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## Tax Digest

- Recent case laws

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### Orders Passed u/s 201 in Pursuance of Action u/s 133A Are Appealable Before CIT(A) Under e-Appeal Scheme

*Order F. No. 225/17/2025-ITA-II, dated 28-01-2025*

CBDT issued an order u/s 246(6) of the Income-tax Act, 1961, dated 16.06.2023 specifying the scope of the e-Appeals Scheme, 2023.

In the said order, CBDT specifies that all appeals under Section 246 or Section 246A of the Act shall be processed under the e-Appeals Scheme, 2023, except for assessments arising from actions taken under Section 133A of the Act.

A query has been received in the Board regarding whether orders under section 201 made in pursuance of any action under section 133A shall fall under the exceptions.

The CBDT has clarified that orders under section 201 of the Income-tax Act shall not be considered assessment orders covered under the exceptions provided by the said order. Accordingly, all the appeals against such orders under section 201 shall be decided by the Joint Commissioner (Appeals) under the e-Appeals Scheme, 2023.

### **1. Hypothetical Income in Agreement Not Taxable Until Stipulated Conditions Are Satisfied**

In the instant case<sup>1</sup>, the assessee, an individual, entered into an agreement with a company to provide judgments for various courts/tribunals. The assessee was to receive total compensation, out of which the assessee had received only a certain amount during the relevant assessment year.

The Assessing Officer (AO) was of the view that the assessee ought to have received the balance amount of compensation as per the agreement. Since the assessee had only offered a certain amount, the balance amount needed to be added by the AO as income accrued to the assessee. The AO made the addition to the assessee's income while following the mercantile system of accounting.

On appeal, the CIT(A) deleted the additions. Aggrieved by the order, the AO filed the instant appeal before the Tribunal.

The Chennai Tribunal held that the terms and conditions concerning the grant of license, delivery of licensed materials, the compensation payable etc., are contained in the License agreement between the parties. The right to receive the income accruing under the agreement arose only after the inspection, review, and acceptance of the materials by the party as stipulated under the agreement.

Until the conditions stipulated in the agreement were satisfied, the income embedded in the relevant agreement was only hypothetical income. It is well settled that income can be said to accrue only when the assessee acquires a right to receive that income. Such accrual may depend on the

agreements which may give rise to such rights. Accordingly, the order of CIT(A) was upheld.

### **2. No Additions Based on SEBI's Caution Letter Regarding Price Manipulation Without Incriminating Material**

In the instant case<sup>2</sup>, a search and seizure operation was conducted in the cases of the AFI group of companies, and the residential premises of the assessee were also covered under the search. During the search, a warning letter written by SEBI to the assessee was found wherein it was indicated that certain professionals manipulated the prices of shares.

The Assessing Officer (AO) issued notice under section 153A to the assessee. He further passed an order and made an addition on account of capital gains earned by the assessee on sale of said shares on the grounds that the transactions of these shares were to be treated as bogus and added as assessee's income.

On appeal, the Commissioner (Appeals) had gone through the record carefully and deleted all the additions. Aggrieved filed the instant appeal before the ITAT.

The Tribunal held that nothing was found during the course of the search except a warning letter from the SEBI. This letter in itself does not exhibit anything relevant for the assessment of the income of the assessee. It is just a matter of caution for the assessee to avoid transactions with such shares. It is an apprehension that the mentioned company might be involved in

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<sup>1</sup> Assistant Commissioner of Income-tax vs. Suryanarayana Iyer - [2025] (Chennai-Trib.)

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<sup>2</sup> Deputy Commissioner of Income-tax vs. Avinash Singla - [2025] (Chandigarh-Trib.)

manipulating the price of its shares. Still, concretely, it does not provide that the assessee's transactions are to be treated as bogus.

It is pertinent to note that returns were filed before 31-3-2015. The time limit to issue notice under section 143(2) for scrutinising those returns had expired long back. The search took place on 25-4-2018. During the course of the search, details regarding alleged transactions of penny stock were not found. The department could only lay its hands on the letter of SEBI, which was missing in the case of one of the assessees.

