was noted that the consideration for the transfer was paid in cash rather than through the issuance of shares to the shareholders of the demerged entity, which is an essential condition for a transaction to qualify as a demerger. The High Court concurred with this reasoning and held that, in the absence of a valid statutory demerger, the provisions of Section 72A(4) could not be invoked. It further concluded that no substantial question of law arose for its adjudication.

c) Independent News Service (P.) Ltd. v. Assessing Officer, dated 02.07.2025 passed by Hon'ble High Court of Delhi

The reassessment proceedings were initiated by the AO based on *information* from a survey indicating that the Assessee had allegedly made foreign remittances amounting to INR 6.50 crores, which were purportedly inconsistent with the figures reflected in the bank statements. The Assessee disputed this claim, furnishing a bank confirmation stating that the said information was not applicable. Despite this, the AO concluded that a sum of INR 11.37 crores remained unexplained. In the Writ Petition, the Hon'ble Court found that the order passed under Section 148A(d) relied on grounds that substantially exceeded the scope of the initial notice issued under Section 148A(b), which had only referred to the INR 6.50 crore transaction. The Court, *inter alia,* held that such expansion contravened the

settled legal principle that reassessment must be confined to the reasons recorded and communicated to the Assessee. The Hon'ble Court quashed the order under Section 148A(d) along with notice issued under Section 148 of the Act. Further, the Court clarified that while the impugned proceedings were quashed, the AO would not be precluded from initiating fresh proceedings based on credible material and in accordance with the law.

d) Principal Commissioner of Income-tax v. Thomson Press (India) Ltd., dated 02.07.2025 passed by Hon'ble High Court of Delhi

The case pertained to the sale of immovable property. An agreement to sell was executed on 30.05.2013, at which time the prevailing circle rate was INR 18,000 per square meter, and stamp duty was duly paid on the same date. However, the final sale deed was registered on 11.10.2013, by which time the circle rate had increased to INR 28,000 per square meter. The AO applied Section 50C of the Act based on the higher circle rate and made an addition of INR 20 crores. Upon appeal, both the CIT(A) and the Tribunal deleted the said addition, holding that the proviso to Section 50C(1),which permits adoption of the earlier valuation where the agreement to sell and payment of stamp duty precede registration, applies retrospectively. In further appeal, the Hon'ble Delhi High Court dismissed the Revenue's challenge and upheld the deletion of the addition made under Section 50C.

e) Mirae Asset Venture Investments India (P.) Ltd. v. Principal Commissioner of Income-tax, dated 07.07.2025 passed by Hon'ble High Court of Bombay

The Assessee had duly filed its return of income within the prescribed timeline and opted for the concessional tax regime under Section 115BAA of the Act, but failed to upload Form 10-IC within the stipulated period. As a result, the AO rejected the Assessee's option and raised a demand. Subsequently, the Assessee submitted Form 10-IC belatedly and sought condonation of delay under Section 119(2)(b), which was denied by the Revenue. In a writ petition before the Hon'ble Bombay High Court, the Court, while referring to CBDT Circular No. 19/2023 dated 23.10.2023, observed that the circular expressly permitted condonation in cases where: (a) the return of income was filed on time; (b) the Assessee had opted for Section 115BAA in ITR-6; and (c) Form 10-IC was electronically filed on or before 31.01.2024. As all these conditions were fulfilled, the Court, *inter alia,* held that the Revenue's rejection, without due consideration of the said circular, was legally untenable. Accordingly, the Hon'ble Court held that the delay in filing Form 10-IC for AY 2021–22

ought to be condoned and directed the Revenue to process the Assessee's return under Section 115BAA.

f) Baba Global Ltd. v. Assistant Commissioner of Income-tax, dated 07.07.2025 passed by Hon'ble High Court of Delhi

The AO had earlier issued a notice under Section 148A(b) and accepted the Assessee's explanation, thereby dropping reassessment proceedings. Subsequently, a fresh order under Section 148A(d) and a second notice under Section 148 were issued, allegedly pursuant to the Principal Commissioner's instructions. The Court *inter alia* held that the AO had no authority to review his prior decision in the absence of any statutory power to do so. Moreover, the Court noted that even if the Revenue sought to treat the fresh order as a "correction," the same was not a mere clerical mistake but a complete reversal of opinion, which is legally impermissible. Accordingly, Hon'ble Court quashed the reassessment notice issued under Section 148 of the Act along with the order under Section 148A(d), holding that the AO had exceeded his jurisdiction by reviewing his own earlier quasi-judicial decision.

