Direct Tax Newsletter

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Tax Digest

- Recent case laws

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Tax Benefits of NPS Extended to Unified Pension Scheme

Press Release, dated 04-07-2025

The **Department of Financial Services**, Ministry of Finance, through its **Notification No. FS-1/3/2023-PR dated 24.01.2025**, has formally notified the introduction of the **Unified Pension Scheme (UPS)** as an **optional framework under the National Pension System (NPS)**. The UPS became effective from **April 1, 2025**, and is available to **new recruits to the Central Government civil services**.

In addition to applying to new recruits, the Government has granted a **one-time option** for **existing Central Government employees currently covered under NPS** to opt into the **Unified Pension Scheme**. This move is aimed at giving flexibility to employees in choosing a pension structure that better aligns with their retirement planning goals.

1. Interest on Temporarily Invested Project Funds Deductible

In the instant case[1], the assessee, a private limited company engaged in the real estate business, filed its return of income for the relevant assessment year. The assessee had raised funds by way of issue of debentures for funding the acquisition of a plot of land from TATA Steel Limited for a real estate project. The funds were raised and utilised for the acquisition of the plot of land. However, for an intervening period, the funds were deployed in growth mutual funds and fixed deposits.

The assessee claimed the interest cost pertaining to the intervening period as deduction while computing the income under the head 'Profits & Gains of Business & Profession'. During the assessment proceedings, the Assessing Officer (AO) disallowed the deduction claimed by the assessee.

On appeal, CIT(A) confirmed the order of AO. Aggrieved by the order, an appeal was filed to the Mumbai Tribunal.

The Tribunal held that the assessee had raised debt capital by way of the issuance of debentures for the stated purpose of purchasing the plot of land, and the payment for the acquisition of the said plot of land was to be made after a certain period. Thus, the assessee had an interim period for which the funds were idle.

The assessee was aware that the investment made by utilising the aforesaid funds would be liquidated, and the funds received would be utilised for the purchase of the plot of land. The intention of the assessee was to earn income by way of purchase/sale of mutual funds and interest income from fixed deposits to offset the corresponding interest cost incurred in the said period.

Thus, the action of the assessee to utilise funds for making investments/deposits was necessitated on account of commercial expediency. Therefore, the assessee was correct in claiming deduction under Section 36(1)(iii).

2. Dealer Discount Not Commission | No TDS u/s 194H

In the instant case[2], the assessee was a company engaged in the business of manufacturing automobiles and commercial vehicles, as well as distributing auto parts. During the year under consideration, the assessee paid certain amounts of discount to its dealers.

The Assessing Officer (AO) treated the discount as commission and disallowed it under Section 40(a)(ia) for the lack of TDS under Section 194H. On appeal, the CIT(A) upheld the additions made by the AO. Aggrieved by the order, the assessee filed the instant appeal before the Tribunal.

The Mumbai Tribunal held that the fundamental principle and requirement for making TDS to arise is when a person is responsible for making a payment. However, the assessee was not responsible for making payments to its various dealers; instead, it sold the spare parts on certain terms and conditions. Such terms and conditions are agreed to regulate the price. The dealers made payment for the spare parts supplied to them by the assessee, as per the terms and conditions of the dealership.

[1] Incline Realty (P.) Ltd. vs. Deputy Commissioner of Income-tax Central Circle - [2025] (Mumbai-Trib.)

[2] Bajaj Auto Ltd. vs. Deputy Commissioner of Income-tax - [2025] (Mumbai-Trib.)

There was no evidence or material on record to suggest that the discount allowed by the assessee was against the commission payment or that the dealers were not doing their business independently or merely acting as an agent of the assessee.

To bring any payment within the Explanation (i) to section 194H, the payment received or receivable, directly or indirectly, is by a person acting on behalf of another person for services rendered (not being professional services), or for any services in the course of buying or selling of goods, and/or concerning any transaction relating to any asset, valuable article or thing.

