



# **Luthra and Luthra**

LAW OFFICES INDIA

## **DIRECT TAXATION UPDATES – INCOME TAX LAW**

NEWSLETTER – MARCH 2025 EDITION

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

In **March, 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 JUDGMENTS PASSED BY HON’BLE SUPREME COURT OF INDIA IN THE CASES OF:

#### I. **Vaibhav Goel & Anr. v. Deputy Commissioner of Income Tax & Anr., dated 20.03.2025.**

The Hon'ble Supreme Court *inter alia* addressed the issue of whether income tax demands raised after the approval of a resolution plan under the Insolvency and Bankruptcy Code, 2016, (IBC) are binding when such demands were not part of the approved resolution plan. These demands were not included in the resolution plan. The Hon'ble Supreme Court *inter alia* held that once a resolution plan is approved by the Adjudicating Authority under Section 31(1) of the IBC, all claims not included in the plan stand extinguished. Since the income tax dues for AY 2012-13 and 2013-14 were not part of the approved resolution plan, they stood extinguished. The Court emphasised that belated claims cannot be included post-approval, ensuring the resolution applicant can restart the business on a clean slate.

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

#### I. **The Principal Commissioner of Income-Tax-25 vs. Shree Ganesh Developers dated 05.03.2025 in the Hon’ble High Court of Bombay**

The Bombay High Court *inter alia* examined if the assessee was eligible to seek deductions for purportedly fake purchases, lacking adequate proof. The Revenue contended that the Income Tax Appellate Tribunal (hereinafter referred to as “ITAT”) made a mistake by failing to uphold the complete disallowance of these purchases. The Hon’ble Court determined that although acquisitions from different vendors were confirmed as authentic, there were no bank statements for certain specific vendors thereby indicating that these acquisitions were not tested. As a result, the Hon’ble Court overturned the Tribunal's ruling regarding these two suppliers, permitting total disallowance of Rs. 1,00,10,773, while rejecting the appeal for additional suppliers.

#### II. **Convergys Customer Management v. CIT dated 06.03.2025 in the Hon’ble High Court of Delhi**

The Hon’ble High Court of Delhi in the present batch of appeals *inter alia* addressed the issue of whether assessee had a Permanent Establishment (hereinafter referred to as “PE”) in



India under the India-US Double Taxation Avoidance Agreement (hereinafter referred to as “DTAA”) across multiple AY’s (2013–14 to 2019–20). The ITAT had previously ruled based on its findings for earlier years (2006–07 and 2008–09), but the High Court noted that a critical Mutual Agreement Procedure (hereinafter referred to as “MAP”) resolution (2018) between Indian and US tax authorities which attributed specific profits to India without determining PE existence was not considered by the Tribunal, the Court *inter alia* set aside the impugned orders of ITAT and remanded back the cases to the Tribunal for fresh adjudication, directing it to examine the impact of the MAP agreement while preserving all parties’ contentions on merits.

### **III. PCIT-1, New Delhi vs. Beam Global Spirits and Wine (India) Pvt. Ltd. dated 07.03.2025 in the Hon’ble High Court of Delhi**

The Hon’ble High Court of Delhi addressed the issue of whether the Advertisement, Marketing, and Promotion (hereinafter referred to as “AMP”) costs incurred by the assessee were classified as an international transaction under Section 92B of the Income Tax Act, 1961 (hereinafter referred to as “the Act”). The Hon’ble Court noted that the Revenue’s was unable to prove a that international transaction arose between the assessee and its affiliated entity, as mandated by law, prior to conducting a benchmarking analysis. The Hon’ble Court noted that simply inferring or incurring substantial costs does not prove that a transaction is an international transaction, as prescribed under the Act. As a result, the Hon’ble Court rejected the Revenue’s appeals affirming the Tribunal’s ruling to overturn the assessment orders.