g) Principal Commissioner of Income-tax v. Central Plastics (P.) Ltd., dated 07.07.2025 passed by Hon'ble High Court of Delhi

The Hon'ble High Court of Delhi dismissed the Revenue's appeal and upheld the deletion of an addition made under Section 68 of the Act, pertaining to unexplained cash credits received in the form of share capital and share premium. The AO had made the said addition on the ground that notices issued under Section 133(6) to the investor companies had remained unanswered. However, the Assessee had submitted comprehensive documentary evidence—including bank statements, Permanent Account Numbers (PANs), income tax returns, confirmation letters, and audited financial statements to substantiate the identity, creditworthiness, and genuineness of the investor entities. During appellate proceedings, the Tribunal observed that the investor companies were active, had adequate financial resources, and had consistently confirmed their respective transactions. The Hon'ble High Court, *inter alia,* held that the mere non-response to notices under Section 133(6) could not override the substantive documentary evidence demonstrating the genuineness of the transactions. Therefore, the Revenue's appeal was accordingly dismissed.

h) Caishen Enterprise LLP v. Assistant Commissioner of Income-tax, dated 07.07.2025 passed by Hon'ble High Court of Bombay

The Hon'ble Bombay High Court quashed a reassessment notice issued under Section 148 of the Act for AY 2019–20 on the ground that it was issued by the Jurisdictional AO instead of the Faceless AO, in violation of the binding framework under the Faceless Assessment Scheme. The Court noted that this issue was squarely covered by its earlier decision in *Hexaware Technologies Ltd. v. Assistant Commissioner of Income-tax* (2024), where it was held that issuance of notice by the Jurisdictional AO is a jurisdictional defect and renders the entire proceedings void ab initio. Although the Revenue argued that the *Hexaware* ruling had been challenged before the Supreme Court, the High Court clarified that in the absence of a stay, the said decision remained binding and must be followed. Accordingly, the Court quashed the impugned notice and all consequential proceedings, while granting liberty to the Revenue to revive the matter in the event the *Hexaware* ruling is reversed by the Hon'ble Supreme Court.

i) Director of Income-tax (Exemptions) v. Trinity Educational Trust, dated 08.07.2025 passed by Hon'ble High Court of Madras

The Hon'ble Madras High Court, among other observations, upheld the decision of the Income Tax Appellate Tribunal granting registration under Section 12AA of the Act to Trinity Educational Trust. During the application process, the Commissioner of Income Tax (Exemptions) had denied registration on grounds: (i) the application was filed belatedly; (ii) the trust deed included a clause permitting the appointment of lineal descendants of the founder trustee; (iii) a supplementary deed modified certain administrative powers; and (iv) the trust had generated surplus income. The Court, *inter alia,* held that the Act does not prescribe a statutory time limit for filing an application under Section 12AA, and therefore, delay in filing cannot be a standalone ground for rejection. It further clarified that the inclusion of provisions allowing lineal descendants to serve as trustees does not, by itself, negate the charitable nature of the trust. The supplementary deed, having been executed by duly authorized trustees, was deemed legally valid and did not require judicial approval. Most significantly, the Court held that the generation of surplus income does not render a trust "commercial" in nature, provided such surplus is applied towards charitable purposes. The obligation to apply 85% of income arises only after registration is granted under Section 12AA, and not at the stage of seeking registration.

j) Poonawalla Estate Stud & Agricultural Farm v. Commissioner of Income-tax, dated 09.07.2025 passed by Hon'ble High Court of Bombay

The Hon'ble High Court set aside the additions made under Section 41(1) of the Act in respect of insurance proceeds received by the Assessee following the death of two horses. The Assessee had classified horses as stock-in-trade until the age of two years, after which they were treated as capital assets. Upon the death of the animals, the Assessee received insurance compensation, which the AO sought to tax as a remission or cessation of trading liability under Section 41(1). This view was upheld by both the CIT(A) and the Tribunal. However, on further appeal, the High Court noted that the various heads of income under the Act are mutually exclusive. Since the Revenue itself had accepted the classification of the horses as capital assets, the insurance proceeds constituted a capital receipt. The Court held that the death of an animal does not amount to a 'transfer' within the meaning of Section 2(47) of the Act, and therefore, no capital gains tax under Section 45(1) was applicable. Importantly, the Court observed that Section 45(1A), which brings insurance receipts for destruction of capital assets within the ambit of capital gains, was introduced only with effect from 01.04.2000, and was not applicable to the relevant assessment year. Consequently, the Court held that the Revenue could not recharacterize the nature of the receipt as business income under Section 41(1), and the insurance proceeds were to be treated as non-taxable capital receipts.

