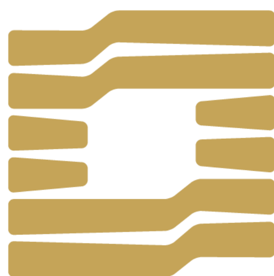

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LAW OFFICES INDIA

DIRECT TAXATION UPDATES
INCOME TAX LAW

Newsletter – October 2025 Edition

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RECENT NOTIFICATIONS, CIRCULARS and OFFICE MEMORANDUMS:

- **Notification No. 154/2025 dated 24.10.2025**
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In **October 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:

Pride Foramer S.A. v. Commissioner of Income Tax & Anr. dated 17.10.2025 passed by Hon'ble Supreme Court of India

Assessee, a non-resident French entity engaged in oil drilling, incurred various business expenses—such as administrative and audit-related costs—during the relevant Assessment Years (**"AY's"**), despite not having an active drilling contract at the time. The company had previously executed contracts and was awaiting further engagements from ONGC. It claimed deductions under Section 37 of the Income Tax Act, 1961 ("the Act") and sought to carry forward unabsorbed depreciation under Section 32(2). These claims were disallowed by the Assessing Officer (**"AO"**) on the grounds that the assessee was not conducting business during the relevant AYs, the same view upheld by the Commissioner of Income Tax (Appeals) [**"CIT(A)"**].

However, the Income Tax Appellate Tribunal (**"ITAT"**) overturned this view, stating that a temporary suspension of operations does not equate to cessation of business, and the evidence indicated that the assessee had not exited the business entirely. The High Court subsequently reversed the ITAT's ruling, concluding that in the absence of a permanent office or ongoing contracts in India during the relevant period, the assessee could not be considered to be carrying on business in India.

The Supreme Court disagreed with the interpretation adopted by the High Court, holding that the mere absence of an active contract with ONGC during the relevant period did not amount to cessation of business operations. It further clarified that the High Court's conclusion that correspondence originating from the assessee's foreign office indicated no business activity in India, was erroneous and inconsistent with the provisions of the Income Tax Act, which does not require a non-resident entity to maintain a permanent establishment in India to be liable for tax on income accruing within the country. Accordingly, the Supreme Court allowed the appeals, set aside the judgment of the High Court, and reinstated the orders passed by the Income Tax Appellate Tribunal.

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

Pr. Commissioner of Income Tax – 1 v. M/S Agroha Fincap Ltd. dated 06.10.2025 passed by Hon'ble High Court of Delhi

The assessee-company received share capital along with share premium and filed its income tax return, which was processed without scrutiny. Subsequently, the AO received information from the Investigation

Wing indicating that a search conducted in relation to the 'S Group' revealed the assessee's alleged involvement in accommodation entries, specifically in the form of share capital, share premium, and loans. Based on the said information, the AO issued a notice for reopening the assessment and passed an order dated 28.11.2016, making additions to the assessee's income under Section 68 and Section 69C of the Act.

On appeal, the CIT(A) upheld the additions. However, upon further appeal, the ITAT concluded that the approval granted by the Principal Commissioner for reopening the assessment was invalid, as it was accorded in a mechanical manner without independent application of mind. Consequently, the Tribunal quashed the reassessment proceedings.

Upon further, appeal, Hon'ble High Court of Delhi *inter alia* held that The language "*Yes, I am convinced it is a fit case for re-opening the assessment under section 147 by issuing notice under section 148*" satisfies the mandate of section 151. The Court noted that ITAT has erred in not appreciating the above language used by the 'Competent Authority' while granting approval. Hence, the impugned order passed by the Tribunal allowing the appeal filed by the assessee is untenable and is liable to be set aside.

