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Direct Tax Newsletter

Tax Digest

- Recent case laws

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NEWS FEED

President Gives Assent to Income-tax Act, 2025

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

The provisions of the new Act shall come into force from 1st April, 2026, and will apply in relation to the assessment year 2026-27 and onwards. This one-year window before implementation provides taxpayers, businesses, and professionals sufficient time to understand the new provisions and prepare for a smooth transition. It also allows the government and tax administration to issue necessary rules, notifications, and clarifications to ensure effective implementation of the new law.

Alongside the approval of the new Income-tax Act, the President has also given assent to the Taxation Laws (Amendment) Act, 2025. This legislation seeks to amend certain provisions of the Income-tax Act, 1961, which will continue to remain in force until the new law takes effect. These amendments are aimed at addressing immediate concerns, plugging gaps, and aligning the existing law with current requirements, thereby ensuring continuity and stability during the transition phase.

1. HC Rules GAAR Not Applicable On Timing Of Share Deals

In the instant case[1], the assessee was involved in making investments in shares and securities for many years. During the relevant assessment year, the assessee sold shares of one company and earned LTCG. In the relevant assessment year, the assessee purchased shares of HCL Technologies, which were sold in the same year, incurring STCL.
The Assessing Officer (AO) opined that the transaction of purchase and sale of shares of HCL, resulting in STCL set off against LTCG on the sale of unlisted shares, amounted to an Impermissible Avoidance Arrangement (IAA). Therefore, the provisions of Chapter X-A, the General Anti-Avoidance Rule (GAAR), would become applicable to the said transactions. Aggrieved by the order, the assessee filed a writ petition to the High Court.

The High Court held that to hold a transaction of purchase and sale of shares to be an impermissible avoidance arrangement, there must be an arrangement between two or more parties. The said arrangement must have the four ingredients envisaged in section 96(1). The four ingredients that would constitute an impermissible avoidance arrangement are:

a) The arrangement creating rights or obligations that are otherwise not ordinarily created between persons dealing at arm's length;
b) There has to be cogent proof of misuse or abuse of the provisions of the Income Tax Act, either directly or indirectly;
c) The transaction should either lack commercial substance, or it leads to a deemed lack of commercial substance, in whole or in part; and
d) The arrangement entered into would reflect on the face of it to have been not ordinarily employed for bona fide purposes.

In the instant case, the revenue had not been able to show or collect any material to prove that the purchase and sale of shares made by the assessee were with any of their known persons or entities. Further, all the shares were sold through the stock exchange. The assessee was an investor who had been continuously engaged in the sale and purchase of shares. This would establish that the transaction of sale of shares by the assessee was not one of the isolated transactions specifically made to save tax.

Furthermore, all transactions, including the purchase and sale of shares, were conducted through the assessee's DMAT account. There was no nexus that could be established between the purchase and sale of HCL shares made by the assessee. There was no new material available to support the revenue, which indicated that the so-called arrangement was subject to the provisions of Chapter X-A, i.e., the GAAR provision. There was no material to suggest that the transactions constituted an impermissible avoidance arrangement, except for the timing of the transactions. It was held that the timing of a transaction or a taxpayer would not be questioned under the GAAR provisions on the sale and purchase of shares made by the assessee.

[1] Smt. Anvida Bandi v. Deputy Commissioner of Income-tax - [2025] (High Court of Telangana)

2. Reassessment Notice After 10 Years Not Valid Under Sec. 150

In the instant case[2], the Transfer Pricing Officer issued an order under Section 92CA in the name of 'A', a company that existed prior to the merger with the present petitioner. The Assessing Officer then passed an order under Section 143(3) with respect to Section 144C again in the name of the merged company 'A'. The petitioner raised this issue before the Tribunal, seeking quashing of the final assessment order passed under Section 143(3) read with Section 144C.
The Tribunal quashed the order reserving liberty to the revenue to take action in accordance with law. Pursuant to the said order, a notice was issued under Section 148, read with Section 150, proposing to reopen the petitioner's assessment for the assessment year 2008-09. The petitioner objected to this before the Tribunal, contending that the Tribunal had only reserved liberty for the revenue and did not issue any direction to reopen the assessment. The Karnataka High Court then heard the matter.