k) Snerea Properties (P.) Ltd. v. Assistant Commissioner of Income-tax, Central Circle, dated 09.07.2025 passed by Hon'ble High Court of Delhi

During the course of a search proceedings, a Memorandum of Understanding (MoU) was discovered indicating a proposed transfer of 50% shareholding in a jointly held property valued at INR 150 crores, though the transaction was executed at a significantly lower value. The AO treated the differential amount as unexplained cash credit and made an addition under Section 68 of the Act. However, the Hon'ble High Court observed that the Assessee company had not itself transferred any title or interest in the property. The transaction, if any, pertained to a transfer of shares between the shareholders of the Assessee company and a third party, and not by the company itself. Accordingly, any income or deemed income arising from such transaction would be attributable to the shareholders and not to the Assessee company, which continued to retain ownership of the property. The Court held that the AO was not justified in adding the estimated market value of the property to the Assessee's income under Section 68, and accordingly set aside the addition.

l) P. Sundararajan v. Deputy Commissioner of Income-tax, dated 10.07.2025 passed by Hon'ble High Court of Madras

The Assessee, an individual serving as a director in a private company, had claimed a deduction for interest expenditure in his return of income. During the original assessment proceedings under Section 143(3) of the Act, the AO had specifically raised queries regarding the said claim, to which the Assessee provided detailed responses. Upon being satisfied with the explanations, the AO allowed the deduction. Subsequently, reassessment proceedings were initiated on the same issue, alleging that the borrowed funds were not utilized for earning taxable income. The Hon'ble High Court observed that all material facts had been fully and truly disclosed by the Assessee during the original assessment, and the AO had formed an opinion after conducting due inquiry. The Court, *inter alia,* held that reopening the assessment in the absence of any fresh tangible material amounted to a mere change of opinion. Accordingly, the reassessment proceedings were quashed.

m) Principal Commissioner of Income-tax, Central-2 v. Nahar Enterprises, dated 10.07.2025 passed by Hon'ble High Court of Bombay

The Bombay High Court, in an appeal concerning Section 80-IB(10) of the Act, ruled that flower bed areas, service areas, window projections, and cupboard projections should not be included when calculating the "built-up area" of residential units for claiming the said deduction. The Court interpreted "*inner measurements of residential units at floor level*" as carpet area, which is the actual habitable space. It held that flower bed areas are open to the sky, below floor level, and non-habitable, thus not part of the built-up area. Similarly, service areas are common utility spaces, window projections are ornamental and unsafe, and cupboard projections are already covered by wall area; none of these are part of the usable, habitable space of a flat. Therefore, excluding these areas ensures that the deduction is correctly applied to the genuinely habitable portion of the residential units, aligning with the legislative intent of the provision.

n) Anurag Dalmia v. Income-tax Office, CRL. dated 21.07.2025 passed by Hon'ble High Court of Delhi

The Hon'ble High Court of Delhi quashed criminal complaints filed against the Assessee concerning alleged non-disclosure of foreign bank accounts and refusal to execute a consent waiver form. The proceedings had been initiated by the Revenue based on information received from the French Government under the India-France DTAA, alleging that the Assessee maintained undisclosed Swiss bank accounts. The Hon'ble Court observed that the information relied upon by the Revenue was unauthenticated, did not

originate from a primary source, and lacked corroborative evidence. It further noted that a search conducted at the Assessee's premises and the same yielded no incriminating material, and the Income Tax Appellate Tribunal had already deleted the related additions for lack of evidence. The Hpn'ble Court held that, in the absence of credible evidence indicating a wilful attempt to evade tax or make a false statement, the essential ingredients for prosecution under Sections 276C and 277 of the Act were not satisfied. Accordingly, the criminal complaints were quashed.

o) Krishna Gopal B. Nangpal v. Deputy Commissioner of Income-tax, dated 22.07.2025 passed by Hon'ble High Court of Bombay

