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ALL CASE LAWS SUMMARY

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All Case Laws Decisions Summary

1. **Air India Ltd. (2023) (SC):** Section 206AA's higher TDS rate for non-PAN cases cannot override DTAA rates, which take precedence when more beneficial to the assessee.
2. **BDR Finvest Pvt. Ltd. (2024) (Delhi):** Even if TDS is not reflected in Form 26AS due to the deductor's failure to deposit it, the deductee is still entitled to TDS credit as per section 205. The tax recovery should be directed at the deductor.
3. **Bharti Cellular Ltd. (2024) (SC):** Section 194H does not apply to discounts on start-up kits and recharge vouchers as the relationship between the company and distributors is not that of principal-agent but independent contractors.
4. **Industrial Development Bank of India Ltd. (2023) (SC):** The limitation period for exercising powers u/s 263 is calculated from the original assessment order, not the reassessment order, if the issue wasn't covered in the reassessment.
5. **Godaddy.Com LLC (2023) (Delhi):** Fees for domain name registration by a foreign company do not amount to "royalty" under section 9(1)(vi), as no proprietary rights are transferred.
6. **Secunderabad Club (2023) (SC):** Interest income from fixed deposits in banks loses the principle of mutuality as funds are used for commercial purposes, making it taxable.
7. **Duraiswamy Kumaraswamy (2024) (Madras):** Filing Form 67 for foreign tax credit after filing return but before receiving intimation u/s 143(1) is valid. Rule 128 is directory, not mandatory.
8. **KBD Sugars and Distilleries Ltd. (2023) (SC):** Unit being demerged does not need to be going concern at time of demerger to be eligible for set-off and carry forward of losses u/s 72A(4).
9. **Mahle Anand Filter Systems Pvt. Ltd. (2023) (SC):** Forgoing a security deposit to settle a dispute is a capital expenditure and cannot be treated as revenue expenditure.
10. **Whether interest paid by banks involved in purchase and sale of securities, for broken period on purchase of securities can be claimed as revenue expenditure?**
 - Suppose Due date of Interest is 31st march of every year and Purchaser bank want to purchase a security on 30.06.2024. Seller bank in this case will recover interest for the period from 31.03.2024 to 30.06.2024 in addition to sale of value of security
 - This interest paid by Purchaser bank is known as broken period Interest
 - **Conclusion:**
 - If Purchaser Bank holds this security as SIT, broken period interest will be allowed as revenue exp.
 - If security is held as Capital asset, then no deduction allowed
11. **Whether expenses incurred by Assessee towards development of software for advertisement, which, due to technological development, had to be abandoned, can be claimed as revenue exp ?**
Yes Deduction allowed, since development expenses were related to existing business

12. **Whether amount received as "Guarantee Fees" by foreign company from its Indian subsidiaries fall within definition of "interest"?** A Ltd is Indian resident subsidiary of Apple Incorporation (NR). A Ltd took loan from HDFC bank India, for which guarantee was given by Apple INC(NR). For this guarantee, A Ltd is paying guarantee fees to its holding company, Apple INC. So This guarantee fees received by NR from resident subsidiary will not be treated as interest for the purpose of taxability in India

13. **Whether reduction in share capital by company, without any change in shareholding pattern and face value of shares, constitutes a "transfer" u/s 2(47) in the hands of shareholders?**

- **Facts:**

Assessee held 15.33 crore shares (99.88%) of an Indian company. Due to losses, company's net worth eroded, and it petitioned for capital reduction. High Court approved reduction of total shares from 15.35 crore to 10,000 shares. The assessee's holding was reduced proportionately to 9,988 shares, and it received ₹3.17 crore as consideration. Assessee claimed long-term capital loss, but AO and CIT(A) rejected it, arguing no transfer occurred. The Tribunal and High Court allowed the claim. The Supreme Court upheld this view.

- **SC Ruling:**

As per Section 2(47), "extinguishment of any rights in a capital asset" amounts to a transfer. Though face value remained unchanged, the number of shares reduced drastically.

Thus, reduction extinguished assessee's rights in those cancelled shares.

Hence, the capital loss is allowable, even if the overall ownership percentage remains the same.