### **IV. FinDoc Finvest Private Ltd. vs. Deputy Commissioner of Income Tax Central Circle-01 and Ors. dated 07.03.2025 in the Hon’ble Punjab and Haryana High Court**

The Hon’ble High Court of Punjab and Haryana examined the legality of an assessment order and penalty order sent to assessee. The Court *inter alia* held that the said order was barred by the period of limitation, since it was issued beyond the prescribed time period which concluded on 31.03.2024. The Hon’ble Court also observed a disregard for natural justice principles, since the Petitioner was denied a requested personal hearing.

### **V. GlaxoSmithKline Pharmaceuticals Ltd. vs. Assistant Commissioner of Income Tax, Circle-7(1)(1) and Ors. dated 10.03.2025 in the Hon’ble High Court of Bombay**

The Hon’ble Bombay High Court examined the legitimacy of a notice passed under Section 148 of the Act, to reassess assessee. The Hon’ble Court *inter alia* held that the said notice was sent out past the four-year deadline. The Court set aside the notice since the criteria for reopening the assessment were not fulfilled.

### **VI. Vodafone Mobile Services Ltd. vs. Deputy Commissioner of Income Tax dated 11.03.2025 in the Hon’ble High Court of Delhi**



The Hon'ble High Court of Delhi considered the appeals from the assessee regarding the decision of ITAT on depreciation disallowance, interest disallowance, and commission disallowance. The Hon'ble Court determined that the Tribunal was incorrect in disregarding assessee's alternative request under Section 37 for Asset Reconstruction Cost (hereinafter referred to as "ARC") and specified that ARC could be accounted for if it satisfied the conditions of a current obligation. The Hon'ble Court directed the AO to review the disallowance of interest under Section 36(1)(iii) in relation to the shared funds and if the cell sites were utilized.

### **VII. St Engineering Aerospace Engines Pte Ltd vs. The Assistant Commissioner of Income Tax and Ors. dated 12.03.2025 in the Hon'ble High Court of Delhi**

The Hon'ble Court of Delhi examined the issue that if the notices and orders passed under Sections 148A(b), 148A(d), and 148 of the Act to assessee were legitimate if the same were not sent to assessee at its registered address in Singapore. The Hon'ble Court determined that the revenue did not successfully prove adequate service of the said notices and orders and in light of assessee's absence of a Permanent Account Number and IT Portal access. Consequently, the Hon'ble Court *inter alia* set aside the impugned order and notices.

### **VIII. Philips India Limited vs. Deputy Commissioner of Income Tax, Circle 11(1), Kolkata and Ors. dated 12.03.2025 in the Hon'ble High Court of Calcutta**

The Hon'ble High Court of Calcutta examined the legality of an assessment order given to assessee by the Revenue, which was missing a Document Identification Number (hereinafter referred to as "DIN") and was reportedly issued past the statutory time period. The Hon'ble Court evaluated if the lack of a DIN made the order invalid and if it was issued within the allowed time period. The court also considered whether it should assert jurisdiction under Article 226 of the Constitution, taking into account the existence of an alternative remedy. The Court *inter alia* dismissed the writ petition, highlighting the presence of a suitable and effective remedy under the Act, and refused to suspend its order.

### **IX. Pr. Commissioner of Income Tax (Central)-2 vs. Sanskar Homes Pvt. Ltd. dated 17.03.2025 in the Hon'ble High Court of Delhi**

The present appeals pertained to the issue that whether the ITAT wrongly made a disallowance of Rs. 7,43,74,500 under Section 40A(3) of the Act. The Hon'ble Court observed that the asset was appropriately categorized as an investment rather than inventory, as indicated in the balance sheet, and no expenses were reported in the profit and loss account. Consequently, the Hon'ble Court confirmed the ITAT's decision, rejecting the Revenue's appeal.

### **X. Pr. Commissioner of Income Tax-1, Delhi vs. D Light Energy P. Ltd. dated 18.03.2025 in the Hon'ble High Court of Delhi**



The Hon'ble High Court of Delhi examined if the ITAT was justified in choosing the Resale Price Method (hereinafter referred to as "RPM") instead of the Transactional Net Margin Method (hereinafter referred to as "TNMM") for evaluating a international transactions under the provisions of the Act. The Revenue contended that the ITAT made a mistake in dismissing the TNMM, which received backing from the Transfer Pricing Officer (hereinafter referred to as "TPO") and the Dispute Resolution Panel (hereinafter referred to as "DRP"). The Hon'ble Court determined that the assessee, acting as a distributor without enhancing the imported goods, correctly applied RPM. Consequently, the Hon'ble Court rejected the Revenue's appeal, upholding the ITAT's ruling.