The Assessee had sold a flat and invested the capital gains in the purchase of seven row houses in a residential complex, claiming exemption under Section 54. The AO restricted the exemption to only one house on the ground that the language of the provision allowed exemption for "*a residential house*". The Tribunal upheld the AO's view. However, the High Court held that prior to the amendment introduced by the Finance (No. 2) Act, 2014 (w.e.f. AY 2015–16), which substituted the phrase "a residential house" with "one residential house," the provision did not impose a numerical restriction. Relying on earlier judicial pronouncements and the principle that provisions must be construed liberally in favor of the taxpayer, the Court ruled that the Assessee was entitled to exemption for the entire investment made in all seven row houses. Therefore, the Hon'ble Bombay High Court *inter alia* held that the Assessee was entitled to full exemption under Section 54 of the Act, for AY 1995–96, even though the investment was made in multiple residential units.

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

a) ACG Pam Pharma Technologies (P.) Ltd. v. PCIT, dated 01.07.2025 passed by Hon'ble ITAT Mumbai

The Assessee had donated INR 24.2 lakhs to a charitable trust and claimed a deduction under Section 80G of the Act, even though it had classified the payment as Corporate Social Responsibility (CSR) in its books and had disallowed it under Section 37(1) of the Act. The AO allowed the claim, but the Principal Commissioner of Income Tax (PCIT) invoked Section 263 of the Act, arguing CSR expenses are mandatory and hence not "*voluntary*" donations eligible under Section 80G. The Tribunal set aside the said Section 263 order, holding that Section 80G does not require donations to be voluntary in the sense of not being mandated under another law. Accordingly, the deduction was held to be valid.

b) Laqshya Media Ltd. v. ACIT dated 03.07.2025 passed by Hon'ble ITAT Mumbai

The Assessee, engaged in outdoor media advertising, faced disallowance of INR 56.05 lakhs under Section 36(1)(iii) of the Act for interest paid on working capital loans. The AO contended that the assessee failed to prove that interest-bearing funds were not used for advancing interest-free loans to subsidiaries. Upon appeal, the Tribunal observed that no new interest-free loans were given during the year, and all existing ones were from earlier years. Importantly, in earlier years, both the Tribunal and the Hon'ble Bombay High Court had ruled in the assesses favour, recognizing that the loans were advanced out of sufficient interest-free funds and for commercial expediency. Relying on this precedent, the Tribunal *inter alia* held that since no new interest-free loans were made and interest-bearing funds were used for business purposes, the disallowance was unwarranted. Thus, the Tribunal allowed the assessee's appeal and deleted the disallowance.

c) Amadeus IT Group SA v. Deputy Commissioner of Income-tax, dated 04.07.2025 passed by Hon'ble ITAT Delhi

The Assessee, a tax resident of Spain, contested the classification of booking fees received from its Computer Reservation System (CRS) and payments related to its Altea system as 'royalty' under the Act. The AO had treated these receipts as royalty income, citing their nature as payments for the "*use of process and scientific equipment.*" Referring to consistent rulings in the Assessee's own case for earlier assessment years—including *Amadeus IT Group SA Vaish Associates v. ACIT (2023)*, which was upheld by the Hon'ble Delhi High Court, the Tribunal held that CRS booking fees constituted business income and not royalty. Further, the Tribunal relied on the Hon'ble Supreme Court's decision in *Engineering Analysis Centre of Excellence Pvt. Ltd.* (2021), which clarified that payments for software access, absent any transfer of rights, do not qualify as royalty.

The Tribunal further noted that under Article 13(5) of the India-Spain DTAA, even if the income were to be classified as royalty, it would still be taxable as business profits if attributable to a Permanent Establishment (PE). Payments for the Altea system were similarly held not to constitute royalty, as they involved service provision without transfer of control or rights—an interpretation already affirmed by the High Court.

Additionally, the Tribunal upheld the existence of a PE in India, based on Amadeus's fixed-place infrastructure and the presence of dependent agents. However, it concluded that no further attribution of income was warranted. The Tribunal also deleted interest levied under

Section 234B of the Act, holding that such interest is not applicable where tax is deductible at source on the non-resident's income and has in fact been deducted.

d) Deputy C.I.T. v. Punjab National Bank, dated 04.07.2025 passed by Hon'ble ITAT Delhi

