Direct Tax Newsletter

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Tax Digest

- Recent case laws

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CBDT Notifies IREDA Bonds as Eligible for Section 54EC Exemption

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The **Central Board of Direct Taxes (CBDT)** has officially notified the **Indian Renewable Energy Development Agency (IREDA)** as a long-term specified asset for the purposes of **Section 54EC** of the Income-tax Act, 1961. This move provides taxpayers with an additional avenue for capital gains exemption under the said section.

1. HC Quashes Ex-Parte Order for Notice Sent to Wrong Auditor

In the instant case[1], the assessee individual earned certain income by rent and from capital gains during the subject assessment year. He purchased the land from a construction company, constructed a commercial and residential apartment complex on the land, and subsequently sold it to the present residents.

The assessee filed his return of income declaring the total income of Rs. 58.35 lakhs. He had declared that he had earned long-term capital gain (LTCG) of Rs. 2.81 lakhs on the sale of the property above. The assessee's case was selected for scrutiny under CASS (Computer Assisted Scrutiny Selection). Assessing Officer (AO) passed an ex parte assessment order under section 143(3) read with section 144B, disallowing certain claims made by the assessee solely on the ground that the assessee had not furnished the requisite details.

During the assessment proceedings, communications and vnotices were issued to the email address of the assessee's former Auditor, who was replaced by the present Auditor of the assessee. Assessee replaced his auditor and updated the email address of the current auditor in the appellate form. He had provided his specific email ID, namely 'kctsilks@gmail.com,' for all correspondence in respect of the appeal. The assessee mentioned the email address as 'kctsilks@gmail.com' in Form No. 35.

On writ, the Karnataka High Court held that once the email address is changed and it is within the knowledge of the department, the department ought to have issued notice or communication to the assessee to the present email address to facilitate him to contest the case and provide a fair opportunity of hearing and decide the matter in accordance with the law.

Admittedly, this was not done in the present case; therefore, the impugned order passed by the AO cannot be sustained, given that no proper notice and no proper opportunity for a fair hearing were provided to the assessee.

2. Section 145(3) Can't Be Invoked Without Defects in Books

In the instant case[2], the Assessing Officer (AO) conducted a search and seizure operation under Section 132 of the Income-tax Act, 1961, on the assessee. The assessee filed a settlement application before the Income Tax Settlement Commission (ITSC) for the block period, admitting a 10% net profit on the total gross receipts. The ITSC accepted the same.

Later, for the assessment year 2014-15, the assessee filed a return of income declaring income based on regularly maintained books. The case was selected for scrutiny under CASS. The Assessing Officer (AO) issued a notice proposing to apply a net profit rate of 10% on gross contract receipts and passed an assessment order under Section 143(3) read with Section 144, invoking Section 145(3), and determined the total income at Rs. 13.25 crore.

On appeal, the CIT(A) held that no defects or irregularities had been pointed out in the books, bills, or vouchers, and deleted the addition by accepting a net profit at 5.37%. The Tribunal

[1] Suresh Kumar Paruchuri v.Commissioner of Income-tax (Appeals), NFAC, Delhi - [2025] (High Court of Karnataka)

[2] Assistant Commissioner of Income-tax v. Sunil Kumar Agrawal - [2025] (High Court of Chhattisgarh)

affirmed the findings of the CIT(A), and the matter reached the Chhattisgarh High Court.

The High Court held that section 145 was not an assessment but a computation section. It instructs AO as to the method to be adopted in computing the profits and gains. Section 145 does not confer a mere discretionary power. Still, it imposes a statutory duty on the Income-tax Officer to examine in every case the method of accounting employed by the assessee and to see whether or not it has been regularly used and to determine whether the income, profits and gains of the assessee could correctly be deduced therefrom. AO can reject the accounts maintained by the assessee if he is not satisfied with their correctness or completeness.

Similarly, AO can reject the method of accounting followed by the assessee if the same is not by the provisions of section 145. However, in both situations, AO is required to assess in the manner provided under section 144. Meaning thereby that AO is authorised to determine the assessee's total income based on 'best judgment' and, at the same time, disregard the income declared in the return. Therefore, the existence of infirmities and discrepancies in the accounts maintained by the assessee is sine qua non for invoking the provisions of section 145(3). Unless and until the AO expressly notices the infirmities and discrepancies in the accounts maintained by the assessee, section 145(3) cannot be invoked. Similarly, the principle of res judicata does not apply to the assessment proceeding.

