



Luthra and Luthra
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DIRECT TAXATION UPDATES
INCOME TAX LAW

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In **November 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:

Principal Commissioner of Income-tax v. M.D. Industries (P.) Ltd. dated 14.11.2025

The matter pertained to whether the Income Tax Settlement Commission (“ITSC”), by rejecting or abating an assessee’s settlement application without proposing any settlement terms, precluded the assessee from contesting the original assessment order on its merits. The core issue before the Supreme Court was whether such rejection under Section 245HA of the Income Tax Act, 1961 (“the Act”) nullified the assessee’s statutory right of appeal, particularly in light of the Income Tax Appellate Tribunal (“ITAT”) reviving the assessee’s appeals and condoning an extraordinary delay of over 4,300 days—a decision subsequently affirmed by the Gujarat High Court.

The Supreme Court, *inter alia*, held that mere rejection of a settlement application without offering settlement terms does not prevent the assessee from challenging the assessment order on merits, and the Revenue’s contrary argument was unfounded. It clarified that Section 245HA of the Act simply restores the matter to the ordinary assessment and appellate framework and does not extinguish the assessee’s appellate rights. Consequently, the Court upheld the ITAT’s decision to condone the delay and reinstate the first appeal before the Commissioner of Income Tax (Appeals) (“CIT(A)”), thereby dismissing the Revenue’s appeal.

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

Erangal Comtrade and Consultancy LLP v. Assistant Commissioner of Income Tax, Circle 2(1)(1) dated 3.11.2025 by the Hon’ble High Court of Bombay

The Revenue issued a notice under Section 148 of the Act for Assessment Year (AY) 2017-18 in the name of Erangal Comtrade and Consultancy Pvt. Ltd., despite the fact that the company had been converted into Erangal Comtrade and Consultancy LLP on 17.03.2016 and had ceased to exist. Subsequently, the Assessing Officer (“AO”) passed both draft and final reassessment orders in the name of the non-existent company, treating the fixed deposit principal as unexplained investment and the interest as undisclosed income, even though the LLP had already offered such interest to tax in its return and it had been assessed under Section 143(3) of the Act.

The central question before the Hon’ble Court was whether a reassessment notice and order issued in the name of an entity that no longer exists following conversion into an LLP is legally valid. Relying on the



Supreme Court's ruling in *PCIT v. Maruti Suzuki India Ltd.* and its own earlier decision in *Diversey India Hygiene Pvt. Ltd.*, the Bombay High Court held that a notice issued to a non-existent entity is void, rendering all subsequent proceedings invalid. Accordingly, the Court quashed the Section 148 notice and the assessment order dated 30.03.2022, while recording the assessee's undertaking to withdraw its appeal before the Commissioner of Income Tax (Appeals) ("CIT(A)"), with liberty to revive the appeal should the High Court's order be overturned.

Sir Jamsetjee Jejeebhoy Charity Fund v. Income Tax, Officer (Exemption) dated 7.11.2025 by the Hon'ble Bombay High Court

The petition contested notices issued under Sections 148A(b), 148A(d), and 148 of the Act, seeking to reopen the Petitioner-Trust's assessment for AY 2018-19 on the ground that Form 10 allegedly failed to specify the "particular purpose" for accumulation under Section 11(2). The Trust had already undergone a comprehensive scrutiny on this very issue, filed Form 10 within the prescribed time, clearly indicated the purpose of accumulation within the limited space provided, and furnished the trustees' resolution dated 26 September 2018 during the original assessment. The National Faceless Assessment Centre ("NFAC") had accepted the accumulation in its order dated 15 February 2021. Nevertheless, the AO reopened the case based on an internal audit objection and erroneously asserted that the resolution was dated 28 January 2020 and had not been submitted earlier.

The principal questions were whether reopening was permissible when the Trust had fully complied with Section 11(2) and all relevant documents had been examined during the original scrutiny, and whether the AO's action amounted to a mere "*change of opinion.*" The High Court held that the Trust had satisfied the requirements of Section 11(2) and Rule 17; the AO had misinterpreted the dates and proceeded on incorrect factual assumptions; and all material had already been considered during the original assessment. Reopening on the same issue constituted an impermissible review and a clear change of opinion. Accordingly, the Court quashed the notices under Section 148A(b), the order under Section 148A(d), and the notice under Section 148, declaring the reassessment invalid, while leaving all other grounds open.

