Some Remaining Case Laws

Bank of Rajasthan Ltd. vs CIT [2024] (SC)

Whether the interest paid by banks for "broken period" on purchase of securities held as stock in trade can be claimed as revenue expenditure ?

"Broken Period" When Bank purchase a security on date which falls between the dates on which the interest is payable on the security, Bank, in addition to the price of security, has to pay additional amount of interest accrued for the period from last interest payment till the date of purchase.

SC noted that the banks are required to purchase Govt. securities to maintain Statutory Liquidity Ratio. As per RBI's guidelines, there are three categories of securities: HTM (Held to Maturity), AFS (Available for Sale) and HFT (Held for Trading). As far as AFS and HFT are concerned, banks held such securities as stock-in-trade. Therefore, in these two categories of securities, the benefit of deduction of interest for the broken period will be available. The securities of the HTM category are usually held for a long term till their maturity. If it is found that HTM security is held as an investment, the benefit of broken period interest will not be available.

Accordingly, the SC held that as securities were treated as stock-in trade, the interest on the broken period cannot be considered as capital expenditure and will have to be treated as revenue expenditure, and thus allowed as deduction.

Johnson Matthey Public Limited Company (2024) (Delhi)

Whether the amount received as "Guarantee Fees" by a foreign company from its Indian subsidiaries fall within the definition of "interest"?

As per section 2(28A), "interest" means interest payable in any manner in respect of any moneys borrowed or debt incurred (including a deposit, claim or other similar right or obligation) and includes any service fee or other charge in respect of the moneys borrowed or debt incurred or in respect of any credit facility which has not been utilized.

Article 12(5) of India-UK DTAA defines "interest" to mean income from debt claims of every kind, whether or not secured by mortgage and whether or not carrying a right to participate in the debtor's profits, and in particular, income from Government securities and income from bonds or debentures, including premiums and prizes attaching to such securities, bonds or debentures.

As per High Court the word "interest" as defined in Article 12(5) of Treaty and section 2(28A) of the Act, shall be understood contextually. Article 12(5) and section 2(28A) of the Act extend the scope of such payments. However, payment or repayment pursuant to any loan to be qualified as "interest", necessarily have to be within the context of loan and shall relate to the parties to the privity of contract. In this context only, the expressions "claims of any kind", "service fee or other charge" have to be understood. The word "interest" does not take into its fold any payments made to stranger to the privity of loan transactions, though such payments have to be made incidentally in relation to such loan.

Undoubtedly, assessee is a stranger to the privity of loan transactions in as much as the contract of loan is a different from the contract of guarantee, as such in our considered opinion, the expression of "debt claims of any kind" or "the service fee or other charge in respect of moneys borrowed or debt incurred" does not stand extended to the payment of guarantee commission received by the assessee in India.

The expression "interest" is defined to mean amounts payable in respect of any monies borrowed or debts incurred. Undisputedly the appellant had not borrowed any monies. The debt, if any, which could be said to have been incurred was clearly not one owed to the Indian subsidiaries. The income that it received from its Indian subsidiaries was solely in consideration of any liability that could possibly befall in case its Indian subsidiaries were to default in their repayment obligations.

Accordingly, the High Court held that the guarantee fee would neither fall within the ambit of Article 12 of India-UK DTAA nor section 2(28A) of the Act.

Adadyn Technologies (P.) Ltd. [2024](SC)

The assessee is engaged in the business of rendering customized internet advertising services to advertisers which could be used on the Desktop. In order to develop its software, assessee had incurred certain expenditure. Due to rapid change in the technology, the application sought to be developed by the assessee had become obsolete and the assessee abandoned further development.

High Court held that since the product having been abandoned, the assessee shall not get any enduring benefit. In substance, assessee has incurred expenditure in these two years to develop a software but due to change in technology, it had to abandon the product. In effect, it had lost money spent on this product. Accordingly, High Court held that the assessee shall not get any enduring benefit and therefore, the expenditure was to be treated as revenue in nature.

