



A.C. Bhuteria & Co.
Chartered Accountants

16, Strand Road, Diamond Heritage,
Room No. H-703,
Kolkata – 700001

Ph: 033-46002382/ 40032841
Email id: info@acbhuteria.com

Tax Digest

- Recent case laws

February 3, 2025



**CBDT Notifies Rules 2DAA & 21ACA
Prescribing Conditions for VC Funds u/s
10(23FB) & IFSC Finance Companies u/s 94B**

Notification no. 10/2025, dated 27-01-2025

The Central Board of Direct Taxes (CBDT) has notified two new Rules, 2DAA & 21ACA, and amended Rules, 21AIA.

1. CIT(E) Can't Reject Trust's Application for Registration Merely on a Technical Ground

In the instant case¹, the assessee-trust applied for registration in Form 10AB under section 12A(1)(ac)(vi). Commissioner (Exemption) found that the assessee-trust had claimed exemption under section 11, and thus said provisions of section 12A(1)(ac)(vi)(B) were not applicable in the assessee's case. Accordingly, the application filed by the assessee was rejected by him.

The Assessee approached the Tribunal against the order of rejection.

The Tribunal held that the assessee trust was required to file an application under clause (iii) of section 12A(1)(ac), but due to inadvertent error, the application was filed under clause (vi) of section 12A(1)(ac). For this reason alone, the Commissioner (Exemption) rejected its application for registration.

The Commissioner (Exemption) erred in dismissing the application for registration merely on a technical ground, and accordingly, it is proper to set aside the order passed by the Commissioner (Exemption).

ITAT directed the Commissioner (Exemption) to treat the application already filed by the assessee as under clause (iii) of section 12A(1)(ac) instead of under clause (vi) of section 12A(1)(ac) and decide the same as per fact and law after providing reasonable opportunity of hearing to the assessee.

¹ [Torna Rajgad Parisar Samajonnati Nyas vs. Commissioner of Income-tax \(Exemptions\) - \[2025\] \(Pune-Trib.\)](#)

2. No Additions Towards Unexplained Cash if It Was Out of Savings of Family Members and Gifts From Brothers

In the instant case², during the search operation, the assessee declared a sum of Rs. 10 lakhs in the company to cover up any irregularity in the explanation of any unexplained item. This amount was assessed in the hands of the company.

The assessee explained that the source of the cash was from past savings of family members and gifts received from brothers. However, the Assessing Officer (AO) added to the assessee's income by stating that unexplained cash had been found at the residential premises.

On appeal, CIT(A) upheld the additions made by AO, and the matter reached the Chandigarh Tribunal.

The Tribunal held that the assessee had declared a sum of Rs. 10 lakhs in the company during the search to cover up any irregularity in the explanation of any unexplained item. This amount was assessed in the hands of the company, which was framed under section 143(3). The assessee also referred to ITR-V and Computation of Income and these documents disclosed that the assessee had declared additional income of Rs. 10 lakhs.

Therefore, if the explanation is taken into consideration based on cumulative circumstances, namely, Rs. 10 lakhs was declared to cover up such type of issues, past savings of the family members, and gift received from the brothers, then it would be established

² [Avinash Singla vs. DCIT - \[2025\] \(Chandigarh-Trib.\)](#)

that the source of cash was available with the assessee. It is difficult to establish cash available in the family with mathematical precision. It is to be appreciated based on the normal human behavior available in the family. If all the family members are assessable to tax, then the possibility of their savings and the availability of Rs. 10 lakhs could never be denied. Accordingly, the impugned additions made by AO were deleted.

3. Sec. 263 Revision Justified as AO Failed to Verify Audit Party's Objections on MF/Share Investments

In the instant case³, the Assessing Officer (AO) passed the assessment order. After the assessment order was passed, audit objections were raised with regard to the inquiry said to have been conducted by the AO. The audit party recorded several major audit objections regarding the assessee's investment in mutual funds/shares. No verification was done by the AO during the assessment proceedings relating to the assessee's explanation.

The Commissioner invoked revision jurisdiction under section 263 and set aside the assessment order passed by the AO. The Tribunal quashed the order passed under section 263 by the Commissioner. The matter reached the High Court.

The High Court held that the sine-qua-non for interference by the Commissioner under section 263 to the assessment order passed by the AO is the satisfaction of certain conditions, i.e. the order passed by the AO is erroneous, and secondly, the order results in prejudice to the revenue.

After the assessment order, audit objections were raised regarding the Assessing Officer's inquiry, with

³ [Principal Commissioner of Income-tax-2 vs Kirti Anand - \[2025\] \(High Court of Punjab & Haryana\)](#)

major concerns over the assessee's investment in mutual funds/shares. The Assessing Officer did not verify the explanation provided by the assessee during the assessment proceedings.

Therefore, the order passed by the Commissioner under section 263 in the facts and circumstances of the case cannot be said to be such that it was to be interfered with by the Tribunal. Accordingly, the appeal of the revenue was allowed.

4. HC Directs CBDT to Allow Sec. 87A Rebate Claim Even if Assessee Opts for New Tax Regime While Filing ITR

In the instant case⁴, in a recent ruling, the Bombay High Court ruled that the Income-tax department's modification of the e-filing utility, which restricted taxpayers from claiming a rebate under Section 87A for taxes computed under provisions other than Section 115BAC, was unconstitutional and arbitrary. The Court directed the Revenue to allow taxpayers to claim such rebates while leaving the validity of such claims to the assessment process.

The Revenue modified the e-filing utility effective from 5-7-2024, disabling taxpayers from claiming a rebate under Section 87A unless the taxes were computed under the optional new tax regime of Section 115BAC.

The Chamber of Tax Consultants filed a Public Interest Litigation (PIL) challenging this change, arguing that Section 87A rebates were not limited to Section 115BAC but extended to all taxes computed under Chapter XII unless specifically restricted.

The petitioners contended that preventing taxpayers from making claims at the threshold stage of filing

⁴ [Chamber of Tax Consultants vs Director General of Income Tax \(systems\) - \[2025\] \(High Court of Bombay\)](#)

returns violated their statutory rights and constitutional protections under Articles 265 and 300A of the Constitution.

The Revenue argued that Section 115BAC, which provides for a concessional tax regime, overrides other provisions, and the rebate under Section 87A was intended only for taxes computed under Section 115BAC.

The Bombay High Court held that Section 139D, read with Rule 12, provides the framework for filing income tax returns electronically but does not authorise the Revenue to redesign the e-filing utility in a manner that prevents taxpayers from making legitimate claims, even if debatable.

The court noted that the issue of allowing a rebate under Section 87A for taxes computed under provisions other than Section 115BAC was highly debatable and required an adjudicatory process. Restricting taxpayers from raising such claims was beyond the scope of administrative powers.

The Revenue's unilateral action of modifying the utility was deemed unconstitutional, as it denied taxpayers the right to make claims, effectively bypassing statutory safeguards like assessment and appeals under the Income-tax Act.

It emphasised that the tax collected must comply with Articles 265 and 300A of the Constitution, which prohibit the collection of taxes without the authority of law.

The court directed the Revenue to modify the utility to enable taxpayers to claim the rebate under Section 87A for AY 2024-25 and subsequent years, including revised returns under Section 139(5).