



Luthra *and* Luthra
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INCOME TAX LAW

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In **September 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. Ramesh Chandra Rai, dated 19.09.2025 passed by Hon’ble Supreme Court of India

The Assessee, an individual primarily earning income through the business of liquor sales, had established multiple syndicates or groups with various persons to conduct liquor-related business, sharing profits according to predetermined agreements. The Assessing Officer (AO) made additions to the Assessee’s income based on the Assessee’s share of profits from these syndicates, as well as on his portion of inadmissible expenses incurred by the syndicates. The Commissioner of Income Tax (Appeals) [CIT(A)] deleted the additions made by the AO, and the Income-tax Appellate Tribunal (ITAT) upheld the CIT(A)’s decision.

On further appeal, the Hon’ble High Court held that the income earned by the syndicates, of which the Assessee was a member, should be assessed solely in the hands of the syndicates themselves. Therefore, it was impermissible to directly assess such income in the hands of the Assessee. Additionally, the Court observed that the Assessee’s share of profits or income received from the association of persons, bodies of individuals, or syndicates falls within the ambit of clause (a) of the first proviso to Section 86 read with Section 67A of the Act. Consequently, the AO was not justified in making additions to the Assessee’s income on account of his share in the syndicates’ profits or their inadmissible expenses.

The Hon’ble Supreme Court of India dismissed the departmental appeal, thereby upholding the High Court’s ruling in favor of the Assessee, and confirmed that the income of the syndicates could not be aggregated with that of the Assessee.

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

Prolife Industries Ltd. v. Income-tax Officer, dated 01.09.2025 passed by Hon’ble High Court of Gujarat

The AO issued notice under Section 148 for the Assessment Year (“A.Y.”) 2014-15 on 27.05.2022, during the extended time period as per Taxation and Other Laws (Relaxation of Certain Provisions) Ordinance, 2020 (“TOLA”) and the said notice was to be treated as notice under Section 148A(b) of the Act. Thereafter, Assessee filed a reply on 15.06.2022. Subsequently, an order under Section 148A(d) as well as a notice under Section 148 was issued on 24.08.2022 and it was noted that considering 15 days’ time to file reply by Assessee, the due date for the same shall be 10.06.2022. The Hon’ble High Court of Gujarat, *inter alia*, held that considering the period of limitation from the date of issuance of notice under Section 148 read with TOLA up to 30.06.2021, the limitation for issuance of notice under Section 148 would be 17.06.2022. The Court, in this regard, placed reliance on the decisions of the Supreme Court in



the case of *UOI v. Ashish Agarwal (2022)* and *UOI v. Rajeev Bansal (2024)*, Therefore, the impugned notice dated 24.08.2022 issued under Section 148 was held to be an invalid notice as the said notice is issued after 17.06.2022 i.e., beyond the ‘surviving time’.

Principal Commissioner of Income-tax 1 v. Sanjaykumar Damjibhai Gangani, dated 01.09.2025 passed by Hon’ble High Court of Gujarat

The Assessee-company, claimed exemption of Long-Term Capital Gains (“LTCG”) under Section 10(38) arising out of sale of shares of S and had furnished complete evidence including contract note of shares, demat account details, detail of bonus shares. The AO, however, received information from the Investigation Wing that certain companies were being used for providing bogus accommodation entries of LTCG and S was one of such entities. Accordingly, AO made addition under Section 68 on ground that the Assessee was a beneficiary of penny stock scrip. Upon appeal, the Tribunal deleted the addition made by AO on ground that Assessee had furnished complete evidence including contract note of shares, demat details, detail of bonus shares and no adverse evidence was brought against such evidence and there was no allegation of AO that broker through whom assessee made transaction, was involved in price manipulation or in providing entry of penny stock. The Hon’ble High Court, placed reliance on the matter of *Pr. CIT v. Divyaben Prafulchandra Parmar (2024)*- Gujarat High Court and, *inter alia*, opined that no question of law much less any substantial question of law arose from the impugned order passed by the Tribunal. Therefore, the Court dismissed the appeal.