Archroma International (India) Private Limited (Formerly Huntsman International (India) Private Limited) v. Deputy Commissioner of Income Tax, Circle 2(1)(1) & Ors. dated 14.10.2025 Passed by Hon'ble Bombay High Court

The petitioner filed a writ petition before the Hon'ble Bombay High Court, contending that the AO failed to comply with the binding directions issued by the Dispute Resolution Panel (DRP) under Section 144C(5) of the Act. As per Section 144C(13), the AO is statutorily required to complete the assessment in conformity with the DRP's directions within one month from the end of the month in which such directions are received. The petitioner contended that the AO's failure to adhere to this timeline rendered the transfer pricing adjustment time-barred and entitled the petitioner to a refund of excess taxes paid.

The High Court noted the mandatory nature of the timeline prescribed under Section 144C(13) and emphasized that the DRP's directions are binding on the AO. The Court rejected the Revenue's argument that the statutory time limit does not apply to remand proceedings. It held that the transfer pricing adjustment of INR 5,26,86,111, as directed by the DRP but not implemented within the prescribed period, must be treated as non est (having no legal effect). Consequently, the assessment was to be recomputed excluding the said adjustment, and the petitioner was entitled to a refund along with applicable interest. The writ petition was accordingly allowed.

Pr. Commissioner of Income Tax-3 Pune v. Ramelex Private Ltd. dated 13.10.2025 Passed by Hon'ble Bombay High Court

The assessee-company filed its income tax return, which was processed under Section 143 of the Act. Subsequently, the AO received information from the Sales Tax Department indicating that the assessee had engaged in hawala transactions involving bogus and non-genuine bills, allegedly used to inflate expenses or suppress taxable income. Based on this information, the AO issued a notice for reopening the

assessment and thereafter passed an order making additions to the assessee's income on account of bogus purchases.

On appeal, the CIT(A) restricted the disallowance to 15% of the alleged hawala purchases. Upon further appeal, the ITAT affirmed the decision of the CIT(A).

The Bombay High Court *inter alia* held that both CIT(A) and the ITAT had correctly recorded findings regarding the issue of bogus purchases. The Court affirmed the decision to restrict the additions to 15% of the alleged hawala purchases. It further observed that the reassessment proceedings were initiated under Section 147 of the Act based on information received from the Sales Tax Department, which had not been furnished to the assessee. Moreover, there was no evidence to suggest that the assessee had accepted the contents of the said information or the investigation conducted by the AO. Accordingly, the High Court dismissed the Revenue's appeal.

Pr. Commissioner of Income Tax v. M/S. Remfry and Sagar dated 15.10.2025 Passed by Hon'ble High Court of Delhi

The appeals filed under Section 260A of the Income Tax Act pertained to the disallowance of license fees paid by the assessee to M/s Remfry & Sagar for the use of goodwill. The Revenue challenged the allowability of such expenditure, citing alleged contravention of Bar Council Rules and invoking Explanation 1 to Section 37 of the Act. The ITAT ruled in favour of the assessee and observed that the payment was made for the license to use goodwill i.e. a valuable intangible asset developed over several decades and duly transferred through a gift deed, and not for any unlawful or prohibited purpose. The ITAT rejected the Revenue's contention that the payment amounted to sharing of professional fees which is in violation of Bar Council Rules, clarifying that the transaction constituted consideration for the use of goodwill and not a fee-sharing arrangement.

The High Court of Delhi, finding no substantial question of law arising from the Tribunal's decision, dismissed the Revenue's appeals. It affirmed that the expenditure was incurred for legitimate business purposes and did not involve any offence or activity prohibited under law.

Delhi Maharashtriya Educational and Cultural Society through Authorised Representative v. Commissioner of Income Tax (Exemptions), Delhi & Ors dated 28.10.2025 Passed by Hon'ble High Court of Delhi

The Petitioner, a charitable and religious trust, filed a writ petition challenging the rejection of its exemption claim for AY 2018–19, which was denied due to a 16-day delay in filing the audit report in Form 10B. The High Court allowed the petition, noting that the petitioner had filed its income tax return within the prescribed time and had disclosed the audit report therein. The delay was attributed to an inadvertent error on the part of the auditor. Relying on CBDT Circular No. 2/2020 and various judicial precedents, the Court *inter alia* held that a delay caused by professional oversight constitutes a reasonable cause. It emphasized that condonation of delay is an equitable exercise and that exemption should not be denied merely on technical grounds. Accordingly, the orders rejecting the exemption and denying

condonation were quashed. The Respondent was directed to pass fresh orders on the condonation application, allowing the delay and granting exemption under Sections 11 and 12 of the Income Tax Act.