- **Conclusion:**

Yes, reduction in share capital by company, without any change in shareholding pattern and face value of shares, constitutes a "transfer" u/s 2(47)

14. **Whether, for the purpose of computing limitation period under section 143(2), the relevant date is the date of filing of the original return of income or the date of removal of defects in response to a notice issued under section 139(9)?**

- **Facts:**

Assessee filed return u/s 139(1) on 29th November 2023. Return was found defective, and assessee received a notice u/s 139(9) on 10th July 2024 to rectify within 15 days. Defects were rectified on 19th July 2024 (within time allowed). AO issued a notice u/s 143(2) on 11th June 2025 for scrutiny. Assessee contended the notice was time-barred.

- **Legal Provision:**

Sec 143(2) requires issuance of scrutiny notice within 3 months from end of FY in which return u/s 139(1) is filed. 139(9) allows defect rectification without altering date of original filing.

- **Key Analysis:**

Return filed on 29th Nov 2023 → F.Y. ends 31st Mar 2024.

Last date to issue notice under Section 143(2) = 30th June 2024.

Though defects were rectified later, return relates back to original date once defects are removed. Therefore, notice issued on 11th June 2025 is beyond the limitation period.

- **Conclusion:** Gujarat HV held Section 143(2) notice is time-barred and assessment proceedings are invalid. Supreme Court dismissed the SLP, thereby affirming the High Court's decision.

15. IBS Software Services (P.) Ltd. (2025)(Ker.)

- The High Court said that section 144C(13) is mandatory, not just a procedure.
- This means the Assessing Officer (AO) must issue the final assessment order within one month after the month in which the DRP gives its directions.
- This rule was made to ensure quick completion of transfer pricing cases and to avoid long delays in litigation. Court explained that every amendment made by law has a clear purpose and must be followed. Therefore, if the AO passes the order after the time limit, it becomes invalid and must be cancelled. The Court also rejected the argument that the delay did not harm the taxpayer — the delay itself makes the order void.

16. Frontier Information Tech Ltd. (Telangana High Court)

- High Court held that conversion of unpaid interest into equity shares amounts to actual payment u/s 43B. Once assessee issued shares to creditors, liability to pay interest ceased to exist, which is equivalent to payment in law. Therefore, condition of actual payment u/s 43B stands satisfied. Court clarified that such conversion is not mere book entry but discharge of liability through issue of shares. Hence, assessee is eligible to claim deduction of converted interest u/s 43B.

17. Jindal Tractebel Power Co. Ltd. (2025)(2025) (Karn.)

- High Court held that reliance on professional advice can constitute a reasonable cause u/s 273B, thereby protecting the assessee from penalty u/s 271C.
- In this case, the assessee did not deduct TDS on payments made to a foreign entity, based on legal opinions obtained from a reputed law firm and a chartered accountant's firm, both advising that the income was not taxable in India. The foreign company had even sought an advance ruling, but it was not processed by the authority. The Court observed that the assessee had acted bona fide, without any mala fide intent or attempt to evade tax. It also noted that the assessee gained no undue benefit from non-deduction of tax. Such conduct demonstrated a reasonable and honest belief in the correctness of its stand. Accordingly, it was held that the non-deduction of TDS, being based on genuine professional advice, amounted to reasonable cause, and hence, no penalty under section 271C was leviable.