Jupiter Capital Pvt. Ltd. [2025] (SC)

The company held 15,33,40,900 shares, representing 99.88% of total shares of an Indian company. That company incurred losses, as a result of which the net worth of the company got eroded. On petition filed by the Company, the High Court ordered a reduction in the share capital of the company from 15,35,05,750 shares to 10,000 shares. Consequently, the shareholding of the assessee was reduced proportionately from 15,33,40,900 shares to 9,988 shares. However, the face value of the shares remained the same at ` 10 even after the reduction in the share capital. The High Court also directed the company to pay ₹ 3,17,83,474 to the assessee as consideration. Is it treated as transfer and capital gain apply ?

The SC observed that the expression "extinguishment of any right therein" is of wide import. It covers every possible transaction which results in the destruction, annihilation, extinction, termination, cessation or cancellation, by satisfaction or otherwise, of all or any of the bundle of rights qualitative or quantitative, which the assessee has in a capital asset, whether such asset is corporeal or incorporeal.

Accordingly, the Apex Court held that Reduction in share capital results in "transfer" under the provisions of the Income-tax Act, 1961 as there is extinguishment of rights qua such shares. The capital loss arising on proportionate reduction in share capital of the company is admissible even if the overall shareholding of the taxpayer in the company remains unchanged post reduction.

Travel Designer India Pvt. Ltd. (2025)(SC)

Assessee filed its ROI u/s 139(1) on 29th Nov., 2023. ROI was found to be defective, and accordingly, the assessee received an intimation on 10th July, 2024 to correct the defects within a period 15 days from the receipt of the said notice. The defects were rectified on 19th July, 2024. Subsequently, AO issued a notice u/s 143(2) on 11th June, 2025. The assessee contended that the notice u/s 143(2) can be issued within three months from the end of the financial year in which return is furnished. Thus, the said notice was barred by limitation as per the provisions of the Act.

Since the return was defective, the assessee was called upon to remove such defects, which was removed on 19th July, 2024, which is within the time allowed by AO. Therefore, upon such defects being removed, the return would relate back to the date of filing original return i.e., 29th November, 2023. Consequently, the limitation for issuance of notice u/s 143(2) would be 30th June, 2024 i.e., three months from the end of the financial year in which the return u/s 139(1) was filed. In the present case, notice u/s 143(2) has been issued on 11th June, 2025, which is much beyond the period of limitation. Therefore, such notice is barred by limitation and cannot be sustained.

Some New CBDT Circulars and Notifications

Circular No. 15/2024: Limit of Income Tax Authority to Reduce or Waive of Interest u/s 220(2)

If any assessee not pay demand notice within the period of 30 days then interest @1% per month or part of the month is applicable for delay. This interest can be waive or reduce by following authorities:

CIT/PCIT	Upto ₹ 50 lakhs
CCIT/DGIT	> ₹ 50 lakhs upto ₹ 1.5 crore
PCCIT	> ₹ 1.5 crore

Notification 09/2025: Conditions for NR, engaged in the business of operation of cruise ships u/s 44BBC

(i) Operate a passenger ship having a carrying capacity of more than 200 passengers or length of 75 meters or more, for leisure and recreational purposes and having appropriate dining and cabin facilities for passengers;
(ii) Operate such ship on scheduled voyage or shore excursion touching at least two sea ports of India or same sea ports of India twice;
(iii) Operate such ship primarily for carrying passengers and not for carrying cargo; and
(iv) Operate such ship as per the procedure and guidelines if any, issued by the Ministry of Tourism or Ministry of Shipping.

Notification No. 14/2025: Statement by NR having liaison office in India has to be submitted to Assessing Officer within 8 months from the end of such financial year.

Notification No. 124/2024: Safe Harbour Rules (SHR) for determination of arm's length price in respect of income referred u/s 9(1)(i) [Income deemed to accrued due to business connection etc.]