Principal Commissioner of Income Tax Central 2 v. M/S. Believe Constructions P. Ltd. dated 29.10.2025 passed by Hon'ble High Court of Delhi

The present petition arose from assessment orders issued for Assessment Years (AYs) 2011–12, 2013–14, 2014–15, 2015–16, and 2016–17, resulting in a cumulative tax demand of INR 8,09,20,130 against the assessee. The assessee filed an appeal and sought a stay on the demand, offering to deposit INR 50,00,000. The PCIT rejected the stay application, directing the assessee to deposit 20% of the total demand, citing CBDT Circulars dated 29.02.2016 and its amendment dated 31.07.2017, and observing that mere filing of an appeal does not justify a stay without partial payment.

High Court set aside the initial order for lacking reasons justifying the 20% deposit condition and directed the PCIT to pass a fresh reasoned order, while restraining any coercive recovery action in the interim. In the revised order, the PCIT reiterated the requirement of 20% payment, relying on the CBDT circulars and the assessee's financial capacity as reflected in the income tax returns for the relevant years. The stay was denied due to non-compliance with the 20% payment condition.

The High Court, while disposing of the contempt petition, held that there was no wilful disobedience or mala fide intent in the conduct of the PCIT. It emphasized that civil contempt requires deliberate and conscious violation of a court's order, which was not evident in this case. Accordingly, the Court dropped the contempt proceedings and disposed of the petition.

Commissioner of Income Tax International Taxation-2, New Delhi V. Hyundai Rotem Company dated 29.10.2025 Passed by Hon'ble High Court of Delhi

The Revenue filed an appeal challenging the order of the ITAT for AY 2018–19, wherein the ITAT held that the Final Assessment Order (FAO) was time-barred. The ITAT noted that the directions of the DRP were uploaded on the Income Tax Business Application portal on 26.05.2022, and the FAO was issued on 01.07.2022—beyond the statutory one-month period ending 30.06.2022 as prescribed under Section 144C(13) of the Income Tax Act.

The Revenue contended that the limitation period should commence from the date of physical receipt of the DRP directions, i.e., 01.06.2022, rather than the date of upload. However, the High Court, relying on the provisions of the Information Technology Act and relevant judicial precedents, held that the upload of DRP directions on the ITBA portal constitutes valid receipt by the Assessing Officer on the same day, thereby triggering the limitation period.

The Court further affirmed that electronic communication through the ITBA portal is mandatory for all assessment proceedings, including those handled by officers of the International Taxation division. It held that failure to complete the assessment within the prescribed timeline renders the proceedings partially invalid. Consequently, the appeal was dismissed, and the Tribunal's finding that the FAO dated 01.07.2022 was barred by limitation was upheld.

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

Malkiat Singh V. Commissioner of Income Tax dated 08.10.2025 passed by Hon'ble Income Tax Appellant Tribunal, New Delhi

The Appellant contested the validity of the assessment order passed in the name of the deceased, which included additions of INR 60 lakhs for unexplained investment in land and INR 39.4 lakhs for unexplained cash deposits. The CIT(A) upheld these additions and rejected the assessee's request to admit additional evidence, citing insufficient justification under Rule 46A of the Income Tax Rules, despite the assessee's demise.

The ITAT *inter alia* held that the order was not invalid merely because it was passed in the name of the deceased, as the appeal had been instituted under that name. However, considering the assessee's advanced age and medical condition, the ITAT found that sufficient cause existed for admitting the additional evidence. It *inter alia* concluded that the CIT(A) erred in rejecting the evidence without remanding the matter.