Latest New Four Case Laws

- 1. Prakash D. Koli v ITAT (2025): Can subsequent judgment by a higher court be used as a ground for the ITAT to rectify its own earlier order under Section 254(2)? NO**
 - In *Prakash D. Koli v ITAT (2025)*, the issue was whether ITAT can rectify its order based on a later Supreme Court judgment. Initially, ITAT allowed deduction under Section 36(1)(va) as payment was made before the return filing due date.
 - Later, in *Checkmate Services Pvt. Ltd. v CIT*, SC held that payment must be within the statutory due date. ITAT tried to rectify its earlier order u/s 254(2) using this new judgment and reversed its decision.
 - Bombay HC held this invalid, stating rectification is only for apparent mistakes—not for review due to subsequent legal changes.
- 2. Crown Electromechanical (P.) Ltd. v PCIT (2025): Can an inadvertent omission or mistake made by taxpayer in their Income Tax Return (ITR) be rectified by Principal Commissioner (PCIT) through revision petition u/s 264 of ITA, 1961? YES**
 - Assessee made a clerical error in ITR-6, leading to inflated income of ₹3.58 crore instead of ₹9.54 lakh after processing u/s 143(1).
 - Time limit to file revised return had expired, so assessee filed revision petition u/s 264 relying on Tax Audit Report. PCIT rejected the claim stating only assessee can modify their return.
 - Calcutta High Court held that Section 264 has wide remedial powers to ensure only correct tax is collected, even if error is by assessee.
 - Matter was remanded to PCIT, emphasizing that tax must be based on real income, not clerical mistakes.
- 3. Pride Former S.A. v CIT (2025): Does mere failure to secure business contract for several years constitute a complete cessation of business activities, or can it be viewed as a temporary "lull" in business allowing for deduction of expenses and set-off of losses? IT IS JUST TEMPORARY LULL (LEAN PHASE) IN BUSINESS**
 - A French non-resident company had no active drilling contracts (1993-1998) but continued efforts like bidding and correspondence with ONGC.
 - It incurred expenses and claimed set-off of losses and unabsorbed depreciation, which AO and High Court disallowed for not "carrying on business."
 - Supreme Court applied the "lull in business" doctrine, holding that temporary inactivity does not mean cessation if intent to continue exists.
 - It clarified that having a Permanent Establishment is not necessary to be considered as carrying on business under the Income-tax Act.
 - Thus, the company was allowed deduction of expenses and carry forward/set-off of unabsorbed depreciation.

4. **CIT v. Salesforce.com Singapore (2025):** Are **subscription fees** paid by Indian customers to a non-resident for access to a Cloud-based CRM (Customer Relationship Management) application taxable in India as:

1. **Royalty** under Section 9(1)(vi) of the Income-tax Act, 1961?
2. **Fees for Technical Services (FTS)** under Article 12(4)(b) of the India-Singapore DTAA?

Subscription fees is neither royalty nor FTA and hence not taxable in INDIA

- Salesforce.com Singapore provided cloud-based CRM access to Indian customers on a subscription basis. Tax authorities argued that such payments should be taxed as Royalty or Fees for Technical Services (FTS).
- Delhi High Court held it is not Royalty since no transfer of copyright—only access to software was given. It was also not FTS as no technical knowledge was "made available" under the India-Singapore DTAA.
- Hence, subscription income was not taxable in India, giving relief to SaaS and cloud service providers.

Chapter-wise Case Laws Decisions

Exempt Income

1. **Is section 14A applicable in respect of deductions, which are permissible and allowed under Chapter VI-A?** Deductions under Chapter VIA are different from the exclusions/exemptions provided under Chapter III. Section 14A is applicable only if an income is not included in the total income as per the provisions of Chapter III of the Income-tax Act, 1961. Therefore, no disallowance can be made u/s 14A in respect of income included in total income in respect of which deduction is allowable u/s 80C to 80U.

Profits and gains from Business and profession

1. Income from leasing properties is considered as business income if the main objective of the company is to earn rental income from such properties.
2. Interest income received on funds kept as margin money for obtaining bank guarantee to carry on business is taxable under PGBP and not under IFOS.
3. Higher depreciation rate (40%) allowed for computer accessories and peripherals, but not for EPABX and mobile phones i.e. 15% dep. rate for these.
4. Deduction u/s 35AD allowed to a hotel (2 star or above) in the year operations commenced, even if classification (2 star or above category) was granted in the next year by the authority due to inspection requirements.
5. Share premium is not considered as "capital employed" for Sec. 35D.
6. If bonus due to employees is paid to a trust and subsequently paid to employees before ROI date, then deduction is allowable since amount is ultimately paid to employees.
7. Exp. on glow-sign boards is revenue expense
8. Exp. on issue and collection of convertible debentures is treated as revenue expenditure, even for debentures convertible into shares at later date.
9. Feasibility study exp. for existing business projects is classified as revenue exp. where the project was abandoned without creating a new asset.
10. Source of funds is irrelevant for deduction u/s 37; focus is on whether the exp. is for business purposes. Capital receipt may be expended for revenue exp.
11. Sec. 40(b)(v) sets maximum limit of deduction w.r.t. partners' remuneration when calculating business income. If the remuneration is within this limit, Sec. 40A(2)(a) cannot be invoked calling it excessive.
12. Receipt of liquidated damages linked with procurement of capital asset, which lead to delay in coming into existence of profit-making apparatus, is a capital receipt. Amount received by assessee towards compensation for sterilization of profit earning source is not in ordinary course of business. Hence, it is a capital receipt in the hands of the assessee.
13. **Whether technical fee paid under a technical collaboration agreement for setting up a joint venture company in India is to be treated as revenue or capital expenditure, where, upon termination of agreement, joint venture would come to an end? CAPITAL**