#### **XI. Shakila Banu v. CIT dated 19.03.2025 in the Hon'ble High Court of Madras**

The Hon'ble High Court of Madras dismissed the writ petition filed by a housewife challenging an assessment order under Section 144 of the Act, for the AY 2018-19. The Petitioner, who deposited Rs. 16,04,500/- from property sales but failed to timely file her return due to health issues, contested the rejection of her belated return and reply. The hon'ble Court noted that she had already pursued an appeal before the CIT(A), which was dismissed, and *inter alia* held that the assessment order had merged with the appellate authority's decision. Emphasizing statutory remedies, the Hon'ble Court directed her to appeal before the ITAT, disposing of the writ petition while preserving her right to approach the Tribunal.

#### **XII. Pfizer Limited vs. The Deputy Commissioner of Income-Tax, Circle 10(3)(2) and Ors. dated 20.03.2025 in the Hon'ble High Court of Bombay**

The Hon'ble Bombay High Court *inter alia* examined the legitimacy of a notice passed by the Revenue. The Hon'ble Court examined if the criteria for reopening under Section 147 of the Act was satisfied, focusing on the necessity of not disclosing significant details. The Hon'ble Court noted that the matter of promotional costs had been fully reviewed in the initial evaluation, and therefore, the requirement for reopening was not met. As a result, the Court annulled the notice from 29<sup>th</sup> March 2016, stating that the actions were founded on a shift in opinion, which is not allowed under the Act. The ruling cited the precedent established in Abbot India Ltd. vs. ACIT.

#### **XIII. Commissioner of Income Tax (Exemptions) vs. Indian Broadcasting Foundation dated 20.03.2025 in the Hon'ble High Court of Delhi**

The Indian Broadcasting Foundation's allocation of resources to the Broadcast Audience Research Council (BARC) amounted to an "investment" breaching Section 13(1)(d) of the Act thereby influencing its tax exemption under Sections 11 and 12 of the Act, was the main question for consideration in the case at hand before the Hon'ble High Court of Delhi. The Hon'ble High Court *inter alia* determined that the funds were utilized according to government policy and not for profit, consistent with the assessee's charitable aims. The Court upheld the ITAT's ruling, confirming the exemption and rejecting the Revenue's



appeal, citing precedents that differentiate between the investment and use of funds for charitable purposes.

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

### I. **C.M. Bright Bars Pvt. Ltd. vs. PCIT-5 dated 03.03.2025 passed by Hon'ble ITAT Mumbai**

Assessee challenged an order under Section 263 of the Act by the PCIT. The appeal faced an 1,802-day delay, attributed to severe financial distress such as business losses, property repossession, personal crises such as daughter's divorce, health issues including a heart attack, and COVID-19 disruptions. The ITAT condoned the delay emphasizing leniency for pandemic-related delays and the principle that statutory rights should not be denied on technical grounds, especially when supported by affidavit and aligned with a similar case decided by the Hon'ble Supreme Court. On merits, the ITAT found the PCIT's order procedurally flawed as the notice under Section 263 of the Act was allegedly served via affixation without proof, denying the assessee a fair hearing. The tribunal ruled this violated natural justice, set aside the PCIT's order, and remanded the case for fresh adjudication, directing the PCIT to allow the assessee to present evidence and arguments. The appeal was allowed for statistical purposes.