Netflix Entertainment Services India LLP V. Commissioner of Income Tax dated 17.10.2025 passed by Hon'ble Income Tax Appellant Tribunal, Mumbai

The Assessee filed an appeal challenging the FAO for AY 2021–22, which included a transfer pricing adjustment of approximately INR 444.95 crores related to distribution fees. The assessee contended that it operated as a limited-risk distributor, facilitating access to the Netflix service in India without owning intellectual property or assuming entrepreneurial risks. The TPO and DRP had recharacterized Netflix India's role as that of an entrepreneurial provider of content and technology services, attributing to it significant risks and assets, including Open Connect Appliances. On appeal, the ITAT *inter alia* held that Assessee did not own any valuable intangibles, did not perform key DEMPE (Development, Enhancement, Maintenance, Protection, and Exploitation) functions, and was insulated from business risks. Accordingly, the Tribunal found the Transactional Net Margin Method (TNMM) to be the appropriate method for benchmarking the transaction.

The ITAT rejected the TPO's use of a royalty-based "Other Method" and the DRP's ad hoc profit attribution, thereby striking down the transfer pricing adjustment. It affirmed Netflix India's characterization as a limited-risk distributor and upheld the arm's-length nature of the pricing under the TNMM. Additionally, the Tribunal directed minor corrections in the computation of income and dismissed the penalty proceedings.

Late Shri Lakha Singh Through Legal Heir Hira Singh Dera v. Income Tax Officer, Kurukshetra dated 16.10.2025 passed by Income Tax Appellate Tribunal, Chandigarh Bench

The appeal filed by the assessee challenges the Order of NFAC upholding the validity of reassessment proceedings under section 147 read with section 148 of the Act for AY 2017-18 despite limitation bar. The assessee argued that the Notice under section 148 was issued on 09.02.2024, well beyond the prescribed 3-year period ending 31.03.2021, since the escaped income was less than Rs. 50 lacs, making the reassessment void ab initio. The assessment was framed on short term capital gain of INR 35,12,500/-

as the assessee sold a property in two tranches owning half share while the other co-owner was his brother, who was also served notice. The tribunal found merit in assessee's contention that the notice issuance and reassessment were barred by limitation as the escaped income was under the threshold and the notice date fell after the limitation period. Citing precedent, the ITAT *inter alia* quashed the reassessment framed beyond the time limit and allowed the appeal on legal grounds alone.

RECENT NOTIFICATIONS, CIRCULARS AND OFFICE MEMORANDUMS:

Notification No. 154/2025 dated 24.10.2025

The Central Government, in exercise of powers under section 90 of the Act, has notified the Agreement and Protocol between the Republic of India and the State of Qatar for the avoidance of double taxation and prevention of fiscal evasion with respect to taxes on income, signed on 18.02.2025, which came into force on 10.09.2025. The notification directs that all provisions of the Agreement and Protocol shall have effect in India for income arising on or after the first day of the fiscal year immediately following the calendar year in which the Agreement entered into force. The Agreement covers residents of both States, taxes on income including surcharge, general definitions, taxation rights on business profits, dividends, interest, royalties, capital gains, personal services, elimination of double taxation, non-discrimination, exchange of information, mutual agreement procedures, and assistance in collection of taxes, among others. The Agreement supersedes the earlier 1999 Agreement between India and Qatar upon its commencement. This notification establishes the legal basis for implementing the India-Qatar Double Taxation Avoidance Agreement in India.

Circular No. 15/2025 dated 29.10.2025

CBDT Circular No. 15/2025, dated October 29, 2025, extends the due dates for filing Income Tax Returns and audit reports for the Assessment Year 2025-26; specifically, it extends the Income Tax Return filing deadline for certain assessees from October 31, 2025, to December 10, 2025, and correspondingly extends the deadline for furnishing audit reports to November 10, 2025, aiming to provide relief for taxpayers and auditors during the filing season, though it excludes taxpayers with international or specified domestic transactions under Section 92E from these extensions, causing some compliance disparities.

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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