Swasth Foundation v. Commissioner of Income-tax (Exemptions) dated 11.11.2025 by the Hon'ble Bombay High Court

The assessee-trust received a substantial grant just eight days prior to the close of Financial Year (FY) 2014-15 and was unable to utilize it before year-end. For Assessment Year (AY) 2015-16, the trust exercised the deemed application option under clause (2) of the Explanation to Section 11(1), as reflected in its Form 10B audit report and in its return of income, both filed within the prescribed timelines. However, the Commissioner of Income Tax (Exemption) ["CIT(E)"] held that Form 9A was required to be filed manually for that year, declined to condone the alleged delay in filing Form 9A in 2023, and consequently denied the benefit of accumulation/deemed application.



The issue before the Court was whether, for AY 2015–16, filing Form 9A was mandatory for exercising the option under clause (2) of the Explanation to Section 11(1), and whether the Commissioner could deny the benefit on the ground of “*delay*” in filing Form 9A. The Court ruled that Form 9A was not required for AY 2015-16, as the statutory obligation to file Form 9A was introduced only from AY 2016-17 onwards. Since the trust had already exercised the option in Form 10B and in its return within the stipulated time, the benefit could not be denied. Accordingly, the impugned order was set aside, and the Revenue was directed to process the return treating the option as validly exercised within time.

Principle Commissioner of Income Tax-4, Delhi v. KRBL Infrastructure Ltd. by dated 13.11.2025 by the Hon’ble Delhi High Court

This appeal under Section 260A concerned an addition of INR 10 crore as unexplained unsecured loan allegedly received by the assessee, KRBL Infrastructure Ltd., from Shashi Foods India Pvt. Ltd., along with a related disallowance of interest. The Assessing Officer treated the loan as non-genuine under Section 68. On appeal, the CIT(A) deleted the addition and reduced the interest disallowance, holding that the assessee had established the lender’s identity, creditworthiness, and the genuineness of the transaction. The ITAT upheld this decision, rejecting the Revenue’s contention that the loan was routed through entities engaged in bogus billing. The Revenue then approached the High Court, framing two substantial questions of law: (i) the correctness of deletion of the addition and interest disallowance, and (ii) the applicability of the Supreme Court’s ruling in *Abhisar Buildwell*.

The Court held that the assessee had duly discharged its burden under Section 68 by proving the identity of Shashi Foods, its creditworthiness through banking records, and the genuineness of the loan, which was received and repaid through proper banking channels with interest. It observed that inquiries into Shashi Foods’ own creditors and alleged bogus purchases related to the “source of the source,” which the assessee was not required to establish for AY 2014-15, as this statutory requirement was introduced only by the Finance Act, 2022. The Court noted that the Revenue had produced no evidence contradicting the lender’s confirmations, and the findings of the CIT(A) and ITAT were based on a reasonable appreciation of facts. Regarding *Abhisar Buildwell*, the Court clarified that the Assessing Officer had not relied on any incriminating material for the addition and, in any case, the merits independently justified deletion. Both substantial questions of law were answered in favour of the assessee, and the Revenue’s appeal was dismissed.

Neeraj Gugalni v. Principle Commissioner of Income Tax-15 & Ors dated 13.11.2025 by the Hon’ble Delhi High Court

The Petitioner sought condonation of a 33-day delay in filing his income-tax return, citing severe spinal ailments between July and December 2022, including nerve compression and cervical OPLL for which surgery was advised, which prevented timely compliance. The Principal Commissioner of Income Tax (“PCIT”) rejected the application under Section 119(2)(b) of the Act, holding that the petitioner’s medical



condition and misunderstanding of the due date did not amount to “genuine hardship” within the meaning of CBDT Circular No. 9/2015.

Before the High Court, the Petitioner contended that the delay was bona fide, supported by medical evidence, and that all previous returns had been filed on time. The Court observed that the PCIT’s decision was mechanical and failed to consider the petitioner’s medical circumstances, which clearly constituted genuine hardship. Referring to precedents emphasizing a liberal interpretation of “genuine hardship” and the justice-oriented approach mandated under Section 119(2)(b), the Court held that the explanation was reasonable and the delay minimal. Consequently, the order dated 15.12.2023 was set aside, and the matter was remanded to the PCIT for fresh consideration in accordance with law and the Court’s observations, to be completed within eight weeks.