Assessee	Foreign company engaged in diamond mining which has exercised an option for SHR in accordance with rule 10TIA.
Eligible business	A business of selling raw diamonds in any notified special zone as referred to in clause (e) of Explanation 1 to section 9(1)(i).
Safe Harbour Profits	"Profits and gains of business or profession" shall be 4% or more of the gross receipts from such business.
Gross receipts	Aggregate of – _ (i) the amount paid or payable to the eligible assessee or to any person on his behalf on account of sale of raw diamonds by such eligible assessee and (ii) the amount received or deemed to be received by the eligible assessee or by any person on his behalf on account of sale of raw diamonds by such eligible assessee.
Raw diamonds	Diamonds that are, - (i) uncut or unpolished; (ii) unassorted; (iii) unworked or simply sawn, cleaved or bruted; (iv) not conflict diamonds as defined by the Kimberley Process; (v) accompanied by Kimberley Process Certificate issued by the Kimberley Process authority in the exporting country; and (vi) falling under Tariff Heading 7102 of the First Schedule to the Customs Tariff Act, 1975.
Condition's	Where the eligible assessee has exercised the option for SHR in any PY and such option is not declared invalid: - any deduction u/s 30 to 38 shall be deemed to have been already given full effect to and no further deduction shall be allowed;

	- WDV of any asset shall be deemed to have been calculated as if the eligible assessee had claimed and had been actually allowed the deduction in respect of the depreciation; - No set off of unabsorbed depreciation or carried forward loss u/s 72(1) shall be allowed to such assessee; and - No set off of loss from other business u/s 70(1) or other head u/s 71(1)/(2) shall be allowed to such assessee for income chargeable to tax under the head "PGBP" in respect of such business.
TP Provisions	Provisions u/s 92D relating to maintenance, keeping and furnishing of information and document and section 92E for submission of report from CA in respect of an international transaction shall apply, if the eligible assessee enters into such transaction while carrying on the eligible business.
Procedure	Assessee has to furnish Form 3CEFC, complete in all respects, to AO before furnishing the ROI u/s 139 for the relevant previous year, for exercising the option of safe harbour. If the assessee does not exercise option for safe harbour, the income from eligible business shall be determined in accordance with other provisions of the Act. Circumstances when option exercised can be declared Invalid AO may declare the option as invalid by an order in writing, where the assessee has - (a) availed the safe harbour by furnishing incorrect facts; or (b) concealed facts related to his business. AO has to afford a reasonable opportunity of being heard to the assessee before declaring the option for safe harbour invalid.
MAP	Assessee is not entitled to invoke mutual agreement procedure u/s 90 or 90A in relation to an eligible business, if the assessee has exercised the option for SHR in respect of such business and such option is not declared invalid.

Notification No. 10/2025: A Finance Company located in any IFSC has been excluded from the applicability of the provisions of this section 94B [Thin Capitalisation]

Finance Company means a financial institution separately incorporated to deal in one or more of the permissible activities, provided

(i) It does not accept public deposit from resident and non-resident, as defined in these regulations; and
(ii) It is not registered with the Authority as a Banking Unit;

Finance Company located in any IFSC shall only carry out one or more of the following activities – _

(i) lending in the form of loans, commitments and guarantees, credit enhancement, securitisation, financial lease;
(ii) factoring and forfaiting of receivables; or
(iii) functions of Global or Regional Corporate Treasury Centre such as borrowings, lending, hedging of currency or commodity risk or investments, cash management, structured credit, intra group financing, financial budgeting and similar other such treasury services and activities.

The interest being paid by such Finance Company, being the borrower, in respect of any debt issued by a non-resident, shall be in foreign currency.

Common Note for Business Trust, Investment Fund & Securitisation Trust

The Business Trust, Investment Fund & Securitisation Trust shall provide breakup regarding nature and proportion of its income and other details to unit holder/ investor upto 30th June of the F.Y. following the P.Y. and Income Tax Authority (CIT/PCIT) upto 15th June of the FY following the P.Y.

Notification No. 123/2024: The provisions of section 194N shall not apply to Foreign Representations duly approved by the Ministry of External Affairs including Diplomatic Missions, agencies of the United Nations, International Organisations, Consulates and Offices of Honorary Consuls which are exempt from paying taxes in India as per the Diplomatic Relations (Vienna Convention) Act 1972 and the United Nations (Privileges and Immunities) Act 1947.