Urvashi Kanubhai Desai v. Income-tax Officer, dated 01.09.2025 passed by Hon’ble High Court of Gujarat

The Assessee, engaged in the business of data selling and purchasing filed its return of income for A.Y. 2016-17. The AO initiated reassessment proceedings under Section 147 by issuing notice under Section 148 on information about huge cash deposits and crypto transactions. The AO also issued a Show Cause Notice proposing to make additions as Short Term Capital Gains on sale of Crypto Currency. The Assessee contended that the Crypto Currency transacted by the assessee were entered in due course of their business transactions and the transactions were already declared by the petitioner in their return of income. Further, it was highlighted that after the completion of regular assessment and passing of Assessment Order, the reassessment proceedings were again initiated by AO on the same ground relating to Crypto Currency. Hon’ble Gujarat High Court, *inter alia*, held that since the reasons recorded in notice issued under Section 148A(b) were already considered by AO in the assessment order dated 15.03.2022, AO does not have the power to review his own assessment arrived at during the original assessment.

Principal Commissioner of Income-tax v. Anjaniputra Nirmal (P.) Ltd., dated 02.09.2025 passed by Hon’ble High Court of Calcutta

The Assessee-company, received a substantial amount as share capital/share premium. The assessment was completed under Section 143(3), and thereafter, revision was sought to be made under Section 263 on ground of lack of enquiry into share capital/share premium by AO. The Principal Commissioner, was of the view that AO had passed the assessment order without carrying out detailed investigation/verification/independent enquiry regarding identity, creditworthiness of shareholders and also genuineness of share transaction relating to share capital/share premium and, thus, set aside assessment under Section 143(3) read with Section 263 and directed AO to frame assessment de novo.



Upon appeal, the Tribunal held that it was not a case of no enquiry or lack of enquiry as the AO had made enquiry and taken a view after considering the evidence furnished by the Assessee as well as by the share subscribers. Furthermore, it also found that the twin conditions which were required to be satisfied to invoke the power under section 263 were not complied with, and therefore set aside the order passed by the Principal Commissioner. The Hon'ble High Court, *inter alia*, upheld the decision of Tribunal and took into consideration the decisions in *Malabar Industrial Co. v. CIT (2000)*- Supreme Court, *PCIT v. Bhagwati Vintrade Pvt. Ltd. (2022)*- ITAT and *PCIT v. Intent Dealers Pvt. Ltd. (2022)*- ITAT. It further noted that no questions of law, much less substantial question of law, arose in the instant case and therefore dismissed the appeal in favour of Assessee.

Kedaara Capital Fund II LLP v. Assessment Unit, National Faceless Assessment Centre (NFAC), Delhi, dated 09.09.2025 passed by Hon'ble High Court of Bombay

The Assessee, SEBI registered Category II AIF-closed ended fund, filed its return declaring nil income. It had incurred certain expenses towards management fees and other related costs paid to its investment advisor and other expenses such as personnel cost, salaries, etc. The AO disallowed expenses on the grounds that expenses were neither found genuine nor any income had been offered against these expenses and added the same to Assessee's income under the head "profits and gains from business and profession". The Hon'ble High Court, *inter alia*, held that it is undisputed that addition of expenses made by the AO to total income of assessee was never claimed as a deduction by assessee in its return of income. Therefore, AO wrongly relied on the accounting treatment to make the aforesaid addition and failed to recall the well-established principle of law that treatment given by the Assessee in its books of account is not decisive/conclusive for determining the taxable income under the Act. Therefore, the addition of expenses made by AO in the income returned by the Assessee is wholly unsustainable.

Zoom Insurance Brokers (P.) Ltd. v. Assistant Commissioner of Income-tax, dated 11.09.2025 passed by Hon'ble High Court of Delhi

The Assessee-company, filed its return of income which was accepted and an Assessment Order was passed. Subsequently, AO issued notice under Section 148A(1) on ground that search and seizure under Section 132 conducted on 37 Middle Layer Business entities ("MLBEs") of insurance sector and 32 insurance companies as part of post search verification revealed that insurance companies had signed several service agreements with multiple MLBEs to facilitate transfer of huge payments under head marketing and business promotion to various entities. It was found that Assessee was also involved in a bogus transaction of Rs. 82.26 lakhs with one entity i.e., IFTGI. Thereafter, AO passed an impugned order under Section 148A(3) on ground that no details of commission in terms of percentage of premium receipts was given. The Hon'ble High Court, while deciding in favour of Revenue, *inter alia*, observed that the contention of the Petitioner in respect of the sum of Rs. 82.26 lakhs being an amount which has been declared in books and return of income tax and as such the impugned notice which alleges that such an amount has escaped the assessment is untenable, and the issue needs to be seen in facts for which it is imperative that the notice is issued to elicit a reply and to check whether the sum of Rs. 82.26 lakhs is a result of a spurious transaction, resulting in the income escaping assessment/tax. Therefore, such an exercise should be undertaken by AO and there lies no merit in the instant petition.