Inder Dev Gupta v. Assistant Commissioner of Income Tax, Central Circle 2-Delhi by Hon’ble Delhi High Court dated 21.11.2025

The present petitions challenged reassessment notices issued under Section 148 of the Act by the Jurisdictional Assessing Officer (“JAO”). The petitioners contended that, following the insertion of Section 151A and the implementation of the Faceless Assessment Scheme, 2022, only the Faceless Assessing Officer (“FAO”) was authorized to issue notices under Section 148, rendering the JAO’s notices invalid. They relied on various High Court rulings and the Supreme Court’s dismissal of an SLP in *Deepanjan Roy* to argue that the JAO lacked jurisdiction. The Revenue, however, maintained that under Delhi High Court decision in the case of *TKS Builders* that both JAO and FAO possess concurrent jurisdiction to issue such notices. The central issue before the Court was whether reassessment notices issued by the JAO remain legally valid within the Delhi jurisdiction despite the faceless assessment framework.

The Court *inter alia* held that, in Delhi, the governing position continues to be that laid down in *TKS Builders*, which affirms concurrent jurisdiction of JAO and FAO for issuing notices under Section 148. It noted that the Supreme Court has not stayed *TKS Builders*, and the dismissal of SLPs in other cases does not dilute its binding effect, as dismissal in limine does not amount to affirmation of the reasoning. The Court emphasized that multiple prior decisions of the Delhi High Court have consistently applied *TKS Builders*. Since the matter is still pending before the Supreme Court and no contrary binding law has been declared, the Delhi High Court remains bound by its own precedent. Accordingly, the reassessment notices issued by the JAO were upheld as valid, and the petitions were dismissed.

Principal Commissioner of Income Tax, Central-1 v. Milan Kavin Parikh dated 25.11.2025 by the Hon’ble High Bombay High Court

The case concerned a Revenue appeal under Section 260A of the Act challenging the ITAT’s order deleting additions made in a Section 153A assessment for AY 2006–07. The Assessing Officer had added approximately INR 28 crores as unexplained money based solely on a “base note” received from French



authorities, which contained details of foreign HSBC Geneva accounts allegedly linked to the assessee. No incriminating material was found during the search, and the assessee consistently denied ownership or beneficial interest in the accounts. HSBC Geneva also confirmed in writing that the assessee had no connection with the accounts. While the CIT(A) upheld the assessment, the ITAT reversed it, holding that in the absence of incriminating material discovered during the search, Section 153A could not be invoked to make additions for a completed/unabated assessment year.

The issue was whether, under Section 153A, the Assessing Officer could make additions for an unabated year based solely on the base note and post-search inquiries, without any incriminating material found during the search. The High Court held that, in light of the Supreme Court's ruling in *Abhisar Buildwell*, no addition can be made under Section 153A for completed/unabated years unless incriminating material is unearthed during the search. Since it was undisputed that no such material existed and the base note was not a search-found document, the ITAT's decision was correct. The Court concluded that no substantial question of law arose and dismissed the Revenue's appeal.

Principal Commissioner of Income Tax, Central-4 v. Citron Infracorps Limited dated 26.11.2025 by the Hon'ble Bombay High Court

The matter involved a batch of Revenue appeals challenging a common ITAT order that had quashed assessments under Section 153A on the ground that the mandatory prior approval under Section 153D was granted mechanically and without application of mind. The ITAT observed that more than 30 draft orders, covering different assessee and factual scenarios, were approved within minutes or hours on the same day, using identical language. The approvals contained glaring factual and legal errors, including references to non-existent entities and incorrect application of Section 115BBE, and even instances where draft orders were pre-filled with approval details before the approval was actually issued.

The issue was whether the ITAT was justified in treating such Section 153D approvals as invalid for lack of application of mind and, on that basis alone, quashing the assessments, and whether this raised a substantial question of law under Section 260A. The High Court held that the ITAT's findings were factual, reasonable, and not perverse, and that mechanical approvals undermine the statutory safeguard embedded in Section 153D. Since the approvals were demonstrably issued without genuine consideration, the assessments were jurisdictionally invalid. No substantial question of law arose, and all Revenue appeals were dismissed.