New Guidelines for Compounding of Offences: Circular No. 4/2025 w.e.f. 17/10/2024	
Meaning	Mechanism whereby the defaulter is reprieved of major legal consequences by affording him an opportunity to pay certain sum of money to escape prosecution. The specified offences can be compounded by the competent authority either before or after the initiation of proceedings. All offence under the Income-tax Act, 1961 is compoundable.
Old Application	Revised guidelines are applicable on the applications, pending before issuance of these guidelines. The applicants whose applications were pending on 17.10.2024 are not required to file a fresh application or pay any fresh application fees.
Old application was rejected? can apply as per new guidelines?	Yes, in case the rejection was solely on account of conviction, without examination of merits, as per any of the earlier guidelines, such applicant can reapply in terms of revised guidelines.
Compounding Application	An application for compounding is made to Jurisdictional PCCIT/CCIT/PDGIT/ DGIT any time after the offence(s) is committed, irrespective of whether it comes to the notice of the Department or not. The compounding application may be filed for offence(s) pertaining to one financial year (in case of taxpayers) or quarter (in case of tax deductors) or for multiple years/quarters. The compounding application filed for multiple years/ quarters are referred as "Consolidated Compounding Application".
Application Fees	Non-refundable Compounding Application Fee of ₹ 25,000 for a single Compounding application (per application) and ₹ 50,000 for a consolidated Compounding application (per such application). The said fee is a non-refundable fee, but adjustable against applicable total compounding charges decided by the Competent Authority, if any
Payment of all taxes, interest & other sums	All outstanding tax, interest (including interest u/s 220), penalty and any other sum due, relating to the offence(s) for which application made. However, if on verification by the Dept, any related demand is found payable, the same, on being intimated to applicant, has to be paid within 30 days of the intimation or such period (Max 3 months) allowed by the dept. Application shall be considered valid only consequent to the payment of all the demand.
Withdrawal of appeals	The person/applicant has to undertake to withdraw appeals filed by him, if any, related to the offence(s) sought to be compounded.
Revival of a defective application	Applications can be revived without additional payment of Compounding Application Fee, provided the defects are cured within a period of one month from the date of intimation of the defect(s).
Offences compoundable	Applicant has been convicted with imprisonment of two years or more for any offence under Income-tax Act, 1961 or for an offence under any other law, which is related to offence under the Income-tax Act, 1961 or for offence under Black Money Act or Benami Property Transactions Act, may apply for compounding.

Compounding Procedure	1. On receiving the application, the Competent Authority must seek a report from the Assessing Officer or AD/DD. 2. Application Order (If Not Acceptable): Rejection order (with reasons) to be passed preferably within 2 months from the end of the month of receipt of the application. 3. Application Order (If Acceptable): If found acceptable, intimation of approval + compounding charges & liabilities to be sent within 2 months from the end of the month of receipt. 4. Charges must be paid within 1 month from the end of the month of intimation. 5. Extension for Payment • Up to 6 months – by Competent Authority (in exceptional cases). • 6–12 months – needs Principal CCIT's written approval. • 12–24 months – needs approval from CBDT Chairman/authorized Member. • Beyond 24 months – Not allowed. 6. If charges are not paid within time (or extended time), the application stands rejected, and prosecution is initiated. 7. Final Compounding Order: Must be issued within 1 month from the end of the month of payment of charges. Note: All time limits are administrative, not statutory limitations.
Compounding Charges	'Tax' = Tax + Surcharge + Cess (Interest not included) Repeat Applications (Same Offence Type) • 2nd time: 1.2× • 3rd time: 1.4× • 4th time: 1.6×, and so on. New Offence Type: Charged as per normal rates, even if applied later. Old Applications: All applications filed under earlier guidelines count as the 1st application. Late Application: If filed after 12 months of prosecution complaint filing → 50% extra charges.

Date of Application	Offence	Status	Rate
15-Jan-2021	276B (FY 12-13)	Compounded	NA
17-Oct-2022	276C(1) (FY 18-19)	Compounded	NA
18-Aug-2023	276B (FY 13-14)	Rejected	NA
17-Sep-2024	276D (FY 19-20)	Pending (1st under new)	Normal rate
01-Nov-2024	276B (FY 13-14)	Reapplied	1.2×
18-Dec-2024	276B (FY 17-18)	Third Time	1.4×
18-Dec-2024	275A (FY 23-24)	First Time	Normal rate

Compounding – Co-accused & Abettor (Companies & HUFs)	Main accused (Company or HUF) - Co-accused (e.g., Directors/Karta/Officers - Can apply separately or together Compounding Charges - Single compounding charge per offence - No separate fee for co-accused - Once paid (by any one party), offences of both main accused & co-accused are compounded.

