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## Tax Digest

- Recent case laws

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### CBDT Notifies 'Delhi Building and Other Construction Workers Welfare Board' for Sec. 10(46) Exemption

*Notification no. 18 /2025, dated 06-03-2025*

The Central Board of Direct Taxes (CBDT) has notified 'Delhi Building and Other Construction Workers Welfare Board', for the purposes of clause (46) of section 10 of the Income-tax Act, 1961.

The exemption is available for the following incomes:

- a) Cess received.
- b) Registration & Renewal fee received/collected from the Building and other Construction Workers; and
- c) Interest on bank deposits.

This notification shall be effective subject to the following conditions:

- a) The Board shall not engage in any commercial activity;
- b) Activities and the nature of the specified income shall remain unchanged throughout the financial years; and
- c) The Board shall file a return of income.

### **1. Reliance on Special Audit Report From Earlier AY to Assume Similar Pattern in Subsequent AY is Unjustified**

In the instant case<sup>1</sup>, the petitioner was a trust registered under section 12AA of the Income-tax Act, 1961. For the Assessment Year 2014-2015, a report under Section 142(2A) was prepared. Pursuant to this, the return of income was scrutinised by placing reliance on the Special Audit Report and the Assessment Orders passed for the Assessment Years 2014-2015, 2015-2016 and 2017-2018.

The entire amount claimed towards salary disbursed to the staff has been added to the income of the petitioner. Aggrieved by the order, the assessee filed a writ petition to the Madras High Court.

The High Court held that the demand was confirmed based on the Special Audit Report of the External Auditor appointed for this purpose under Section 142(2A). A reading of Section 142(2A) indicates that the report can relate only to a particular Assessment Year.

The Assessing Officer, having regard to the nature and complexity of the accounts, volume of the accounts, doubts about the correctness of the accounts, multiplicity of transactions in the accounts or the specialised nature of the assessee's business activity, and the interests of the revenue, can direct the assessee to get the accounts audited by an accountant. Assessee required to furnish a report of such audit in the prescribed form duly signed and verified by such accountant and setting forth such particulars, as may be prescribed, and such other particulars as the Assessing Officer may require.

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<sup>1</sup> **World Vision India vs. ITO [2025] (High Court of Madras)**

This report generated for the earlier Assessment Years cannot be a basis to conclude that the similar pattern would have been followed by an assessee during the subsequent Assessment Years. To do so would amount to assessment by sampling which is frowned upon by the Court.

Therefore, the matter was remitted back to the Assessing Officer to pass a fresh order on merits and in accordance with law independently without getting influenced by the Special Audit Report generated for the Assessment Year 2014-2015.

### **2. ARC Obligation to Restore Cell Sites to Their Original Condition at End of Lease Period Is Allowable as Business Expense**

In the instant case<sup>2</sup>, assessee-Vodafone, a company engaged in providing telecommunication services, entered into a lease agreement with the owners of various office spaces for setting up cell site towers. The lease agreement obligated the assessee to restore the site to its original condition at the expiry of the lease period.

The assessee capitalized certain sums on account of the asset reconstruction cost (ARC) obligation, which represented the estimated cost likely to be incurred at the network sites and office premises to restore them to their original condition at the end of the lease period. The assessee claimed depreciation in this respect.

The Assessing Officer (AO) disallowed the said provision holding that it was not an ascertained

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<sup>2</sup> **Vodafone Mobile Services Ltd. vs. Deputy Commissioner of Income-tax [2025] (High Court of Delhi)**

liability. The Tribunal upheld the order of AO. Aggrieved-assessee filed the instant appeal before the High Court.

The High Court held that the issue pertaining to 'actual cost' as it appears in Section 32(1) need not be considered. Upon a holistic examination of the rival submissions, it is manifest that it is the alternate plea based on Section 37 that alone would merit further consideration.

Section 37 focuses on expenditure "laid out" or "expended" as opposed to the identification of an actual cost and which constitutes the heart of Section 32. The Madras High Court had an occasion to review a similar situation in *Vedanta Limited vs. The Joint Commissioner of Income Tax* [Tax Case (Appeals) Nos. 2117 to 2119 of 2008].