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

Deb Prasanna Choudhury v. ADIT/DCIT (International Taxation) dated 3.11.2025 by the Hon'ble Income Tax Appellate Tribunal, Kolkata



The case concerned an assessee who received INR 80 lakh through regular banking channels from his brother-in-law (his sister's husband) as a gift. The Assessing Officer taxed the amount under Section 56(2)(vii) on the grounds that the gift deed was executed in the USA, prepared years later, and did not bear the assessee's signature. The issue was whether such a sum could be taxed merely because the gift deed was imperfect or executed abroad, when the donor qualified as a "relative" under Section 56 and the transaction was fully routed through banking channels.

The ITAT held that Section 56 does not mandate a formal or valid gift deed; receipt from a "relative" is sufficient to claim exemption. Since a brother-in-law falls squarely within the statutory definition of "relative" and the source of funds was undisputed, the amount could not be included in the assessee's income. Accordingly, the addition was deleted and the appeal allowed.

Canon India (P.) Ltd. v. Deputy Commissioner of Income-tax dated 10.11.2025 by the Hon'ble Income Tax Appellate Tribunal, Delhi

The case involved Canon India Pvt. Ltd., which earned export income from Japan on which tax was withheld there, and claimed Foreign Tax Credit ("FTC") under Section 90 read with Article 23 of the India-Japan Double Taxation Avoidance Agreement ("DTAA") for AYs 2003-04 and 2005-06. The Assessing Officer denied the FTC on the ground that the corresponding income was either exempt under Section 10A of the Act or absorbed by brought-forward losses, resulting in no tax liability in India, and therefore no credit could be allowed. The ITAT noted that the Delhi High Court in *HCL Comnet Systems & Services Ltd.* had endorsed the Karnataka High Court ruling in *Wipro Ltd.*, which held that FTC must be granted in full even where the Indian tax liability is nil. Relying on these binding precedents, the ITAT concluded that Canon India was entitled to full credit for the foreign taxes paid in Japan and that such credit could not be restricted merely because the income was exempt or neutralized by losses.

On the issue of interest under Section 244A of the Act on refunds arising from FTC, the ITAT ruled against the assessee. It held that interest under Section 244A is payable only where there has been an excess payment into the Indian exchequer by way of advance tax, tax deducted at source, tax credit at source, or other tax/penalty. In this case, after adjusting the FTC against the Minimum Alternate Tax ("MAT") liability, no tax had actually been paid in India, and therefore there was no "refund of Indian tax" on which interest could be granted. Accordingly, the ITAT allowed the FTC claim but denied interest under Section 244A.

Bhavnagar Dashashrimali Kantibandh v. Commissioner of Income-tax (Exemption) dated 17.11.2025 by the Hon'ble Income Tax Appellate Tribunal, Ahmedabad

The ITAT held that the CIT(E) erred in rejecting the trust's registration under Section 12AB of the Income Tax Act at the threshold solely because its objects referred to a specific community (Dashashrimali Kantibandh (Vaishnav) Vanik Gnati) and by invoking Section 13(1)(b). It observed that, at the registration stage, the inquiry is limited to verifying the genuineness of the trust and its objects/activities,



not whether exemption under Sections 11–12 would ultimately be denied under Section 13(1)(b)—a question that arises only during assessment. The CIT(E) had not established that the trust was actually applying income exclusively for one community; rather, he presumed a violation based on the trust deed without examining its real activities or fund utilization, and without investigating unsecured loans and fixed deposits reflected in its accounts.

Since the trust was created after 01.04.2021, its case falls under the new Section 12AB regime, particularly Section 12AB(4), which provides for cancellation of registration later if any “specified violation” (including community-centric application of income) is detected. Under this amended framework, the ITAT held that the proper course is to grant registration (provisional or regular) if the trust’s genuineness and objects are acceptable, and then monitor compliance; if a specified violation arises subsequently, registration can be cancelled after due process. Accordingly, the orders rejecting registration—including treating the second Form 10AB application as non-maintainable despite CBDT Circular 7/2024—were set aside, and the matter was remanded to the CIT(E) for fresh consideration. The CIT(E) was directed to verify activities and finances, apply Section 2(15) and Section 12AB(4), and not treat mere restriction of membership to a community as a conclusive ground for refusal.