So there must be an element of agency to be there in case of all services or transactions contemplated by Explanation (i) to section 194H. Thus, there was no justification for treating the discount as a commission payment for attracting the provision of section 40(a)(ia).

3. Section 68 Not Applicable for Breach of Section 47(xiiib)(f)

In the instant case[3], the assessee firm was engaged in trading and installing carpets and floor coverings. During the relevant assessment year, it was converted to a Limited Liability Partnership (LLP) from a private limited company. The assessee filed its return of income for the relevant assessment year.

During the assessment proceedings, the Assessing Officer (AO) noticed that the assessee had transferred the share capital and reserves to the partners' capital account in the LLP. He held that the assessee had violated the conditions of Section 47(xiiib)(f) as it cannot take any amount directly or indirectly to any partner out of the accumulated profit for 3 years from the date of conversion. Accordingly, he treated it as unexplained credit under Section 68 and made additions to the assessee's income.

The CIT(A) deleted the AO's additions. Aggrieved by the order, the AO filed the instant appeal before the Tribunal.

The Tribunal held that the AO had specifically mentioned that the assessee had violated the conditions of Section 47(xiiib)(f) but proceeded to make additions under Section 68. Section 68 is specifically for credits in the books of the assessee for which the assessee offers no explanation as to the nature and source to the satisfaction of the AO. In the instant case, the issue was not about credits found in the assessee's books of accounts, but rather the allegation that the assessee firm, upon conversion to LLP, transferred the share capital, reserves, and surplus to the partners' accounts. It is quite evident that the nature and source of the credit are not unexplained.

Further, the AO also erred in making the addition in the hands of the assessee. Even assuming that there was a transfer, the credit is in the partners' account and not in the assessee's account. The Tribunal held that it was not justified in upholding the addition made by the AO under section 68, where none of the ingredients of the said provision are attracted in the present case.

The violation of the condition prescribed under section 47(xiiib)(f) is only with regard to the computation of capital gain under section 45 on certain transfers of a capital asset. The AO failed to provide a finding on the issue of whether the alleged transfer would be liable for capital gain, and that it must be in the hands of the transferor. Therefore,

[3] ITO vs. NICAF LLP - [2025] (Mumbai-Trib.)

the Tribunal upheld the order of CIT(A) deleting the impugned addition.

4. Mushroom Income from Factory Not Agricultural Income

In the instant case[4], the assessee was engaged in the business of cultivating and selling white button mushrooms. It treated the income from the sale of mushrooms as agricultural income and claimed exemption under section 10(1) of the Act. During the assessment proceedings, the Assessing Officer (AO) contended that white button mushroom is not a plant, fruit, or vegetable, but a fungus. Therefore, the income from its sale cannot be considered agricultural income.

The matter reached the Madras High Court.

The High Court held that section 2(1A) defines agricultural income in three parts. The first part includes income from the use of land for agricultural purposes, whether through rent or revenue. The second part comprises income of farm operations performed on the land, such as agriculture, the performance of any process ordinarily employed by a cultivator, or the sale of produce raised. The third part includes income from any building situated on or near the land, which is used for agricultural purposes.

In the instant case, the assessee didn't derive any income from the use of land but from the sale of mushrooms grown in its factory under controlled conditions. The income derived from the sale of mushrooms grown in a factory under controlled conditions will not come within the purview of the definition of "Agricultural Income".

It would have been different if mushrooms were grown by a farmer and thereafter processed by the assessee for making it marketable, in which case, the assessee could have claimed the income as 'Assessable Income' within the meaning of section 2(1A)(c). Thus, income from the sale of 'Button Mushrooms' from a factory under controlled conditions is not exempt from tax liability under section 10(1).

[4] Principal Commissioner of Income-tax-1 vs. British Agro Products (India) (P.) Ltd. - [2025] (High Court of Madras)