It was held that the words 'laid out' or 'expended' are not confined to an immediate expenditure but would also comprehend an expenditure that may arise in the future. All that Section 37(1) requires is that the expenditure should be "laid out" or "expended" for the purposes of business.

Thus, the provisioning for ARC qualified the prescriptions of AS 29, and the assessee was justified in accounting for the same. The ARC obligation clearly met the test of a positive obligation flowing from a past event, being a conceivable probability as well as being measurable.

### 3. No Violation of Principles of Natural Justice if No Relevant Docs Were Produced in Response to SCN

In the instant case<sup>3</sup>, the assessee, a charitable trust, was running a Medical College and Hospital. During the assessment proceedings, the Assessing Officer (AO) issued a show cause notice proposing to make additions in respect of the loan taken and the loan repaid. In response, the assessee filed a detailed reply and attended the hearing through video conferencing.

However, the AO made additions to the income of the assessee without calling for any further documents. The assessee contended that the assessment order was passed in violation of the principles of natural justice and should be set aside.

The Madras High Court held that the assessee was given a show cause notice, to which it had replied, and a hearing through video conferencing had taken place. The assessee had clearly averred that it had appeared through video conferencing and explained in detail the way in which the loans were taken and repaid. This itself would mean that the said video conferencing was not an empty formality.

Further, it was the case of the assessee that had the AO called upon the assessee to produce the documents to substantiate their claim, the same would have been produced. When a show cause notice had been issued on certain allegations, it was the duty of the recipient of such a show cause notice to assail the same by producing relevant and necessary documents.

In the present case, the assessee had not produced such relevant and necessary documents. The assessee cannot expect the AO to call upon the assessee to produce further documents, as the AO

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<sup>3</sup> *St. Alphonsa Trust vs. Assessment Unit* [2025] (High Court of Madras)

will not be aware of what documents are available with the assessee to substantiate the same.

Hence, the assessee's contention that the video conferencing was an empty formality was not tenable. Therefore, the writ petition was to be dismissed.

#### **4. Pharmacies in Hospitals Are Essential for Operations; Qualify for Section 11 Tax Exemption**

In the instant case<sup>4</sup>, the assessee was a public charitable trust running a hospital for philanthropic purposes. During the assessment proceedings, the Assessing Officer (AO) noted that the assessee was running a pharmacy store in the hospital premises. The assessee was asked to furnish a detailed submission on the alleged surplus of the pharmacy and provisions of section 11(4A).

The assessee submitted that the running of the pharmacy by the assessee was an integral part and interwoven with the activities of running the hospital. The patients undergoing any treatment in the hospital need medicines, including life-saving drugs, without which it is not possible for a hospital to treat its patients.

Hence, the pharmacy is an essential establishment for any hospital. Even the patients who have been operated also require medicines, and if the medicines are not provided, the result would be fatal. Also, providing medicines to patients can never be treated as business income.

However, the Assessing Officer was of the opinion that the net profit realised from the pharmaceutical department required to be treated as business income and accordingly brought to tax. The CIT(A) upheld the order of AO, and the matter reached the Mumbai Tribunal.

The Tribunal held that the assessee ran a hospital with in-house patients. Medicines are essential for the treatment of the patients. Similarly, the assessee also treated the OPD patients, who could purchase medicines from the hospital chemist shop. To save the lives and provide proper treatment of the in-house patients, running the pharmacy division was the most essential requirement for running the assessee hospital and fulfilling the dominant purpose of the assessee trust.

The assessee fulfilled all the requirements that necessitated running the hospital's pharmacy division to achieve the assessee trust's dominant purpose. Therefore, the assessee was entitled to the benefit under section 11(1) of the Act, and the income from the pharmacy division of the assessee cannot be treated as business income from a separate and independent activity carried out by the assessee.

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<sup>4</sup> **Bhatia General Hospital vs. Deputy Commissioner of Income-tax (Exemption) [2025] (Mumbai-Trib.)**