Notification No. 28/2024: No TDS on Payments to IFSC Units – Sec 197A(1F) & 80LA

As per section 197A(1F) read with section 80LA(1A)/(2) of the Income-tax Act, no TDS is required on specified payments made to Units located in an IFSC, provided the unit has opted for deduction u/s 80LA and furnishes a declaration to that effect. The exemption applies to payments like interest on ECB/loans, dividends, professional fees, commission, brokerage, and insurance commissions, depending on the nature of the IFSC entity (e.g., banking units, finance companies, insurers, fund managers, brokers, custodians, fintechs, etc.). This benefit is available only during the 10 consecutive assessment years chosen u/s 80LA. The payer must stop deducting TDS after receiving the declaration and report such payments in the TDS return.

As per CBDT Circular No. 26/2016, interest paid by IFSC Banking Units (IBUs) to non-residents or persons not ordinarily resident in India—on deposits or borrowings made on or after 1.4.2005—is exempt from TDS u/s 197A(1D). Further, such interest is also exempt from income tax in the hands of the recipient u/s 10(15)(viii). Since IBUs, established under the RBI scheme within SEZs, qualify as Offshore Banking Units as per section 2(u) of the SEZ Act, they are entitled to these benefits.

U/s 197A(1F), Central Government has notified that no TDS shall be deducted on payments made to the Credit Guarantee Fund Trust for Micro and Small Enterprises, National Credit Guarantee Trustee Company Ltd., and credit guarantee funds managed by it (covered u/s 10(46B)). Additionally, vide Notification No. 3/2025, no TDS u/s 194Q is required on purchase of goods from an IFSC Unit, and as per Notification No. 6/2025, an IFSC Unit shall not be treated as a buyer for TCS purposes u/s 206C(1H), subject to the condition that such IFSC Unit furnishes a verified statement-cum-declaration each year, opting for deduction u/s 80LA for 10 consecutive assessment years. Payers (under 194Q) or sellers (under 206C(1H)) must stop TDS/TCS post receipt of this declaration and report exempted transactions in their TDS/TCS statements. This relaxation is available only for the declared 10-year period; otherwise, regular TDS/TCS provisions apply.

Some Latest CBDT Circulars and Notifications For JAN 26 Exams
Notification No. 31/2025: Bonds issued by HUDCO (Housing and Urban Development Corporation Limited) on or after 01/04/2025 and bonds issued by IREDA (Indian Renewable Energy Development Agency) on or after 09/07/2025 eligible as specified bonds for the purpose of exemption u/s 54EC.
Notification No. 26/2025 : If PAN is allotted before 01/10/24 on the basis of Aadhar Enrolment ID then such assessee has to intimate his Aadhar No to DGIT/PDGIT(system) upto 31/12/25 or date may be specified CBDT.

Safe Harbour Rules - Section 92CB

Safe Harbour means circumstances in which the income-tax authorities shall accept the transfer price declared by the assessee.

- Provision of software development services (SDS) and Provision of Information Technology Enabled Services (ITES)

Operating profit (OP) margin declared by the eligible assessee from the eligible international transaction in relation to operating expense (OpEx) incurred is –

Value of International Transactions	Minimum OP/OpEx margin
Up to ₹100 crore	17%
More than ₹100 crore and up to ₹300 crore	18%
"SDS" include building business apps/information systems with existing tools, maintaining systems, converting languages, adding features, debugging, adapting existing software, and preparing user docs. It does not include any R&D activity, even contract R&D.	
"ITES" are BPO services delivered mainly using IT—e.g., back office, call/contact centres, data processing/mining, insurance claim processing, legal databases, medical transcription (no medical advice), translation, payroll, remote maintenance, revenue accounting, support centres, website services, data search/integration/analysis, remote education (not content development), and clinical database management (not clinical trials). It does not include any R&D services, even contract R&D.	

