Direct Tax Newsletter

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

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Lok Sabha passes Income-tax (No. 2) Bill, 2025

Bill No. 104 of 2025, dated 11-08-2025

Finance Minister Nirmala Sitharaman presented the Income-tax (No. 2) Bill, 2025, in the Lok Sabha. This new version of the bill incorporates more than 250 recommendations from the Select Committee that reviewed the earlier draft. The changes aim to address various stakeholder concerns and enhance clarity in tax provisions.

Just a week prior, the Finance Minister had withdrawn the original Income Tax Bill, 2025, from the Lok Sabha. The withdrawal was seen as a move to ensure that the legislation was more comprehensive and reflected feedback from experts, lawmakers, and industry representatives.

1. No Second Appeal Allowed if First Was Decided on Merits

In the instant case[1], the assessee company filed its return of income for the relevant assessment year and declared a loss. The case was selected for scrutiny assessment, and additions were made to the total income of the assessee. The assessee preferred an appeal before CIT(A) and the CIT(A) passed the order disposing of the appeal on merits. Subsequently, the shareholder of the assessee was assessed to tax on the same amount as deemed dividend. The assessee filed an application for revision under section 264 before the Principal Commissioner of Income Tax, seeking the deletion of additions made to the income of the assessee on account of deemed dividend. The application was rejected by the PCIT. Aggrieved by the order, the assessee preferred an appeal before CIT(A). The CIT(A) dismissed the appeal, and the matter reached the Mumbai Tribunal.

The Tribunal held that the CIT(A) had rightly dismissed the appeal filed by the assessee. The scheme of the Act does not provide for filing separate appeals against the same assessment order. In case the first appeal preferred by the assessee against the Assessment Order would have been pending, the assessee would have been within its right to raise an additional ground. Even in cases where the first appeal preferred by the assessee was dismissed on account of technical reasons, the assessee would have a case for challenging the action of the CIT(A) in a subsequent appeal. However, in the present case, the first appeal preferred by the assessee was disposed of on merits (and not on account of technical reasons such as non-payment of taxes). Therefore, the judicial precedent cited on behalf of the assessee was of no aid to the assessee. Further, the assessee filed the second appeal after the expiry of more than 4 years from the date of passing of the Assessment Order. In identical facts and circumstances, the PCIT had declined to condone the delay in filing the application filed under Section 264 of the Act, and admittedly, the assessee had chosen not to challenge the same. Therefore, in the facts and circumstances of the present case, the Tribunal did not find any infirmity in the order passed by the CIT(A) dismissing the second appeal preferred by the assessee holding that under the scheme of the Act, the assessee was barred from availing appellate remedy by filing a second appeal before CIT(A).

[1] Madison Teamworks Film Promotions and Entertainment (P.) Ltd. v. Deputy Commissioner of Income-tax - [2025] (Mumbai - Trib.)

2. SC split on DRP's impact on Sec. 153 assessment timeline

In the instant case[2], in a recent ruling, the Supreme Court of India has addressed the interplay between Section 144C (Dispute Resolution Panel procedure) and Section 153 (assessment timelines) of the Income Tax Act, 1961. The central question is whether the period consumed by Section 144C proceedings should be included within or extend beyond the general limitation periods of Section 153. Due to fundamentally divergent opinions from Justice B.V. Nagarathna and Justice Satish Chandra Sharma, the matter has been referred to the Chief Justice of India for a larger bench to provide a definitive resolution.

The following are the key extracts from the ruling:

1)Justice Nagarathna's Stance

Section 144C was introduced to accelerate the resolution of tax disputes, particularly for foreign

[2] CA Assistant Commissioner of Income-tax (International Taxation) vs. Shelf Drilling Ron Tappmeyer Ltd. etc. - [2025] (Supreme Court)

companies, to foster a more favorable investment climate in India by providing a fast-track alternative dispute resolution mechanism.
Justice B.V. Nagarathna holds that the entire assessment procedure under Section 144C must be completed within the overall limitation period prescribed by Section 153(1) or (3), with no additional period intended by Parliament.
Justice Nagarathna interprets the non-obstante clause in Section 144C(1) as establishing a distinct procedural pathway for eligible assessees requiring a draft order, rather than overriding the overall limitation period in Section 153. She sees no inherent contradiction between the two sections.
In Justice Nagarathna's view, the non-obstante clauses in Section 144C(4) and (13) impose narrower, specific timelines (one month) for certain actions within the DRP process, designed to ensure the entire Section 144C procedure concludes within the overarching 12-month limit of Section 153(3).
2)Justice Sharma's Stance
In contrast, Justice Satish Chandra Sharma posits that Section 144C functions as a self-contained code, establishing its own specific timelines that operate in addition to the general limitation periods in Section 153.
Justice Sharma interprets the non-obstante clause in Section 144C(1) to mean that Section 153 timelines apply only to the stage of passing the draft assessment order, and the subsequent DRP process operates independently of Section 153.