Principal Commissioner of Income-tax v. Colo Colour (P.) Ltd., dated 16.09.2025 passed by Hon'ble High Court of Bombay

The Assessee, engaged in the business of operating a photo studio and trading in photographic material, filed its return of income for A.Y. 2011-12 declaring a total income of Rs. 4.33 lakhs. The AO reopened the case and questioned certain purchases, alleging them to be non-genuine based on information from the Sales Tax Department. Assessee had submitted invoices, delivery challans, bank statements, and stock registers to substantiate purchases. However, AO rejected books of account under Section 145(3) and estimated profit on such purchases at 12.5%, with an additional 1% as alleged commission, and imposed a penalty under Section 271(1)(c). Upon appeal, the Tribunal *inter alia* held that estimating profit on alleged non-genuine purchases did not constitute concealment or inaccurate particulars, as there was no conclusive proof of misstatement by the assessee. The Hon'ble High Court, *inter alia*, observed that bills/invoices were treated as bogus purely on information from Sales Tax Department, which was not furnished to assessee, and there was no independent application of mind by AO and there was no warrant for invoking the penalty provision under Section 271(1)(c) on the ground that the assessee had furnished inaccurate particulars or had concealed its income. Therefore, it was ruled that in absence of such a clear position of a concealment of particulars of income or furnishing of inaccurate particulars of income, penalty levied upon Assessee must be deleted.

Mehul Ravjibhai Surani v. Assessment Unit Income-tax Department, dated 16.09.2025 passed by Hon'ble High Court of Gujarat

The Assessee filed its return of income for A.Y. 2018-19 which was accepted and an assessment order was passed. Subsequently, an issue arose that loss pertaining to sale of shares of company declared by Assessee could not be ascertained and, thus, an income to certain extent had escaped assessment. Accordingly, a notice under Section 148 was issued against Assessee. Thereafter, a show cause notice was issued against Assessee for making an addition on account of unexplained investment under Section 69. The Assessee, thereafter, filed a detailed submission explaining that transactions executed with company were genuine transactions and the same was also backed by documentary evidence. However, AO passed an order making addition of Rs. 56.88 lakhs being alleged unexplained investment under Section 69 read with Section 115BBE. The Hon'ble High Court, *inter alia*, held that the impugned order is passed in clear breach of principles of natural justice and, therefore, de hors the settled principles of law. The Court therefore, quashed and set-aside the impugned order and remanded the matter to AO for passing of fresh de-novo order, in accordance with law after considering the reply of the petitioner as well as providing opportunity of hearing, if desired by the petitioner.

Tax Bar Association v. Union of India, dated 24.09.2025 passed by Hon'ble High Court of Rajasthan

The Tax Bar Association, sought a mandamus against Union of India (Ministry of Finance) and Central Board of Direct Taxes ("CBDT") to extend specified date under Section 44AB for furnishing Tax Audit Reports (TARs) for A.Y. 2025-26 from 30.09.2025 to 31.10.2025, citing persistent technical impediments on Income-tax e-filing portal and delayed release of audit utilities. Hon'ble High Court, *inter alia*, noted that the drastic reduction in filings for A.Y. 2025-26, coupled with the delayed release of utilities, the limited number of Tax Audit Reports ("TARs") filed up to the last week, and the extension granted for individual Income Tax Return ("ITR") filings, collectively persuade the Court to *prima facie* conclude that there exists a significant risk of systemic disruption and the same is likely to engender considerable



chaos and may inadvertently result in widespread non-compliance by taxpayers with statutory requirements. Therefore, the Hon'ble Court issued an interim direction to extend the specified date under Section 44AB for furnishing TARs for A.Y. 2025-26 with consequential direction to Respondents to resolve technical glitches on the e-filing portal.

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

H. Srinivas Reddy v. Assistant Commissioner of Income-tax, Central Circle - 1(2), dated 01.09.2025 passed by Hon'ble Income Tax Appellate Tribunal (ITAT) Bangalore

The Assessee, who was subjected to search under Section 132 contended that Assessment Order was not served in prescribed time and thereby order was barred by limitation and was not maintainable. However, AO claimed that Assessment Order along with demand notice was dispatched on 30.12.2017 by speed post, vide an acknowledgement number, and thus had left control of office within statutory limitation date. Upon appeal, the Commissioner of Income Tax (Appeals) held that the Assessment Order was passed well within the time limits. The Tribunal noted that Revenue had filed a letter of service dated 12.02.2018 about service of order but the report of notice served on 09.01.2018 was missing. Furthermore, AO failed to produce any dispatch register entries or postal booking receipts to prove that the order left AOs control before 31.12.2017. Therefore, it was, *inter alia*, held that service through notice served on 09.01.2018, upon an unrelated third party, was not a valid service in law and Assessment Order dated 29.12.2017 was not validly issued or served within statutory period prescribed under section 153B and, therefore, impugned Assessment Order was barred by limitation and *void ab initio*.