Capital Gains

1. Would receipt of higher compensation after notification of compulsory acquisition change the character of transaction into a voluntary sale, so as to deny exemption u/s 10(37)(iii)? NO
2. In case where depreciable asset (building) held for > 24 months is tfd, can benefit of exemption u/s 54EC be claimed? Yes
3. Can advance given for purchase of L&B, P&M tantamount to utilization of CG for purchase and acquisition of new L&B, P&M, for claim of exemption u/s 54G? Yes
4. Can amount incurred by assessee towards perfecting title of property acquired through will, for making further sale, be included in COA for computing CG? Yes
5. Would depreciable asset forming part of block of assets on which dep is being allowed since its acquisition change its character if it is not used for business purpose for last two years, to the effect that gain arising from its transfer be considered as LTCG instead of STCG? No
6. Can exemption u/s 54B be denied solely on ground that new agricultural land purchased is not wholly owned by the assessee, as assessee's son is a co-owner as per the sale deed? No
7. If HP is registered in joint names, can 54F be allowed fully to the co-owner who has paid whole of PC of HP or will it be restricted to his share in the HP? Yes Fully allowed
8. Can exemption u/s 54F be denied to an assessee in respect of investment made in construction of a residential house, on the ground that the construction was not completed within 3 years after the date on which transfer took place, on account of pendency of certain finishing work like flooring, electrical fittings, fittings of door shutter etc.? No
9. Where stamp duty value u/s 50C has been adopted as FVOC, can reinvestment made in acquiring a residential property, which is in excess of the actual net sale consideration, be considered for the purpose of computation of exemption under section 54F, irrespective of the source of funds for such reinvestment? Yes
10. Can exemption u/s 54EC be denied on account of bonds being issued after 6 months of date of transfer even though the payment for bonds was made by assessee within the six-month period? No
11. Would sale of fertilizer bonds (issued in lieu of government subsidy) at loss be treated as a business loss or a loss under the head "Capital gains"? Business Loss

Income From Other sources

1. 56(2)(x) not attracted in hands of shareholders on receipt of bonus shares
2. Interest income from share application money deposited in bank till share allotment is eligible for set-off against public issue Exp. & is not liable to be taxed as IFOS.
3. Interest u/s 28 of Land Acquisition Act represents enhanced value of land i.e. compensation component and not interest and thus liable to be taxed as CG and not under IFOS. But, interest for delay in making payment after compensation amount is determined is taxable under IFOS
4. Repair & renovation exp. incurred by Co. in respect of premises owned by shareholder having substantial interest in Co. and occupied by Co. cannot be deemed dividend.
5. Only gratuitous loans or advances given to specified shareholders considered dividends u/s 2(22)(e). Loans given in return for an advantage conferred upon the Co. by shareholder do not fall u/s 2(22)(e)
6. Winnings of prize money on unsold lottery tickets held by distributor of lottery tickets are assessable u/s 115BB and not business income
7. U/s 57, Deduction of interest on interest not allowed. For eg: You defaulted in payment of principal and interest instalment, interest component added to principal component. Hence I on I not allowed.

Clubbing

1. SC in case of J.H. Gotia held that clubbed Income shall be retained same head in which it is earned. Therefore, business Income of a minor child shall be clubbed in hands of parent under head "PGBP". Business losses of parent can be set off against such income.

