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Tax Digest

- Recent case laws

February 17, 2025



Government Releases Section-Wise Comparison Table and FAQs on the Income-Tax Bill 2025

News, dated 13-02-2025

The government has released a detailed section-wise comparison table on the Income-tax Act, 1961, and the proposed Income-tax Bill, 2025. A comprehensive set of Frequently Asked Questions (FAQs) has also been released to clarify the changes introduced in the new Bill.

1. Offence Under Section 276CC Committed as Soon as There Is Failure on Part of Assessee in Filing ITR Within Due Date

In the instant case¹, the assessee filed the return of income for assessment year 2011-12 after the due date. Subsequently, the Commissioner issued a show cause notice alleging violation under section 276CC. The notice stated that although the due date for filing the income tax return was 1-8-2011, the assessee had filed the same with a delay on 4-3-2013.

The assessee replied to the aforesaid show cause notice along with the application for compounding. Later, the assessee filed return of income for assessment year 2013-14, which was also filed after the due date. Consequently, he received another show cause notice as regards the launching of prosecution.

The Commissioner rejected the compounding application of the assessee on the ground that the offence committed by the assessee would not be covered by the expression “first offence” as defined in the 2014 guidelines.

The matter reached the Supreme Court.

The Supreme Court held that after discussing the various methods of statutory interpretation, took the view that the legislative intent behind section 276CC, undoubtedly, was to restrict the meaning of the expression “in due time” used in the said provision to the time period referred to in section 139(1) and not to the time period referred to in section 139(4).

The Supreme Court observed that by virtue of section 278E, the trial court has to presume the existence of a culpable mental state, and it would be open to the accused to plead the absence of the

same in his defence. What is discernable from the decision is that an offence under section 276CC could be said to have been committed as soon as there is a failure on the part of the assessee in furnishing the return of income within the due time as prescribed under section 139(1).

Filing the return of income later within the time limit under Section 139(4) or before the initiation of prosecution does not change the fact that an offence under Section 276CC occurs on the day immediately after the due date for filing the return.

2. Limitation Period for Reassessment Can't Be Extended Due to Proceedings From Writ Petition Orders

In the instant case², the Assessing Officer (AO) issued a notice under section 148 against the assessee. The assessee filed a writ petition challenging the said notice, and the operation of the said notice was stayed.

AO subsequently issued a notice under section 148A(b) and passed an order under section 148A(d). Later, he issued a notice under section 148. The assessee filed a writ petition challenging the said notice on the ground that the same was issued beyond the period of limitation.

The revenue contended that the impugned notices and order should be considered within the specified time as in the earlier round, the High Court had stayed the proceedings, and the time period during which the said petition was pending before the High Court was required to be excluded for computing limitation.

¹ [Vinubhai Mohanlal Dobaría v. Chief Commissioner of Income-tax - \[2025\] \(Supreme Court of India\)](#)

² [Abhinav Jindal vs. Assistant Commissioner of Income-tax - \[2025\] \(Delhi High Court\)](#)

The Delhi High Court held that the notice under section 148 could have been issued for six years from the end of the relevant assessment year. The fact that the assessee had succeeded in its challenge to the said notice cannot be a ground for exclusion of the period spent by the assessee in pursuing the said litigation.

The time spent by the assessee in pursuing the challenge can neither be excluded nor claimed as resulting in the extension of the period of limitation. The AO is required to take all necessary steps to initiate the assessment proceedings within the period of limitation. This would obviously mean proper steps in accordance with the law. The fact that the AO had not taken the steps in accordance with the law cannot possibly be construed as a factor in favour of the AO for extending the limitation as stipulated under section 149.

3. CIT(A) Can't Dismiss Appeal for Non-Prosecution Without Applying Mind to Issues Raised in Appeal

In the instant case³, the Assessing Officer (AO) initiated reassessment under section 147 after noting that the assessee sold property for Rs. 73.65 lakh but didn't file a return. Investigation revealed the sale deed mentioned Rs. 19.06 lakh, while the market value (stamp duty) was Rs. 73.65 lakh.

With no explanation for the Rs. 54.59 lakh discrepancy, the entire Rs. 73.65 lakh was treated as unexplained capital gains under section 45. An order under section 147 read with section 144, dated 26-03-2022, determined the assessee's income at Rs. 73.65 lakh.

³ [Vijay Krishna Bhandari vs. Income-tax Officer - \[2025\] \(Raipur-Trib.\)](#)

The Commissioner (Appeals) dismissed the case for non-prosecution due to the assessee's absence. The assessee appealed before the Tribunal, challenging both the dismissal and the addition made by the AO.

The Tribunal held that the assessee's failure to appear before the lower authorities was unwarranted. While the Commissioner (Appeals) was correct that appeal cannot be delayed due to non-prosecution, dismissing it without examining the merits was improper.

The assessee had contested the addition under section 45, claiming the Assessing Officer erred in treating the entire sale consideration as undisclosed capital gains. The Commissioner (Appeals) should have addressed these arguments instead of dismissing the appeal outright.

As per section 251(1)(a) and (b) and the Explanation to section 251(2), the Commissioner (Appeals) is obligated to review all relevant issues. He does not have the power to reject an appeal solely for non-prosecution. Therefore, the dismissal is set aside, and the Commissioner (Appeals) is directed to decide the case on its merits.

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

In the instant case⁴, 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.

⁴ [Deputy Commissioner of Income-tax vs. Avinash Singla - \[2025\] 170 taxmann.com 786 \(Chandigarh-Trib.\)](#)

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 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 assesseees.

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.