### II. **Ginger Properties Private Limited vs. Assistant Commissioner of Income Tax, Central Circle - 1(2) dated 05.03.2025 passed by Hon'ble ITAT Ahmedabad**

The assessee. challenged additions of unaccounted "on-money" receipts and disallowance of interest expenses under the Act. A search revealed cash receipts beyond book values in real estate transactions. The AO taxed the full on-money amounts of INR 2,56,30,000/- and disallowed interest of INR 56,43,692/- for diversion of borrowed funds. The CIT(A) replaced full additions with an estimated 14% profit margin on extrapolated on-money amounting to INR 26,02,59,300/- spread over AYs 2020-21 to 2023-24. Assessee contested the 14% rate, citing 12.5% rate in similar cases. The ITAT upheld the estimation method but reduced the profit rate to 13%, aligning with precedents. It also deleted interest disallowance, noting no nexus between borrowed funds and interest-free loans, and upheld deletion of unexplained cash expenses of INR 28,62,500/- due to 'telescoping' with unaccounted receipts. The Revenue's appeal was dismissed while the assessee's appeals were partly allowed.

### III. **Dashrath Kumar Sen v. ACIT, ITA No. 1258/JP/2024 dated 05.03.2025 passed by Hon'ble Jaipur ITAT**

The Tribunal *inter alia* held and provided clarity on the leave encashment exemption for retired government employees. The assessee, a retired BSNL employee, received Rs.9,60,409 as leave encashment and claimed full exemption under Section 10(10AA). However, the AO allowed only Rs.3,00,000 and added the excess to income. The Tribunal observed that vide



the notification raising the exemption limit to Rs.25,00,000 effective from 01.04.2023, the assessee's claim is valid. Consequently, it directed the AO to allow the full exemption as per the revised limit.

#### **IV. Sheo Ram vs. The ITO, Ward-4 dated 06.03.2025 passed by Hon'ble ITAT Chandigarh**

The Appellant challenged the assessment of long-term capital gains determined at INR 3,68,96,060/- on the sale of agricultural land in AY 2007-08. The Respondent taxed the full sale consideration despite the appellant receiving only 10% upfront with the balance paid later via undated cheques. The Tribunal noted that similar cases deferred taxation to the year of actual receipt i.e., AY 2009-10 due to the buyer's fraud and Court intervention. The Sale Deed included a clause nullifying the transaction if cheques bounced, indicating incomplete transfer in AY 2007-08. Relying on precedents where farmers received payments post-Court orders, the ITAT *inter alia* ruled that the gains are taxable only in the year of actual receipt, deleting the AO's additions.

#### **V. ITO Ward-2(3), Faridabad vs. Zile Singh dated 07.03.2025 passed by Hon'ble ITAT Delhi**

The Tribunal addressed an appeal, challenging the Commissioner of Income Tax (Appeals)'s [hereinafter referred to as "CIT(A)"] deletion of additions under Section 69A of the Act, for alleged unexplained investments of INR 3.3 crore and interest amounting to INR 34,50,830/- by the Respondent. The ITO reopened the assessment under Section 147 of the Act based on information from the Investigation Wing but failed to provide the assessee with copies of the reasons for reopening, the sanction memo under Section 151 of the Act, or supporting evidence like ledgers and statements of a Piyush Group employee. The CIT(A) held that the reopening lacked valid 'reason to believe' and was based on suspicion, violating principles of natural justice by denying the assessee access to critical documents and cross-examination. The ITAT upheld the CIT(A)'s decision, ruling the reassessment invalid due to procedural lapses, insufficient jurisdictional grounds, and failure to substantiate the allegations. The Revenue's appeal was dismissed.

#### **VI. The Maharashtra Mantralaya Shaskiy Karmachari Co-op Credit Society Ltd. vs. ITO, Ward 25(2)(1), dated 27.03.2025 passed by Hon'ble ITAT Mumbai.**

The assessee, a cooperative credit society, provided credit facilities exclusively to its members and claimed deductions under Section 80P(2)(a)(i) and 80P(2)(d) of the Act. The AO disallowed deductions on interest income from investments and certain miscellaneous receipts, treating them as non-eligible under Section 80P. The CIT(A) upheld part of the disallowance, granting partial relief. The Tribunal ruled in favour of the assessee, *inter alia* holding that all the receipts, including interest income from cooperative banks and funds related to member contributions, were intrinsically linked to the society's credit activities. It



allowed deductions under Section 80P(2)(a)(i) of the Act reversing the disallowances made by the AO and CIT(A).



*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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