Nitin R Shah v. Deputy Commissioner of Income-tax, dated 02.09.2025 passed by Hon'ble Income Tax Appellate Tribunal (ITAT) Ahmedabad

The Assessee, pursuant to search under Section 132, filed its return and claimed exemption under Section 54B on account of additional consideration received from sale of land. However, AO noted that additional sale consideration was received after execution of registered sale deed dated 21.02.2010 and denied such exemption on ground that purchase was beyond statutory two-year period reckoned from date of transfer. The Tribunal after perusal of the agreement, *inter alia*, held that Assessee had received additional sale consideration from purchaser out of escrow arrangement upon clearance of title encumbrances to purchaser's satisfaction in April 2012 and that this escrow agent agreement has not been considered by the Lower Authorities. Therefore, the Tribunal remanded the matter back to AO to consider the said document and grant Assessee the deduction under Section 54B.

Arun Dhir v. Deputy Commissioner of Income-tax, dated 11.09.2025 passed by Hon'ble Income Tax Appellate Tribunal (ITAT) Chandigarh

The Assessee, received a lumpsum payment of a certain amount in lieu of his pensionary claims and claimed the same as exemption under Section 10(10A). However, AO opined that payment was not retirement benefit but a payment received on account of extinguishment of employment denied claim on ground that assessee had joined subsequent group and there was no termination of employee-employer relationship. The Commissioner of Income Tax (Appeals) also upheld the order of AO. However, upon appeal, the Tribunal, *inter alia*, held that perusal of Section 10(10A) reveals that it nowhere provides that benefit would only accrue to the assessee on superannuation/retirement, making the received amount fall



under Section 10(10A)(ii), and making Assessee entitled for exemption. Therefore, the Tribunal allowed the appeal of the Assessee and directed AO to grant benefit of Section 10(10A)

Eastern Shipping (P.) Ltd. v. Income-tax Officer, dated 15.09.2025 passed by Hon'ble ITAT Mumbai

The Assessee, an agent for a foreign shipping company, raised invoices on importers/exporters/freight forwarders for ocean freight, terminal handling charges, documentation charges, etc. A part of this amount received from importer/exporter/ freight forwarder was retained by Assessee and the balance part was transferred to the account of its principal. The Assessee filed its return of income and claimed credit for Tax Deducted at Source ("TDS") as per Form 26AS. However, AO allowed TDS credit to the extent of receipts offered to tax by the Assessee in its return of income and disallowed the balance TDS credit. The Commissioner of Income Tax (Appeals) also upheld AO's decision and dismissed the appeal of the Assessee by relying upon Section 199 read with Rule 37BA(2). Upon appeal, the Tribunal, *inter alia*, held that since information relating to deduction of tax was furnished by deductor to Income-tax authority and same was contained in Form 26AS of Assessee, the credit in respect of the entire amount of TDS should be allowed as reflected in such Form. Moreover, in the instant case on account of business expediency, the assessee could not have divulged this information with the importers/exporters/freight forwarders and thus the balance tax credit in respect to TDS must be allowed.

Ramesh Kumar v. Assistant Commissioner of Income-tax, dated 18.09.2025 passed by Hon'ble ITAT Bangalore

The Assessee, an individual, entered into an agreement with one SH vide power of attorney for transferring its property for constructing a residential apartment complex. AO observed that Assessee had transferred property to SH for a sale consideration and accordingly brought to tax capital gain on such transfer. The Tribunal observed that there was no agreement for sale or contract of sale executed by Assessee with SH as envisaged under Section 53A of Transfer of Property Act and there existed only a POA given by Assessee to SH, which too was an unregistered document. It was, *inter alia*, held that there was no valid contract available for transferring property and therefore, authorities could not come to a conclusion that there was a transfer as per Section 2(47)(v) merely on the basis of POA. Moreover, since there was no registered agreement for sale and no documents were available to show that ownership had been transferred during A.Y. 2012-13, it could not be concluded that transfer of capital asset (a property) had taken place during A.Y. 2012-13 under Section 2(47)(v) contemplating capital gains under Section 45 for relevant A.Y.