Assessment of Various Entities

1. Are non-occupancy charges, transfer charges, common amenity fund charges received by co-operative societies from its members exempt on basis of doctrine of mutuality? YES
2. Where land inherited by three brothers is compulsorily acquired by SG, would resultant CG be assessed in status of (AOP) or in their individual status? INDIVIDUAL STATUS
3. Would interest earned on surplus funds of a club deposited with institutional members satisfy principle of mutuality to escape taxability? NOT EXEMPT

Income Tax Authorities

1. Does the CBDT have the power to amend legislative provisions through a Circular? NO
2. Can assessee's application, for adjustment of tax liability on income surrendered during search by sale of seized gold bars, be entertained where assessment has not been completed?
 - Consequent to search in premises of assessee, some gold bars were seized from locker. Assessee voluntarily disclosed some income during course of search. Assessee filed an application for sale of gold bars and adjustment of tax liability on undisclosed income out of sale proceeds. This would obviate his liability to pay interest u/s 234B and 234C.
 - Section 132B(1)(i) uses the expression "the amount of any existing liability" and "the amount of the liability determined". The words "existing liability" postulates a liability that is crystallized by adjudication; Likewise, "a liability is determined" only on completion of the assessment. Until the assessment is complete, it cannot be postulated that a liability has been crystallized.
 - Only when the liability is determined on the completion of assessment that it would stand crystallized and in pursuance of which a demand can be raised and recovery can be initiated. Therefore, in the present case, section 132B(1)(i) would not be attracted.
3. Can the CBDT refuse to condone delay in filing the tax return, where such delay was caused by circumstances beyond the control of the assessee? NO

Assessment Procedures

1. Can an assessee revise the particulars filed in the original return of income by filing a revised statement of income other than by way of filing revised return as contemplated u/s 139(5) of the Act? NO

Appeals and Revisions

1. Can an assessee make an additional/ new claim before an appellate authority, which was not claimed by the assessee in ROI (though he was legally entitled to), otherwise than by way of filing revised return of income? YES
2. Would loss incurred in foreign currency fluctuation at time of repayment of loan taken for financing acquisition of P/M on lease/hire purchase by Indian enterprises with whom assessee-company has lease/hire purchase agreement be treated as allowable revenue expenditure? YES
3. Can ITAT dismiss an appeal, without deciding case on its merits, solely on the ground that assessee had not appeared on the appointed date of hearing? NO
4. Does ITAT have power to review or re- appreciate correctness of its earlier decision u/s 254(2)? NO
5. Can the Tribunal exercise its power of rectification u/s 254(2) to recall its order in entirety, where there is a mistake apparent from record? YES
6. Can the powers under section 254(2) be exercised by the Tribunal to recall an order and rehear the entire order on merits? NO
7. Would automatic vacation of stay order upon expiry of extended period of stay of 365 days be valid, where the delay in disposing of appeal is not attributable to assessee? No Not Valid
8. High Court have inherent power to review its own order to correct a mistake apparent from the record as well as inherent power to review an earlier order passed on merits
9. Considering procedure u/s 260A, is HC justified in not framing any substantial question of law itself and adjudicating merely on questions put forth by the appellant? NO
10. Can the delay in filing appeal u/s 260A be condoned where the stated reason for delay is the pursuance of an alternate remedy by way of filing an application before the ITAT u/s 254(2) for rectification of mistake apparent on record? NO
11. In an appeal u/s 260A, is HC precluded from examining correctness of determination of ALP on ground that once ITAT determines ALP, same is final and cannot be subject matter of scrutiny by HC as it does not give rise to a substantial question of law? No not preclude

Deductions

1. For computing deduction under CH VI-A under heading C deduction, assume that eligible business is only source of income.
2. Period of deduction shall be counted from year of commercial production and not trail production. However if sales effected from trail production, then year of deduction counted from trail production
3. Can assessee who has not claimed ded u/s 80-IE in initial years, start claiming deduction for remaining years during period of eligibility, if the conditions are satisfied? YES
4. Is deduction under section 10AA available in respect of foreign exchange gain solely relating to the export business of the assessee? YES

