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Tax Digest

- Recent case laws

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Updated Return

An Updated return can be furnished u/s 139(8A) of the Income Tax Act 1961 by any person, whether or not he has furnished a return under sub-section (1) or sub-section (4) or sub-section (5), for an assessment year (herein referred to as the relevant assessment year), of his income or the income of any other person in respect of which he is assessable under this Act, for the previous year relevant to such assessment year, in the prescribed form 61 at any time within twenty-four months from the end of the relevant assessment year.

Source :

<https://www.incometax.gov.in/iec/foportal//latest-news#4be578a7-95b1-4d36-8aaf-613b7214c59f>

1. Reduction in Share Capital of Subsidiary & Subsequent Reduction in Shareholding is 'Transfer' u/s 2(47)

In the instant case¹, the assessee held shares in an Indian company. The company filed a petition before the High Court for a reduction of its share capital to set off the loss against the paid-up equity share capital. The High Court ordered for a reduction in the share capital of the company. The assessee's share was reduced proportionately, and the company paid an amount to the assessee as consideration. During the year, the assessee claimed a long-term capital loss accrued on the reduction in share capital from the sale of shares of such company.

However, the Assessing Officer (AO) contended that although the number of shares got reduced by virtue of reduction in share capital of the company, yet the face value of each share as well as shareholding pattern remained the same. Thus, reduction in shares of the subsidiary company did not result in the transfer of a capital asset as envisaged in section 2(47).

The matter reached before the Supreme Court.

The Supreme Court held that section 2(47) is an inclusive definition providing that relinquishment of an asset or extinguishment of any right therein amounts to a transfer of a capital asset. While the taxpayer continues to remain a shareholder of the company even with the reduction of share capital, it could not be accepted that there was no extinguishment of any part of his right as a shareholder qua the company.

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.

In the instant case, the face value per share remained the same before the reduction of share capital and after the reduction of share capital. However, as the total number of shares were reduced.

Relying upon the decision in case of *Kartikeya V. Sarabhai v. Commissioner of Income Tax* reported in (1997) 7 SCC 524, it was held that reduction of right in a capital asset would amount to 'transfer' under section 2(47). Sale is only one of the modes of transfer envisaged by section 2(47). Relinquishment of any rights in it, which may not amount to sale, can also be considered as transfer and any profit or gain which arises from the transfer of such capital asset is taxable under section 45.

Also, a company under section 66 of the Companies Act, 2013 has a right to reduce the share capital, and one of the modes which could be adopted is to reduce the face value of the preference share. When as a result of the reducing of the face value of the share, the share capital is reduced, the right of the preference shareholder to the dividend or his share capital and the right to share in the distribution of the net assets upon liquidation is extinguished proportionately to the extent of reduction in the capital. Such a reduction of the right of the capital asset clearly amounts to a transfer within the meaning of section 2(47).

Thus, it was held that the reduction in share capital of the subsidiary company and subsequent proportionate reduction in the shareholding of the assessee would be squarely covered within the

¹ [Jupiter Capital \(P.\) Ltd. vs Principal Commissioner of Income-tax - \[2025\] \(Supreme Court\)](#)

ambit of the expression 'sale, exchange or relinquishment of the asset' used in section 2(47).

2. AO Can't Reject Rectification Application Merely on Basis of His Conviction That No Mistake Apparent on Record

In the instant case², the assessee was a partnership firm. It was also a partner in certain other firms. The assessee received a share of profit from said partnership firms and claimed said amount to be exempt under section 10(2A). The Central Processing Centre (CPC) denied the same, holding that the assessee failed to claim exempt income in the prescribed schedule of return income. It was contended that such facts were not discernible from the P & L Account and computation of the assessee.

Subsequently, the assessee made an application before the Assessing Officer (AO) seeking rectification of mistakes apparent from the record under section 154. However, AO rejected the application, contending that it could not be considered a mistake apparent from the record.

On appeal, CIT(A) upheld the order passed by the AO. The matter reached the Raipur Tribunal.

The Tribunal held that it was not in dispute between the assessee and the AO that the exemption claimed by the assessee under section 10(2A) was lawfully allowable. The controversy had cropped up on account of the revenue's conviction that the assessee failed to claim the exempt income in the prescribed schedule of return income. Also, such facts were

not discernible from the P & L account and computation of the assessee.