AO himself has not cross-verified anything. He only followed some information available on the revenue portal without cross-verifying any circumstance. The Commissioner (Appeals) appreciated the controversy from the right perspective and rightly concluded that no incriminating material was found demonstrating the alleged transactions as bogus during the search. Given this, this appeal had no merit, and it was dismissed.

### **3. No Denial of Sec. 54B Relief Just Because Assessee Didn't Show Agricultural Income in His ITR**

In the instant case<sup>3</sup>, the Assessee-individual sold land and claimed deduction under section 54B in respect of capital gain arising from the sale of land. The Assessing Officer (AO) completed the assessment under section 143(3) without making any addition. Later, the Principal Commissioner of Income Tax (PCIT) found that the assessee had not

shown agricultural income earned by him in his return of income.

Accordingly, the assessee was not entitled to claim deduction under section 54B. Arguing that the Assessing Officer (AO) was obligated to conduct inquiries and verifications and make necessary additions regarding the deduction under Section 54B during the assessment proceedings but failed to do so, the PCIT initiated revisionary proceedings against the assessee.

Aggrieved-assessee filed an appeal to the Surat Tribunal.

The Tribunal held that the AO had issued three notices to the assessee under section 142(1) to examine three issues: (i) investment in immovable property, (ii) capital gain on the sale of property, and (iii) capital gain deduction claimed under section 54B. In response to these notices, the assessee submitted a detailed reply and various evidences stating that the land was used for agriculture. Thus, the assessee proved that the land was used for agricultural purposes prior to its sale for many years.

The main allegation of the PCIT was that the assessee had not shown agricultural income in his return of income. In this regard, the assessee submitted that the land was inherited by the members of the assessee's family, and one of the family members was showing agricultural income. It was sufficient compliance on the part of the assessee to claim such deduction under section 54B.

Only the condition to be fulfilled to claim the deduction under section 54B is that 'land was being used' by the assessee for agricultural purposes, and it was not necessary for the assessee to show agricultural income in his return of income. The assessee fulfilled this condition as the land was used by the assessee for two preceding previous years for agricultural purposes. It is not the requirement of

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<sup>3</sup> [Pareshbhai Parsottambhai Patel vs. Principal Commissioner of Income-tax - \[2024\] \(Surat-Trib.\)](#)

section 54B(1) that the assessee has to show agricultural income in his return of income.

Since the AO conducted an inquiry on the matter at hand and based on the evidence collected, he had formed a reasonable view, which cannot be considered unsustainable. Thus, the AO's order cannot be termed as erroneous or prejudicial to the interest of revenue.

#### **4. Additional Tax u/s 143(1) Isn't Valid If Assessee Revised His Return and Same Was Taken Up in Scrutiny**

In the instant case<sup>4</sup>, the appeal has been filed by the assessee against the order passed by the Income Tax Appellate Tribunal. By that order, the Tribunal has dismissed the appeal filed by the assessee and confirmed the demand for additional tax imposed under section 143(1A) of the Income Tax Act, 1961. The appeal was admitted on the questions of law:

“Was the additional tax levied based on the loss shown in the original return valid, given that the original return became non-existent after revision and the Assessing Officer issued a notice under Section 143(2) based on the revised return?”

The High Court held that the provisions of section 143(1A) of the Act, would apply and remain confined to situations covered u/s 143(1)(a) of the Act. The High Court observed that the provisions of section 143(1A) could not apply to a case where an assessment may have been completed u/s 143(3) of the Act.

The High Court further noted that once the assessment proceedings concluded, neither the original intimation issued under Section 143(1)(a) remained nor was there a legal basis to invoke the

provision of Section 143(1A). The High Court held that by initiating the assessment proceedings under Section 143(3) of the Act, the Assessing Officer himself eliminated the basis to invoke Section 143(1A). Consequently, the appeal was to be allowed.

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<sup>4</sup> [Khandelwal Rubber Products \(P.\) Ltd. vs. Commissioner of Income-tax - \[2024\] \(High Court of Allahabad\)](#)