Deputy Commissioner of Income Tax, Circle 4(2), New Delhi v. M/s. CDS Infra Projects Ltd. on 24.11.25 by the Hon’ble Income Tax Appellate Tribunal, Delhi

The ITAT observed that the assessee had fully disclosed all transactions with Mili Exim Pvt. Ltd. during the original scrutiny under Section 143(3) of the Act. The AO had examined the tri-partite agreement with Reliance Infrastructure, bank statements, invoices, and a detailed note explaining the back-to-back payment structure, and accepted the transactions without any adverse finding. Since the reassessment notice was issued after four years, the law required the AO to demonstrate failure by the assessee to truly and fully disclose material facts; however, the recorded reasons did not identify even a single such lapse. Instead, the AO merely reproduced information from the Surat Investigation Wing regarding Mili Exim being a suspected non-filer and its director denying involvement, without conducting any independent inquiry or applying his own mind.

The ITAT further held that the reopening was invalid because the AO acted mechanically on third-party information, amounting to a prohibited “*change of opinion*.” Additionally, the mandatory sanction under Section 151 was granted in a perfunctory manner, as the PCIT approved the reopening with only a bare endorsement “*Yes, I am satisfied*”—which courts have consistently held to be inadequate. Consequently, the reassessment was declared void, the addition of INR 46.32 crore was set aside, the Revenue’s appeal was dismissed, and the assessee’s cross-objection was rendered infructuous.

RECENT NOTIFICATIONS, CIRCULARS AND OFFICE MEMORANDUMS:

Notification No.157/2025 dated 6.11.2025



The notification, issued under Section 92C(2) of the Income Tax Act read with Rule 10CA, specifies that for AY) 2025-26, where the variation between the arm's length price determined under Section 92C and the actual transaction price does not exceed 1% for wholesale trading and 3% for all other international or specified domestic transactions, the actual transaction price shall be deemed to represent the arm's length price. It further defines "*wholesale trading*" as trading in which at least 80% of the total cost comprises the purchase cost of finished goods and the average monthly closing inventory does not exceed 10% of sales. The accompanying explanatory memorandum clarifies that the tolerance range will apply retrospectively for AY 2025–26 without causing any adverse impact on taxpayers.

Notification 160/2025 dated 10.11.2025

The notification, effective from 26 June 2025, enforces the Protocol amending the India–Belgium DTAA signed on 9 March 2017 and directs that all its provisions shall apply in India. The Protocol expands the definition of "*competent authority*" to include India's Ministry of Finance and Belgium's federal, regional, and community authorities, introduces a new definition of "*criminal tax matters*," and replaces Article 26 with an expanded OECD-style exchange of information framework. This revised regime covers taxes of every kind, removes restrictions related to bank secrecy and domestic tax interest, and permits the use of exchanged information for other authorized purposes.

Further, Article 27 is replaced with a modern mechanism for mutual assistance in tax collection, enabling both countries to recover each other's tax claims, adopt conservancy measures, and define "*revenue claims*" to include tax, interest, penalties, and costs, while incorporating safeguards against public policy violations and excessive administrative burden. The Protocol applies immediately for criminal tax matters and, for all other provisions, to tax periods commencing on or after 26 June 2025.

Notification No. 161/2025 dated 19.11.2025

The notification amends the Capital Gains Accounts Scheme, 1988 by adding Section 54GA throughout the Scheme, expanding the definition of "*Deposit Office*" to include all notified banking companies, introducing a new definition of "*electronic mode*" (credit/debit card, net banking, IMPS, UPI, RTGS, NEFT, BHIM Aadhaar Pay), permitting deposits and withdrawals through electronic mode, clarifying that the effective date of deposit is the date the cheque/draft/e-payment is received by the deposit office, allowing electronic statements of account instead of physical passbooks, enabling payments from the account also via electronic mode, updating Forms A and C to include Section 54GA and electronic payment details, and requiring that account closure applications (Forms G and H) be filed electronically with digital signature/EVC from 1 April 2027, with DGIT (Systems) to prescribe procedures, data standards, routing to Assessing Officers, and security/archival rules.



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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