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Tax Digest

- Recent case laws

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Govt. Releases FAQs on Changes Introduced in the Finance Bill 2025, as Passed by Lok Sabha

FAQs, dated 25-03-2025

The Lok Sabha passed the Finance Bill 2025 on March 25, 2025, incorporating over 30 modifications to the original bill introduced on February 1, 2025. The government has released FAQs on the changes made to the Finance Bill 2025 as passed by the Lok Sabha.

1. Interest Exp. Incurred on Loan Taken to Advance to Family Members & Related Firms Allowable u/s 57(iii)

In the instant case¹, the assessee was an individual and a partner in two partnership firms. During the assessment proceedings, the Assessing Officer (AO) noticed that the assessee had given interest-free loans to family members and related firms. However, the assessee paid interest on the loans taken from others. The interest expenditure was claimed as a deduction under section 57 while computing the income chargeable under the head “income from other sources”.

The AO issued a show-cause notice to the assessee as to why the minimum interest earned by the assessee from loans given be not calculated at the interest rate of 9.04%. In response, the assessee submitted that the actual interest rate differs from the prevailing market rate and is decided upon by various factors like financial ability, negotiable skills, etc.

The AO restricted the interest expenditure to a rate of 5.22% and disallowed the excess interest expenditure. On appeal, CIT(A) upheld the disallowance. Aggrieved-assessee filed the instant appeal before the Tribunal.

The Tribunal held that there was no dispute regarding the nature of expenditure, and the revenue has only disputed that the interest expenditure claimed under the aforesaid section has no nexus for the purpose of earning the interest income. The Revenue has brought no material on record to show that the loan received by the assessee was utilised for any purpose other than

giving the loan to her family members or related firms.

Further, no material was on record to show any impediment on the assessee to give the money as a loan to her family members or related firms. Thus, there is no material to dispute that the assessee utilised the interest-bearing borrowed funds to advance the loans to her family members or related firms.

The Revenue emphasised the aspect of business prudence in advancing the loans to the sister concern at lower rates than the rate at which the assessee borrowed the funds. However, the test of commercial expediency/business prudence is required to be judged from the point of view of the businessman and not the revenue. Therefore, there is no basis for restricting the interest expenditure claimed by the assessee under section 57(iii).

2. Sale Consideration to Be Excluded From Assessee's Income if He Was Only a Name Lender in Sale Deed

In the instant case², the assessee is an individual who earns income from salary, capital gains on equity shares, and mutual funds. Since the taxable income was below the basic exemption limit for the year under consideration, he did not file the return of income. Subsequently, the Assessing Officer (AO) issued a notice under section 148 based on the information that the assessee had sold immovable property.

During the assessment proceedings, the assessee submitted that his brother originally

¹ Shantiben K Rita vs. Income-tax Officer [2025] (Mumbai-Trib.)

² Vinod Nihalchand Jain Ltd. vs. ITO [2025] (Mumbai-Trib.)

purchased the immovable property, and his name was added to the property as a joint owner out of natural love and affection.

AO didn't accept the assessee's submissions and held that no family arrangement exists whereby the assessee relinquished the right to the property before the sale. He added Rs. 27 Lakh to the assessee's total income as Long-Term Capital Gains under section 45 of the Act.

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

The Tribunal held that the assessee's name was mentioned in the purchase deed as one of the joint owners, but his brother paid the entire consideration. His brother was in actual possession and had 100% rights over the said property. Even in the subsequent year, the assessee's brother declared the entire consideration in his return of income and claimed the benefit of exemption under section 54F of the Act.

The assessee also produced an affidavit executed by his brother, admitting that he and his father made the entire payment for the purchase of the said property and that the assessee had not contributed anything to the purchase.

The assessee's brother paid the entire purchase consideration, was in actual possession, and had 100% rights over the said property. Even though the assessee's name was mentioned in the purchase deed as one of the joint owners, the consideration received on the sale of the said

property cannot be added to the assessee's income.

3. Provisional Approval Granted to Trust Under New Regime Couldn't Be Sole Basis for Rejecting Renewal of Registration u/s 80G

In the instant case³, the assessee-trust was incorporated with an object of relief to the poor, education, medical relief and advancement of any other objects of general public utility. The assessee filed an application in Form 10A for seeking provisional registration under section 80G. The application was granted, and the assessee received the 80G registration.

Subsequently, the assessee filed an application seeking approval under section 80G. Commissioner (Exemption) rejected the application on the basis that the application was filed under the wrong section.