Justice Sharma views the non-obstante clauses in Section 144C(4) and (13) as explicitly extending the timeline for passing the final assessment order, operating independently of and in addition to Section 153, to ensure administrative workability.
Justice Nagarathna believes the Act is "certainly workable" even if Section 144C is subsumed, while Justice Sharma argues that such an interpretation would lead to a "complete catastrophe for recovering lost tax" and render the system "totally unworkable" for the Revenue.
3)Ultimate Outcome – Referral to a Larger Bench
Due to the fundamental and irreconcilable differences in interpretation between the two Justices, the Supreme Court has referred the matter to the Chief Justice of India for the constitution of an appropriate larger bench for a definitive resolution.

3. No addition based only on low GP margin vs prior years

In the instant case[3], the assessee, a company, was engaged in the merchant export of agri-commodities. During the assessment proceedings, the Assessing Officer (AO) noted a sharp fall in the assessee's gross profit ratio from 13.01% to 0.23%. In response to queries, the assessee submitted detailed replies explaining the reasons for the decline in profit margins, citing fluctuations in international prices, changes in commodity mix, and losses due to contract cancellation and exchange rate variations. The assessee also pointed out that benefits available in the earlier year, such as service tax credit and duty drawback, were not available during the year under consideration. Without expressly rejecting the books of account or pointing out specific defects, the AO estimated the gross profit by averaging the gross profit rate of the preceding three years (8.23%) and made an addition of Rs. 1,90,78,444. On appeal, the CIT(A) deleted the addition. The matter reached the Indore Tribunal.

The Tribunal held that the CIT(A) had rightly held that the assessee was maintaining books of account which were duly audited. Merely because the gross profit margin was lower in the year under consideration vis-à-vis preceding assessment years cannot be a ground for additions to the assessee's

[3] ACIT v. Anant Commodities (P.) Ltd. - [2025] (Indore - Trib.)

income unless the AO pointed out a particular defect or discrepancies in the books of account maintained by the assessee. Further, the AO did not expressly reject the books of account. A mere observation that the assessee had lost credibility in the maintenance of proper books is not a rejection of the books in law.

In the instant case, the commodities in the earlier years and the year under consideration were different, and gross profit could not be compared. The assessee rightly contended that the comparison should be of comparables and not un-comparables. Therefore, the AO ought not to have averaged the gross profit rate of preceding years to arrive at the gross profit rate for the year under consideration, as the commodities were different and not comparable.

4. ITAT nullifies assessment for lack of AO's jurisdiction

In the instant case[4], the assessee was a non-resident Indian residing in the USA, having a permanent address in Hyderabad. The assessee's returns of income had been regularly filed for various assessment years, including the year under appeal.

For the relevant assessment year, the assessee filed the return of income from Hyderabad. However, the Assessing Officer (AO) issued a notice under section 143(2) to the assessee in Delhi. Later, the final assessment order was also passed by another AO in Delhi, and the case was transferred to Hyderabad.

The assessee raised an additional ground challenging the jurisdiction of the AO in Delhi on the ground that no order had been passed under section 127 for the transfer of jurisdiction from one Assessing Officer to another.

The Tribunal held that Section 127(1) provides that if a case is transferred from one Assessing Officer who is sub-ordinate to the Commissioner or Pr. Commissioner or Chief Commissioner of Income Tax to another Assessing Officer who is also subordinate to him, the assessee should be provided a reasonable opportunity of being heard and the reasons for doing so should be recorded. In the instant case, the assessee's jurisdiction was transferred from one AO to another AO without any order passed under section 127. Thus, the jurisdiction assumed by the other AO in Delhi was without any authority. Therefore, the order passed by him was without jurisdiction, and the same was to be quashed.

[4] Vishan Gunna vs. ACIT - [2025] (Delhi - Trib.)