Since no defect or discrepancy was recorded in books maintained for the relevant year, AO could not have invoked section 145(3) and applied net profit rate of 10 per cent solely based on the assessee's earlier declaration before the Settlement Commission.

3. No TCS on Compounding Fee Collected for Illegal Mining

In the instant case[3], the assessee was a District Mining Officer. During the TDS survey, it was noticed that the assessee had not collected tax at source (TCS) on the amount of compounding fees recovered from illegal miners and transporters of minerals. The Assessing Officer (AO) treated the assessee as 'assessee-in-default' and imposed an obligation to make good the said non-collection of tax at source.

Aggrieved by the order, the assessee filed an appeal to the CIT(A), wherein the order of the AO was upheld. On further appeal, the Tribunal upheld the order of CIT(A). The matter then reached the Chhattisgarh High Court.

The Chhattisgarh High Court held that the provisions of Section 206C(1C) are only applicable to collect TCS from the person to whom such right has been conferred and by whom royalty is payable to the State Government through the District Mining Officer. The obligation to collect tax under Section 206C(1C) cannot be extended to the person involved in illegal mining or transporting illegal minerals.

The section obliges explicitly the assessee to collect tax from the leaseholder, license holder, or with whom the assessee has entered into a contract or otherwise transferred any right or interest in a mine or quarry. There is no legislative mandate to collect tax at source from individuals involved in illegal mining or the transportation of minerals.

[3] District Mining Officer v. Deputy Commissioner of Income-tax (TDS) - [2025] (High Court of Chhattisgarh)

Similarly, compounding fees/fines are collectable in terms of Section 23A of the MMDR Act, read with Rule 71(5) of the Rules of 2015. The effect of compounding is that, upon being compounded under Section 23A(1), no proceeding or further proceeding shall be taken. The offender, if in custody, shall be released forthwith.

Similar provisions have been laid down in Section 320 of the Code of Criminal Procedure, 1973, which deals with the compounding of offences. As such, compounding fee/fine cannot be subjected to proceedings under Section 206C(1C) of the IT Act, as there is no legislative mandate to collect tax at source (TCS) on compounding fee/fine collected under Section 23A of the MMDR Act read with Rule 71(5) of the Rules of 2015.

4. ITAT Must Serve Order on Assessee | Not Just CA

In the instant case[4], the Assessee filed an appeal before the High Court of Bombay with a delay of 40 days. The delay in filing the appeal was caused because the assessee was not aware of the order passed by the ITAT until she was served with a recovery notice for the Assessment Year 2009-2010.

It was stated that a copy of the order against which the appeal was preferred was received by her Chartered Accountant, who had filed his affidavit categorically stating that he was unable to recollect if he had given copies to the assessee. The assessee applied for a certified copy of the order, which she received 40 days after receiving the recovery notice.

High Court Held

The High Court held that the assessee was permitted to be represented in any proceedings before any Income Tax Authorities or the Appellate Tribunal by an authorised representative, which would include a Chartered Accountant. However, from the specific provision in the form of Section 254, the intention of the Legislature can be clearly discerned that the decision of the Appellate Tribunal shall be communicated to the assessee and the Principal Commissioner/Revenue.

Section 354(3) has permitted a copy of the order to be served upon the authorised representative of the assessee. Still, it has stipulated explicitly that the copy of the order shall be sent to the "assessee", who is permitted to file an appeal, being aggrieved by the order passed by the Appellate Tribunal, to the High Court.

Even Rule 35 cast a mandate on the Tribunal to communicate the order, after it is signed, to the assessee and the Commissioner and by use of the word "cause it to be" which clearly imply that the Tribunal shall ensure the communication of the order to the assessee by any mode of communication, the legislative intent is clear.

Thus, the statutory scheme places a burden on the Tribunal to ensure that the assessee is made aware of the order, so that, within 120 days as prescribed, they can file an appeal before the High Court. In the instant case, the authorised representative of the assessee filed an affidavit stating that he was unable to recall whether the copies were given to the assessee or his legal heirs in 2016.

Since the Tribunal of serving the copies of the order upon the assessee, who has adopted a specific stand before us that it is only upon receipt of the recovery notice, the assessee gained knowledge about the impugned order. Therefore, the delay in filing the appeal was to be condoned.

[4] Mrs. Neelam Ajit Phatarpekar v. Assistant Commissioner of Income-tax, Circle 2(1) - [2025] (High Court of Bombay)