Aggrieved by the order, the assessee filed an appeal to the Mumbai Tribunal.

The Tribunal held that the application filed by the assessee seeking approval under section 80G was for renewal of the registration already available with the assessee. From the perusal of the provisions of the first proviso to section 80G(5), it is evident that clause (ii) is applicable to the trusts that already have regular approval and the application is made for the renewal of the same, while in case the trust has been provisionally approved and such approval is expiring, clause (iii) of the first proviso to section 80G(5) is applicable.

In the instant case, since the assessee was already an approved trust, the application was rightly made

³ **Sheth Vijilal Laxmidas Tribvondas vs. CIT (Exemptions) [2025] (Mumbai-Trib.)**

by the assessee under clause (ii) of the first proviso to section 80G(5), and the grant of provisional approval cannot be the sole basis for rejecting the same.

Accordingly, in the interest of justice and fair play, the application filed by the assessee for renewal of regular approval under section 80G(5) was restored to the file of the Commissioner (Exemption) for de novo adjudication in accordance with the law and after consideration of the facts in entirety.

4. Appeal Filed u/s 377 Cr. P.C. Against Conviction Order Passed u/s 276B Lies in Sessions Court

In the instant case⁴, the Special Court for Economic Offences convicted the assessee accused of offences under section 276B, read with section 278B. The Department had filed the instant appeal under section 377 of Cr.P.C. against the sentence for its inadequacy.

The matter reached before the Karnataka High Court.

The Court held that the offences under Chapter XXII of the I.T. Act, 1961, are non-cognizable offences in view of section 279-A. As per the first schedule of Cr.P.C. classification of offence against other laws, if an offence is punishable by imprisonment for less than 3 years or with a fine only, it is classified as non-cognizable, bailable and triable by any Magistrate. As the offences stated in section 279-A are non-cognizable within the meaning of Cr.P.C., they are triable by a Magistrate.

Offences registered by or against elected representatives are now tried by Special Courts

established, and it is presided over by a Sessions Judge. That Special Court presided over by a Sessions Judge can be said to come under clause (b) – ‘any other Court’. The Special Court for economic offences, Bangalore, is presided over by an officer of the rank of Magistrate and does not come under clause (b) – ‘any other Court’. The appeal against convictions for the offence under Chapter XXII of I.T. Act, 1961 lies to the Sessions Judge under section 374 of Cr.P.C.

It was submitted that the assessee-accused had challenged the judgment of conviction passed by the Special Court, and the said criminal appeal is pending before the Sessions Court. If the appeal has been tried against the judgment of conviction by the Sessions Court and if the High Court deals with the appeal against the inadequacy of the sentence, it may lead to the passing of conflicting judgments.

In case of an appeal against conviction, if the Sessions Court reverses the judgment of conviction and acquits the accused and the High Court allows the appeal filed against the inadequacy of sentence, then the decisions are conflicting against the same judgment of conviction passed by the Special Court. To avoid such conflicting judgments, the appeal against conviction and appeal against inadequacy of the sentence are to be dealt with by the same Court.

Further, it was argued that in an appeal filed against the sentence on the ground of inadequacy under section 377 of Cr.P.C., the accused may plead for his acquittal or for reduction of sentence as provided under sub-section (3) of section 377 of Cr.P.C. The right of appeal is provided to the accused to challenge the judgment of conviction and order on sentence under sub-section (3) of section 374 of Cr.P.C. So also sub-section (3) of section 377 of Cr.P.C. provides for the accused to plead for his acquittal or reduction of sentence.

⁴ [Income-tax Department vs. Jenious Clothing \(P.\) Ltd. - \[2024\] \(High Court of Karnataka\)](#)

The accused who has been convicted need not wait till the State files an appeal under section 377 of Cr.P.C. to plead for his acquittal or for reduction of sentence. The accused has a statutory right under sub-section (3) of section 374 of Cr.P.C. to challenge the judgment of conviction and order on sentence passed by the Special Court. If the accused has not challenged the judgment of conviction and order on sentence by filing an appeal under sub-section (3) of Section 374 of Cr.P.C., then in the appeal filed under Section 377 of Cr.P.C., he can plead for his acquittal or reduction of sentence under sub-section (3) of section 377 of Cr.P.C.

Accordingly, the appeals preferred by the Income Tax Department under section 377 of Cr.P.C. were not maintainable and accordingly, all the appeals were dismissed.