The assessee was entitled to claim exemption regarding the share of profit received from the partnership firm, wherein the assessee was a partner. Further, the computation of the total income of the assessee reflected the fact that the assessee had income generated through various partnership firms and had received a share in the profit of such firms, which presupposed to be taxed in the hands of respective partnership firms, therefore, the same cannot be taxed again in the hands of the assessee and the exemption under section 10(2A), hence, shall be available to the assessee.

Accordingly, the order passed by the AO under section 154 was to be quashed, and the exemption under section 10(2A) was to be allowed to the assessee with respect to the share of profit received by the assessee from the partnership firm in which the assessee is a partner.

3. Reassessment Justified as Assessee Failed to Prove Goods Moved from Shell Companies to Him

In the instant case³, a reopening notice under section 148A(b) was issued upon the assessee on the grounds that the assessee had made purchases from an individual, the sole proprietor, which was not a genuine entity and the payments received in the bank account were withdrawn in cash.

The assessee contended that he was not granted seven days to file a response to the notice issued

² Jalaram Transport vs Assistant Commissioner of Income-tax - [2025] (Raipur-Trib.)

³ Abhishek Bansal vs. Income-tax Officer - [2025] (Delhi High Court)

under section 148A(b) and filed a writ petition before the Delhi High Court.

The Delhi High Court held that in the instant case, the assessee was required to clearly show the movement of goods to establish that the goods had moved to the petitioner. However, the assessee did not appear to provide such information to the Assessing Officer (AO).

After taking note of the response submitted by the assessee, the AO issued an order holding that it was a fit case for issuance of notice under section 148. The AO also noted that the dealer's Goods and Service Tax Identification Number (GSTIN) was cancelled as the concerned authorities found that the entity was not involved in actual business activities but were mere shell entities.

The contention that the assessee was not afforded sufficient time to file a reply to the notice issued under section 148A(b) is unpersuasive. The said ground appeared to be an afterthought as the assessee had not requested further time to file a response to the said notice. On the contrary, the assessee had filed his response to the said notice within the stipulated period.

Clause (b) of section 148A does not stipulate that the assessee is required to be provided minimum of seven working days. The assessee is required to be provided notice not being less than seven days but not exceeding thirty days for furnishing his reply. However, in the instant case, the assessee did, in fact, file his reply within the specified period and, therefore, he cannot make any grievance at this stage of not being provided sufficient time to do so.

Accordingly, the petition was dismissed.

4. Reassessment Justified as Information Relating to Unexamined Cash Receipts Was Received After Original Assessment's Conclusion

In the instant case⁴, the assessee-individual filed his return of income disclosing capital gain income. The said return of income was selected for a scrutiny assessment, and an assessment order under section 143(3) was passed accepting the return of income.

Subsequently, the Assessing Officer (AO) issued a reopening notice upon the assessee based on information received that the assessee had received cash of a certain amount, which was undisclosed. Further, the credit card transaction of a certain amount was also required to be verified. The assessee filed objections to the reopening notice and submitted that the cash receipt was from the sale of the property, and the assessee made his submission on the merits as to why the same could not be added as income in his hands.

The AO rejected the assessee's submission and issued a reassessment order under section 148. Aggrieved by the order, the assessee filed a writ petition before the Bombay High Court.

The High Court held that the issue of alleged cash receipt was not examined during the regular assessment proceedings since the information from AO was received after the conclusion of the assessment proceedings. The assessment proceedings were concluded on 30 November 2018, whereas the information on the alleged cash receipt was received on 21 February 2022.

Furthermore, from the questionnaire issued to examine issues in the regular assessment proceedings, there was no query on credit card

⁴ [Sanjay Ratra vs. Assistant Commissioner of Income-tax - \[2025\] 170 taxmann.com 243 \(High Court of Bombay\)](#)

expenses or alleged cash receipts. Therefore, neither issue appears to have been examined.

The assessment order further records that the assessment was limited scrutiny assessment only for verification of deduction under Chapter VI. The assessee has not enclosed the submissions made during the assessment proceedings in the present petition, and therefore, the writ petition was rejected.