The Revenue challenged several accounting treatments and claims made by Punjab National Bank for AY 2017-18, encompassing amortization of premium on Held-to-Maturity (HTM) securities, claimed depreciation on Held-for-trade/Available-for-sale (HFT/AFS) securities, inter-office adjustments, disallowance on depreciation on goodwill, and pension fund contributions. The Tribunal dismissed the Revenue's appeals, confirming the bank's positions based on established legal precedents. For HTM securities, the Tribunal followed the Delhi High Court's ruling in the bank's own case (Pr. CIT v. Punjab National Bank (2024), allowing premium amortization over the holding period. Regarding HFT/AFS securities, the decision aligned with the Supreme Court's pronouncement in UCO Bank v. CIT (1999), affirming the right of banks on a mercantile system to value investments at cost or market value. The disallowance was also dismissed, citing the Supreme Court in South Indian Bank Ltd. v. CIT (2021), which generally limits such disallowance where non-interest bearing funds are sufficient.

e) Rasha Welfare Foundation v. Commissioner of Income-tax, dated 04.07.2025 passed by Hon'ble ITAT Delhi

The CIT (Exemptions) denied assessee's application for registration under Sections 12AA and 80G of the Act, asserting that its activities, particularly a rental activity involving electric vehicles, were commercial in nature. The Tribunal, however, directed the CIT (Exemption) to grant the registration. The Tribunal found no profit motive in the foundation's projects, which involved promoting environmental sustainability through electric vehicles and supporting marginalized sections of society as part of its CSR vision. It emphasized that the activities, though involving a nominal user fee, were charitable in nature and professionally managed, with surpluses being reinvested back into the CSR project, aligning with Rule 7(2) of the Companies (CSR Policy) Rules, 2014. The Tribunal relied on the Supreme Court's decision in Addl. CIT v. Surat Art Silk Cloth Manufacturers Association (1979), which holds that if the dominant object of a trust is charitable, mere incidental profit, if applied solely for charitable purposes, does not negate its charitable status. At the stage of registration, the revenue only needs to verify the genuineness of activities.

f) Balbir Singh Saini v. Income Tax Officer, dated 09.07.2025 passed by Hon'ble ITAT Delhi

The assessee challenged the taxation of capital gains on the sale of agricultural land, contending it was not a 'capital asset' under Section 2(14) of the Act as it was situated beyond 8 km from the municipal limits. The AO rejected this claim despite the assessee furnishing a Nayab Tehsildar's certificate confirming the distance. The Tribunal deleted the addition, emphasizing that the same certificate and facts had been accepted by another AO in the case of a co-owner of the identical land, where the assessment was completed without taxing the capital gains. The Tribunal *inter alia* held that there "cannot be two reasons to evaluate the same set of facts of the same transaction in the hands of two assessees," citing the principle that consistency in similar factual matrices is paramount. This reliance on the acceptance of the certificate for the co-owner effectively rendered the land non-taxable as a capital asset, consistent with judicial consistency and prior Tribunal rulings like Ashish Gupta v. ITO (2024).

g) Odia Samaj (Trust) v. Income-tax Officer, Exemption dated 09.07.2025 passed by Hon'ble ITAT Delhi

The assessee trust claimed exemption under Section 11 of the Act, but the AO added a significant amount for short application of income, treating certain donations as non-corpus funds due to the absence of specific donor directions. The CIT(A) partially confirmed this, restricting the addition to Rs. 2 crores. The Tribunal further reduced the addition, ruling partly in favour of the assessee. The Tribunal accepted the assessee's argument that a substantial portion of the alleged donations (INR 3.23 crores) were receivable and not actually received during the year, thus precluding their application for charitable objectives. Furthermore, current liabilities could not be treated as application of funds. Based on a revised computation of actually available funds for application, the Tribunal found a short application of only INR 10.05 lakhs, which the assessee could not justify. Therefore, the addition was restricted to this revised, lower amount, emphasizing that income not actually received cannot be mandated for application.

h) Income-tax Officer v. HKT Corporation (P.) Ltd., dated 09.07.2025 passed by Hon'ble ITAT Delhi

The Revenue challenged the assessee's classification of gain from the sale of a property as 'Capital Gains' instead of 'Business Income'. The property, initially held as stock-in-trade in Financial Year (FY) 2010-11, was converted to an investment in FY 2016-17, a conversion supported by a board resolution and audited financials. The AO recharacterized the gain as business income, arguing that such conversion was not permissible prior to the insertion

of Section 28 in 2019. The Tribunal *inter alia* upheld the assessee's claim, ruling against the Revenue. The Tribunal's rationale was that the Delhi High Court's decision in CIT v. Express Securities Pvt. Ltd. (2013) had already affirmed the legality of converting stock-in-trade to investment even before Section 28 was introduced. Since the departmental authorities had not challenged or rejected this conversion in earlier AY's, the gain arising from the subsequent sale could not be recharacterized as business income merely due to a later statutory insertion.

