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## Tax Digest

- Recent case laws

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### Application for condonation of delay – now available online

Application for condonation of delay u/s 12A in filing of Form 10A has been enabled at the e-filing portal. To raise condonation request, login to: <https://eportal.incometax.gov.in> > Dashboard > Services > Condonation Request > Application for Statutory Forms > Click on Create Condonation Request button to proceed further.

## 1. HC Rules AO Must Examine Section 54F Claim Raised in Assessment

In the instant case<sup>1</sup>, the assessee, a non-resident, sold 94 cents of land with a residential building for consideration, claiming it to be agricultural land exempt from capital gains tax under section 10(37). The Assessing Officer (AO) rejected the claim, holding that the assessee failed to prove the agricultural use of the land for two years preceding the transfer, relying instead on contradictory statements and the absence of evidence of agricultural income or activity. The authorities further rejected the assessee's alternative claim for deduction under section 54F on the ground that it was not made in the original return.

The matter reached the High Court. The High Court held that the assessee had not been able to prove that he was entitled to non-liability to capital gain tax in a manner known to law. The assessee had relied on certain photographs and a certificate from the Village Officer, which only supported the existence of rubber trees. However, the buyer of the property had certified before the AO that there were no agricultural activities in the property. He also stated that the land was commercial in nature. The assessee was also provided with copies of the incriminating statement given by the buyer and the clarifications obtained by the AO. In addition, the documents of the Sub-Registrar's office, where the sale deed was registered, contained no endorsement that the land was agricultural. The assessee further failed to produce any details of agricultural activities or records of agricultural income and expenses.

While it was undisputed that a capital asset had been transferred, since the exemption claim rested

on the assertion that the land was agricultural, the burden of proof lay entirely on the assessee. It was incumbent upon him to demonstrate that the land was genuinely agricultural in nature, but in the absence of credible evidence, the claim could not be sustained and the benefit of section 10(37) was rightly denied.

While examining the assessee's claim under section 54F, the Court held that even if such a claim had not been made in the return, once capital gains tax was proposed, the AO was obliged to examine it on merits rather than dismiss it on technical grounds. As the assessee had raised the claim as an alternate plea, the matter was remanded to the AO for proper adjudication of the claim under section 54F.

## 2. Section 89A Relief & Form 10EE – ITAT Mumbai Ruling

In the instant case<sup>2</sup>, the assessee-individual was an employee at LTI Mindtree. He had a retirement benefit account maintained in a country that was notified. The assessee filed Form 10EE for the assessment year 2022-23 to exercise the option for the taxation of income accrued from such retirement benefit account in the assessment year in which income from said account is taxed at the time of withdrawal or redemption in the notified country.

For the relevant assessment year 2023-24, the assessee claimed relief under section 89A towards income accrued on the retirement benefit account. However, the Assessing Officer (AO) disallowed the claim on the ground that the assessee had not filed Form 10EE for the relevant assessment year. On

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<sup>1</sup> George Stanley v. Deputy Commissioner of Income-tax - [2025] (High Court of Kerala)

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<sup>2</sup> Jignesh Naresh Jariwala v. Deputy Director of Income-tax, CPC, Bengaluru - [2025] (Mumbai - Trib.)

appeal, the Commissioner (Appeals) upheld the action of the AO. The matter then reached the Mumbai Tribunal.

The Tribunal held that it was an admitted position that Form No. 10EE had already been filed for A.Y. 2022-23. On a careful reading of Rule 21AAA, particularly sub-rules (1), (4) and (6), it was found that once Form No. 10EE has been filed in respect of a previous year, the option exercised therein continues to apply to all subsequent previous years.

Consequently, it is not mandatory for the assessee to file the form afresh for every assessment year. Where relief under section 89A has been granted on the basis of Form No. 10EE already furnished, the same relief cannot be denied merely because the form has not been filed again in subsequent years.

The filing of Form No. 10EE is a procedural requirement, and by virtue of Rule 21AAA(6), once exercised in any previous year, it remains in effect for all subsequent years. Therefore, the assessee is not obliged to furnish the form afresh every year, and denial of relief under section 89A on such procedural grounds is not sustainable in law.

### **3. Private Trust Eligible For Section 54F Capital Gains Exemption**

In the instant case<sup>3</sup>, the assessee was a private trust established for the benefit of specific individuals. During the year under consideration, it sold a flat and claimed exemption under section 54F in respect of capital gains arising from the sale of the flat.

During the relevant assessment proceedings, the Assessing Officer (AO) disallowed the claim of the assessee on the ground that section 54F applied only

to individuals and HUF and not to a trust. On appeal, the CIT(A) allowed the assessee's claim. Aggrieved by the order, the AO preferred an appeal to the Delhi Tribunal.

The Tribunal held that it was a fact that the assessee was a private trust, established for the benefit of specific individuals. The trust income is taxable if it is the income of the beneficiary; it is not the case with a charitable trust. Furthermore, a charitable trust is treated as an AOP because its beneficiary is the public at large. In fact, if the beneficiary of the charitable trust is identified, the trust loses its charitable character.

In the instant case, the trust purchased certain land, and the sale of the flat thereon, through collaboration, generated income from capital gains. Against this, a residential house was purchased, and an exemption under Section 54F was claimed. If the assessee trust were not in existence, the same transaction would have been carried out in the name of beneficiaries therein, and the benefit would certainly be given to those beneficiaries under Section 54 of the Act as claimed.

Therefore, the order passed by the CIT(A) in granting relief under Section 54F of the Act, as claimed by the assessee under the facts and circumstances, was found to be just and proper.

### **4. Addition on Alleged Fertilizer Stock Suppression Quashed**

In the instant case<sup>4</sup>, the assessee was engaged in the business of trading in fertilisers. During scrutiny, the Assessing Officer (AO) observed that the quantitative details filed by the assessee did not tally with those that were placed on his record on the earlier occasion. The AO observed that the Trading, Profit & Loss account uploaded by the assessee revealed a quantitative

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<sup>3</sup> ACIT v. Merilina Foundation - [2025] (Delhi - Trib.)

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<sup>4</sup> Gangadhar Agarwal vs. Income-tax Officer - [2025] (Hyderabad - Trib.)

suppression of a value of Rs. 5.19 crore, specifically suppressed purchases and sales without corresponding purchases.

Thus, the AO made an addition of Rs. 5.19 crore by treating it as unexplained expenditure under section 69C or unexplained money under section 69A. On appeal, the CIT(A) sustained the addition made by the AO. Aggrieved by the order, the assessee filed an appeal to the Hyderabad Tribunal.

The Tribunal held that, upon perusing the controversy at hand, in the backdrop of the reconciliation, substance was found in the assessee's explanation. The assessee claims that the discrepancy arose because the brand/sub-heads of the parent items traded by the assessee were considered separately by the AO, rather than the parent items themselves.

The AO had not only confined the discrepancy to the parent item but also extended it through alleged inferences regarding the brands/sub-head items. The alleged discrepancy has its roots in the AO's failure to appreciate that the "opening stock" of MOP (the parent item) was comprised of PPL-MOP (a brand item of MOP).

Thus, the glaringly distorted quantitative facts/figures provided by the AO had resulted in the alleged discrepancies being drawn in the form of suppressed purchases, sales, and closing stock. The very basis for the adoption of the distorted figures by the AO, based on which he has drawn adverse inferences, both regarding the parent items and the brands/sub-heads (of the parent items), resulting in an exorbitant addition of Rs. 5.19 crore in the hands of the assessee, is not understandable.

The AO failed to correctly appreciate the facts of the case as were discernible from the record available to him, and thus, the same cannot be sustained.