- Provision of Knowledge Process Outsourcing (KPO) Services : Applies only if total transaction value upto ₹ 300 crore

Employee Cost as % of Operating Expense	Minimum OP/OpEx margin
Less than 40%	18%
40% or more but less than 60%	21%
60% or more	24%
KPO are higher-end BPO services done mainly using IT that need advanced analytical/technical skills—e.g., geographic information system, HR services, engineering & design, animation/content management, business & financial analytics, and market research. It does not include any R&D services, even contract R&D.	

- Advancing of intragroup loans where the amount of loan is denominated in INR

Interest rate declared is minimum one-year marginal cost of funds lending rate of SBI as on 1st April PY plus

AE credit rating	%
AAA to A	+ 1.75% (175 bps)
BBB- / BBB / BBB+	+ 3.25% (325 bps)
BB to B	+ 4.75% (475 bps)
C to D	+ 6.25% (625 bps)
No credit rating and total INR loans to all AEs upto ₹100 cr (as on 31 March)	+ 4.25% (425 bps)

- Advancing of intragroup loans where the amount of loan is denominated in foreign currency

Interest rate declared is minimum reference rate of the relevant currency as on 30th September of the PY plus

AE credit rating	Total Loan to AE's upto ₹ 250 crores on 31st March of PY	Total Loan to AE's > ₹ 250 crores on 31st March of PY
AAA to A (AAA, AA+, AA, AA-, A+, A, A-)	+ 1.50% (150 bps)	+ 1.50% (150 bps)
BBB band (BBB+, BBB, BBB-)	+ 3.00% (300 bps)	+ 3.00% (300 bps)
BB+ to B-	+ 4.00% (400 bps)	+ 4.50% (450 bps)
C+ to D or No rating	+ 4.00% (400 bps)	+ 6.00% (600 bps)
Intra-group loan: A term loan given to a non-resident associated enterprise by a non-financial group company (i.e., not a bank/finco/normal lender). It must have a fixed repayment term—open-ended credit lines or facilities don't qualify.		

- Providing corporate guarantee: Commission or fee declared minimum 1% per annum on the amount guaranteed.

An explicit guarantee given by a company for the borrowings (short- or long-term) of its NR wholly owned subsidiary. It excludes letters of comfort, implicit guarantees, performance guarantees, or similar assurances.

- Provision of contract R&D services wholly or partly relating to software development: Minimum OP/OpEx 24% if the transaction value is up to ₹300 crore.

Contract R&D (software): High-end software research and development—e.g., new algorithms; work on OS, languages, data/communications software, dev tools and internet tech; methods for designing/ deploying/ maintaining software; advances in capturing/storing/retrieving/manipulating /displaying information; experimental work to fill tech knowledge gaps; and specialized tooling (image processing, geodata, OCR, AI). Also includes upgrading existing products when source code is provided—but not when source is shared only for routine debugging

- Provision of contract R&D services wholly or partly relating to generic pharmaceutical drugs: Minimum OP/OpEx 24% if the transaction value is up to ₹300 crore.

- Manufacture and export of core auto components: Minimum OP/OpEx 12%.

- Manufacture and export of non-core auto components: Minimum OP/OpEx 8.5%

Core auto components: Key vehicle systems and parts— (a) engine & powertrain (pistons, valves, cooling, etc.), (b) transmission & steering (gears, axles, clutches), (c) suspension & braking (brakes, linings, shock absorbers, leaf springs), and (d) lithium-ion batteries for electric or hybrid vehicles.

- Receipt of low value-adding intragroup services: Safe harbour applies only if the total value (including markup) is upto ₹10 crore and the markup is upto 5%.

An accountant must certify that: (a) the cost-pooling method is proper, (b) shareholder/duplicate costs are excluded, and (c) the allocation keys used are reasonable.

> Low value-adding intra-group services: Support-type services done within the group that are not core to the business, don't use/create unique intangibles, and don't involve significant risk. They're not shareholder or duplicate services and typically lack reliable external comparables.
> Excluded: R&D; manufacturing/production; software development/IT; KPO/BPO; purchasing of raw materials; sales/marketing/distribution; financial transactions; extraction/exploration/processing of natural resources; insurance/reinsurance.

- Procedures

1. Furnishing of Form 3CEFA

Form: Assessee must file Form 3CEFA with the Assessing Officer (AO).

Due Date: On or before due date u/s 139(1).