L'Oreal India (P.) Ltd. v. Deputy Commissioner of Income-tax, dated 18.09.2025 passed by Hon'ble Income Tax Appellate Tribunal (ITAT) Mumbai

Assessee-company incurred advertisement, marketing and promotion (AMP) expenses. AO treated AMP expenses as international transaction in nature of provision for promotion of the brand of Assessee's parent company and made transfer pricing adjustment. Upon appeal, the Commissioner of Income tax (Appeals) also upheld the adjustment. The Tribunal, *inter alia*, noted that a similar issue has been consistently held in favour of Assessee in case of *L'Oreal India (P.) Ltd. v. Asstt. CIT (2025)* by the co-ordinate bench of this Tribunal noting that in absence of any 'understanding' or 'arrangement' or 'action in concert' between Assessee and its AE for incurring AMP expenses for brand building of AE, provisions of Chapter X could



not be invoked and AMP expenditure could not be regarded as an international transaction and therefore, TP adjustment made by TPO on account of AMP was liable to be deleted.

Vitthaldas Nathubhai Shah v. Principal Commissioner of Income-tax, dated 24.09.2025 passed by Hon'ble ITAT Ahmedabad

The Assessee made a donation of Rs. 15 lakhs to Kisan Party of India and claimed deduction under Section 80GGC. AO after completing the assessment, subsequently conducted a search under Section 132 and found that it was engaged in a bogus donation racket whereby donations received through banking channels were returned back to donors in cash after deducting commission. Hence, the Principal Commissioner issued a notice under Section 263 to Assessee proposing to revise the order of AO on ground that donation was not genuine. The Tribunal, *inter alia*, held that Assessee had furnished all details in response to notice under Section 142(1) including receipts and bank statements, which were verified by AO. Furthermore, no incriminating material, third-party statement, and specific adverse fact connecting Assessee's donations to any bogus transaction had been brought on record by the Principal Commissioner. Therefore, the assumption of jurisdiction by the Principal Commissioner under Section 263 is unsustainable in law as the Assessment Order cannot be said to be either erroneous or prejudicial to the interests of the Revenue.

RECENT NOTIFICATIONS, CIRCULARS AND OFFICE MEMORANDUMS:

Notification no. 141 of 2025 dated 01.09.2025:

The CBDT, in exercise of powers conferred by Section 295, read with fourth, fifth and sixth provisos and Explanation 3 to clause (23FE) of Section 10 of the Act, made the Income-tax (Twenty-Fifth Amendment) Rules, 2025, amending the Income-tax Rules, 1962 which shall come into force on the 1st day of September, 2025. The notification primarily amends Rule 2DCA and substitutes figures "2025-26" with "2031-32", "2024-25" with "2030-31" in sub-rule (2); figures "2025-26" with "2031-32", "2024-25" with "2030-31" in sub-rule (3); and figures "2025-26" with "2031-32", "2024-25" with "2030-31" in sub-rule (4).

Circular No. 12/2025 dated 15.09.2025:

The CBDT, in exercise of its powers under Section 119 of the Act, extends the due date for furnishing the ITR for A.Y. 2025-26 in the case of non-auditable assessee referred in Clause (c) of Explanation 2 to sub-section (1) of Section 139 of the Act from 15th September, 2025 to 16th September, 2025.

Press Release dated 15.09.2025:

The CBDT, through a press release, has further extended the due date of filing of ITRs for A.Y. 2025-26 to 16.09.2025, which were due for filing by 31.07.2025 and was extended to 15.09.2025.

Order F No. 279 dated 17.09.2025:

The CBDT, *vide* this order, specified that the clause (i) in para 1 of the Order u/s 246(6) of the Income-tax Act 1961 dated 16.06.2023, in pursuance of sub-section (6) of Section 246, has been amended to read



that “*Appeals filed before 01.10.2020 against assessment orders passed under sub-section (3) of section 143 or section 144 of the Act, having disputed demand more than Rs. 25 lakhs*” and the same shall have effect from 17.05.2025.

Circular No. 13/2025 dated 19.09.2025:

The CBDT, in exercise of its powers conferred under Section 119 of the Act, directed that the interest payable under Section 220(2) shall be waived in such cases where the payment of the demands raised, is made on or before 31.12.2025, in order to mitigate the genuine hardship arising to such taxpayers on account of interest payable under Section 220(2) of the Act. In case, a taxpayer fails to pay the demand raised as a result of the rectification order passed by the CPC on or before 31.12.2025. the interest shall be charged under Section 220(2) from the day immediately following the end of the period mentioned in sub-section (1) of Section 220.



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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