i) GDG Educational Trust V. Addl. CIT, dated 09.07.2025 passed by Hon'ble ITAT Delhi

The Tribunal *inter alia* ruled on three key issues for GDG Educational Trust across multiple AY's. Firstly, the Tribunal upheld the disallowance of royalty payments made by the trust to G.D. Goenka Pvt. Ltd. for using the 'G.D. Goenka' name. The Tribunal reasoned that the actual trademark holder was an individual, not the Pvt. Ltd. entity, making the royalty claim by the latter without basis and suggesting it was a tax planning measure. Additionally, the Tribunal allowed the deduction of consultancy charges, noting that payments were made through banking channels with TDS deducted, indicating genuine expenditure for essential school functions like temporary teachers and administrative support, despite a lack of formal agreements. Lastly, the Tribunal permitted the claim for additional rent paid for expanded school premises. It overlooked a minor typographical error in the supporting documentation, concluding that the substantial increase in the trust's revenue in the relevant and subsequent years justified the need for additional space and that the Revenue failed to refute the genuine business requirement.

j) TIH Foundation for IOT and IOE v. CIT (Exemption), dated 10.07.2025 passed by Hon'ble ITAT Mumbai

The Tribunal *inter alia* ruled in favour of the assessee, a not-for-profit company established by the Ministry of Science and Technology and hosted by IIT Bombay, regarding the denial of its application for continuation of registration under Section 12AB of the Act. The CIT (Exemption) had refused registration solely on the apprehension that the assessee might incur expenditure outside India, which he deemed a contravention of Section 11 of the Act. The Tribunal, citing judicial precedents (M.K. Nambyar Saarf Law Charitable Trust- Delhi HC and Dedhia Music Foundation-ITAT Mumbai), held that the scope of Section 12AB is limited to assessing the genuineness of the trust's objects and activities, not the place of income application. It *inter alia* clarified that application of income outside India, if any, would only affect the exemption under Section 11(1) and is not a valid ground for denying or cancelling

registration under Section 12AB, especially since no actual impermissible application of income or specific violation was proven by the Revenue.

k) Indian National Congress (All India Congress Committee) V. Deputy Commissioner of Income-tax, dated 21.07.2025 passed by Hon'ble ITAT Delhi

The Tribunal *inter alia* upheld the denial of exemption under Section 13A to the Indian National Congress (INC) for the AY 2018-19. The political party filed its return of income on February 2, 2019, declaring 'nil' income and claiming exemption, but the AO denied this on the grounds that the return was filed beyond the "due date" of October 31, 2018, as mandated by Section 139(4B) read with Section 139(1) of the Act. The Tribunal affirmed that Section 13A is an exemption provision requiring strict compliance, and the third proviso explicitly links the return filing to the "due date" under Section 139(1). It rejected the assessee's argument that filing within the broader time limit of Section 139(4) was sufficient, emphasizing that the legislative intent for political parties was a stricter adherence to the specified due date. Consequently, the late filing resulted in the denial of the exemption and the impugned netting claim.

RECENT NOTIFICATIONS, CIRCULARS AND OFFCIE MEMORANDUMS:

a. Circular no. 10/2025 dated 28.07.2025:

The Central Board for Direct Taxes **("CBDT")** has directed that electronically filed income tax returns up to 31.03.2024, which were erroneously treated as invalid by the Centralized Processing Centre (CPC), shall now be duly processed. Furthermore, the circular stipulates that intimations under sub-section (1) of Section 143 of the Act pertaining to the processing of such returns, must be issued to the respective assessees by 31.03.2026.

b. Office Memorandum dated 02.07.2025:

The CBDT through an Office Memorandum, has clarified that the provisions of Section 80CCD and Sections 10(12A) and 10(12B) of the Act shall apply *mutatis mutandis* to the Unified Pension Scheme, subject to the monetary limits specified under the aforementioned sections.

c. Notification no. 67 of 2025 dated 20.06.2025:

The Government has issued a notification granting exemption from the requirement of tax deduction at source (TDS) on payments made by any payer to a specified recipient entity operating as a unit within an International Financial Services Centre (IFSC).

Luthra and Luthra
LAW OFFICES INDIA

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.

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