If for 1 year → due date for that AY.

If for >1 year → due date for the first AY.

Condition: Return of income for that AY must also be filed before filing Form 3CEFA.

Validity: Option continues for the period in Form or 3 years, whichever is less.

2. Verification by AO: AO shall verify:

Whether assessee = eligible assessee.

Whether transaction = eligible international transaction.

3. Reference to Transfer Pricing Officer (TPO) : If AO has doubt → reference to TPO.

Time limit: Reference must be made within 2 months from end of month of receipt of Form 3CEFA.

4. Role of TPO

- ☞ TPO may issue notice to furnish documents/info.
- ☞ Assessee must comply within time given.
- ☞ TPO can declare option invalid if:
  - Assessee fails to furnish info.
  - Assessee not an eligible assessee.
  - Transaction not an eligible international transaction.
- ☞ TPO passes written order → copy served on assessee + AO.

5. Remedy before Commissioner (CIT) against order of TPO(

- ☞ If assessee objects (within 15 days of TPO order) → CIT to decide within 2 months from end of the month of receipt of objection.
- ☞ Order served on assessee + AO.
- ☞ If AO / TPO / Commissioner does not act within prescribed time → option deemed valid.

Important Notes

1. Tolerance Range [Sec. 92C(2) 2nd proviso] : Not applicable once safe harbour is opted.
2. TP Documentation & Report: Sec. 92D (maintenance of info) + Sec. 92E (Accountant's Report in Form 3CEB) → still compulsory, even under safe harbour.
3. Exclusion: Safe harbour not applicable if AE is in notified jurisdictional area / no-tax or low-tax country [country where highest tax rate is < 15%] (Sec. 94A).
4. No MAP: If transfer price is accepted under safe harbour, assessee cannot invoke MAP under DTAA for that transaction.

Example: 1

ABC & Co, an Indian LLP, is solely engaged in the manufacture and export of engine, engine parts including cooling systems and engine valves. It had supplied auto components worth ₹ 72 crores during financial year 2024-25 to XYZ LLP, a foreign LLP located in Germany, controlled by A & B, the partners of Indian LLP along with their relatives. Against the aggregate value of transactions entered into as mentioned above, the Indian LLP incurred an operating expenditure of ₹ 60 crores leaving an operating profit of ₹ 4.50 crores.

(i) Compute the primary adjustment required to be made in A.Y.2025-26, if any, assuming that the Indian LLP exercised a valid option for application of safe harbour rules prescribed under Rule 10TD read with section 92CB of the Income-tax Act, 1961.

(ii) Examine the applicability of safe harbour rules, if the Foreign LLP is located in a Notified Jurisdictional Area.

Solution: ABC & Co., an Indian LLP, and XYZ LLP, a foreign LLP, are deemed to be associated enterprises, since XYZ LLP is controlled by A & B, who are the partners of ABC & Co., along with their relatives.

Engine, engine parts including cooling systems and engine valves fall within the meaning of "core auto components", and hence, export of all such parts originally manufactured by ABC & Co. is an eligible international transaction.

Since the Indian LLP is solely engaged in the manufacture and exports of such parts and has exercised a valid option for Safe Harbour Rules, it is an eligible assessee.

The Indian LLP should have declared an operating profit margin of not less than 12% in relation to operating expense, to be covered within the Safe Harbour Rules.

However, since ABC & Co. an Indian LLP has declared an operating profit margin of only 7.5% (₹ 4.5/₹ 60 crore x 100), the same is not in accordance with the circumstance mentioned in Rule 10TD.

Hence, ABC & Co., an Indian LLP, has to make primary adjustment.

Accordingly, it has to declare operating profits margin of ₹ 7.2 crore, being 12% of operating expenses i.e., ₹ 60 crore.

Thus, primary adjustment of ₹ 2.7 crore [i.e., ₹ 7.2 crore – ₹ 4.5 crore] has to be made by ABC & Co.

The Safe Harbour Rules shall not apply in respect of eligible international transactions entered into with an associated enterprise located in a notified jurisdictional area.

Therefore, if the foreign LLP is located in a NJA, the Safe Harbour Rules shall not be applicable, irrespective of the operating profit margin declared by the assessee.