The High Court held that section 150 enables the revenue to reopen an assessment pursuant to an order in appeal, but on twin conditions, i.e., to give effect to any finding or direction. The 'twin conditions' are to give effect to any finding or direction. The statutory power can be deviated from only on the aforesaid twin conditions. The revenue would force the proceedings open by brandishing section 150, yet the law is clear. Section 150 is not a passport to wander beyond limitation at will. It is a narrow and guarded doorway that opens only upon a finding or direction by an appellate or revisional authority necessitating such reopening. A direction cannot be termed as a casual suggestion; it is a mandate, a command that brooks no discretion. Likewise, a finding is no passing observation; it is the very conclusion, without which an appellate decision cannot stand. In the instant case, the Tribunal's words – 'may proceed in accordance with law'- are but an echo of the statute itself, not an enlargement of power. Therefore, section 149 would undoubtedly kick in unless the twin conditions are satisfied. The satisfaction of the twin conditions and their interpretation do not require a lengthy discussion or a deep dive into the matter by this Court. Since the reopening of the assessment was for the assessment year 2008-09 and the notice was issued in the year 2019, since 10 years had elapsed, it was barred by the time limit prescribed under section 149(1)(a) or (b).

[2] Ltimindtree Ltd. vs. Joint Commissioner of Income-tax (OSD) - [2025] (High Court of Karnataka)

3. Cash Deposit in Another's Account Held Benami

In the instant case[3], the assessee, Limited Liability Partnership (LLP), discovered that it held currency notes of particular value during the demonetization period. To avoid the hassle of long queues and the risk of being identified by criminal elements, the LLP provided a person with currency notes to deposit into the LLP's bank account, accompanied by an authority letter, in exchange for a 2% commission.

However, the said amount was erroneously deposited in the account of a proprietorship concern, whose proprietor was that person. The amount was received back from the account of the proprietorship concern on different dates and was credited to the LLP's bank account. After demonetization, the Income Tax Department (I.T. Department) received information that the person

[3] Om Samriddhi Banquet & Hospitality LLP vs. Initiating Officer, ACIT Benami Prohibition Unit, Mumbai - [2025] (SAFEMA - New Delhi)

used his bank accounts to deposit the demonetized currency notes belonging to the LLP. Accordingly, he passed a provisional attachment order (PAO) in respect of said amount received by the LLP. The matter reached the Tribunal.

The Tribunal held that the person deposited the currency notes in his bank account, and thereafter, transferred back the same through RTGS into the LLP's bank account. It was noted that the accounts of the proprietorship concern were opened in various banks during the demonetization period, without any intention of doing real business.

Furthermore, despite having no prior dealings with the LLP, the person received a substantial amount of cash, rather than depositing it through an employee, accountant, or manager of the LLP.

Thus, the act of the person was a benami transaction. Therefore, the Tribunal held that there was ample material with the I.O. to proceed against the person.

4.No Additions Based On Unsigned and Undated Documents

In the instant case[4], the assessee, Chhattisgarh Distilleries Ltd., a flagship company of the 'K' Group, was engaged in the business of distillery. A search and seizure operation under section 132 was carried out at the residential/business premises of the assessee. Consequently, notice under section 153A was issued. The Assessing Officer (AO) made the addition on account of 2 per cent of the total revenue and on account of capital investment for obtaining 35 group shops under section 69C and to be charged under section 115BBE.

The AO based these additions on certain loose papers seized during the search. These papers contained details of liquor shops in different districts of Chhattisgarh. The AO presumed that the entries represented unaccounted sales and investment by the assessee. Statements of two directors were also recorded under section 132(4), which the AO claimed supported the additions. On appeal, the CIT(A) deleted the additions made by the AO. Aggrieved by the order, the AO filed the instant appeal before the Tribunal. The matter reached the Tribunal.

The Tribunal noted that the additions made by the AO were solely on the basis of certain loose papers seized during the search. These papers were undated, unsigned, and unsealed. Upon verification, it was found that the figures mentioned therein exactly tallied with the data published by the State Excise Department in its official notification dated 10.02.2016.

The Tribunal observed that such papers could not be considered as incriminating material, since they neither bore the name of the assessee nor contained any evidence suggesting unaccounted sales or capital investment by it. It was further noted that, being a liquor manufacturer, the assessee was legally barred from obtaining liquor shop licenses, making the allegation of investment in 35 group shops untenable. The statements of directors recorded under section 132(4) were also found unreliable, as one of them had retracted his statement within four days, and the same was never supported by any corroborative evidence.

The Tribunal held that in the absence of any independent evidence establishing a nexus between the assessee and the seized documents, the papers were nothing but "dumb documents" and could not form the basis of additions under section 69C read with section 153A.

The ITAT therefore upheld the order of the Commissioner (Appeals) and dismissed the Revenue's appeal, holding that the Assessing Officer was not justified in making additions merely on guesswork and presumption.

[4] Assistant Commissioner of Income-tax (Central) v. Chhattisgarh Distilleries Ltd - [2025] (Raipur - Trib.)