Example:2

Examine the following transactions and advise whether the transfer price declared by the following assesses, who have exercised a valid option for application of safe rules, can be accepted by the Income-tax Authorities –

Assessee	International transaction	Aggregate value of trans. in P.Y. 2024-25	Declared Operating Margin	Operating Expenses
Ben Ltd. an Indian Company	Provision of data processing services with the use of information technology to Yen Inc., its foreign subsidiary	₹ 180 Cr.	₹ 30 Cr.	₹ 150Cr.
Den Ltd. and Indian Company	Provision of contract R & D services relating to generic pharmaceutical drug, to XYZ Inc., a foreign company which guarantees 15% of the total borrowings of Den Ltd.	₹ 50 Cr.	₹ 9 Cr.	₹ 30 Cr.

In all the above cases, it may be assumed that the Indian entity which provides the services assumes insignificant risk. It may also be assumed that the foreign entities referred to above are non-resident in India.

Solution:

1. Yen Inc., a foreign company, is a subsidiary of Ben Ltd., an Indian company. Hence, Yen Inc. and Ben Ltd. are associated enterprises. Therefore, provision of data processing services by Ben Ltd., an Indian company, to Yen Inc., a foreign company, is an international transaction between associated enterprises, and consequently, the provisions of transfer pricing are attracted in this case. Data processing service services with the use of information technology falls within the definition of "information technology enabled services", and is hence, an eligible international transaction. Since Ben Ltd. is providing data processing services to a non-resident associated enterprise and has exercised a valid option for safe harbour rules, it is an eligible assesse.

Since the aggregate value of transactions entered into in the P.Y. 2024-25 exceeds ₹ 100 crore but does not exceed ₹ 300 crore, Ben Ltd. should have declared an operating profit margin of not less than 18% in relation to operating expense, to be covered within the scope of safe harbour rules. In this case, since Ben Ltd. has declared as operating profit margin 20% (30cr/150cr x 100) the same is in accordance with the circumstance mentioned in Rule 10TD. Hence, the income-tax authorities shall accept the transfer price declared by Ben Ltd in respect of such international transaction.

2. XYZ Inc., a foreign company, guarantees 15% of the total borrowings of Den Ltd., an Indian company. Since XYZ Inc. guarantees not less than 10% of the total borrowings of Den Ltd., XYZ Inc. and Den Ltd. are deemed to be associated enterprises. Therefore, provision of contract R & D services relating to generic pharmaceutical drug by Den Ltd., an Indian company, to XYZ Inc., a foreign company, is an international transaction between associated enterprises, and consequently, the provisions of transfer pricing are attracted in this case.

Provision of contract R & D services in relating to generic pharmaceutical drug is an eligible international transaction. Since Den Ltd. is providing such services to a non-resident associated enterprise and has exercised valid option for safe harbour rules, it is an eligible assessee.

Since the value of the international does not exceed ₹ 300 crore, Den Ltd. should have declared an operating profit margin of not less than 24% in relation to operating expense, to be covered within the scope of safe harbour rules. In this case, since Den Ltd. has declared an operating profit margin 30% (9 cr / 30cr x 100) the same is in accordance with the circumstance mentioned in Rule 10TD. Hence, the income-tax authorities shall accept the transfer price declared by Den Ltd in respect of such international transaction.

IBS Software Services (P.) Ltd. (2025)(Ker.) High Court held that section 144C(13) is mandatory, not procedural. AO must pass the final assessment order within one month from the end of the month in which the DRP's directions are issued. This timeline was inserted to ensure speedy disposal of transfer-pricing cases and minimize prolonged litigation. The Court emphasized that legislative amendments carry purpose and cannot be ignored. Hence, an order passed beyond the prescribed time is invalid and liable to be set aside. The plea that delay causes no prejudice to the assessee was rejected. Thus, the AO's failure to adhere to the time limit vitiates the entire assessment.
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 the assessee issued shares to the creditors, the liability to pay interest ceased to exist, which is equivalent to payment in law. Therefore, the condition of actual payment u/s 43B stands satisfied. The Court clarified that such conversion is not a mere book entry but a discharge of liability through issue of shares. Hence, the assessee is eligible to claim deduction of the converted interest u/s 43B.
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.