Direct Tax Newsletter

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Tax Digest

- Recent case laws

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Extension of due date

In view of Circular No. 15/2025 dated 29th October 2025, the due date for filing Income Tax returns has been extended from 31st October 2025 to 10th December 2025 for assessees specified in clause (a) of Explanation 2 to sub-section (1) of section 139 of the Income-tax Act, 1961. Further, the due date for filing audit reports has been extended from 31st October 2025 to 10th November 2025 in accordance with clause (ii) of the Explanation to section 44AB of the Act.

1. No Penalty for Not Filing Tax Audit When Mutuality Applies

In the instant case[1], the assessee was a unit established under the Government of Tamil Nadu's Home Department to cater to the requirements of police personnel for household items, such as groceries. It procured household items from various suppliers and distributed them to nine canteens (units) that served the requirements of police personnel.

The assessee was established to serve its members without any profit motive and was founded on the principles of mutuality.AO initiated separate penalty proceedings under Section 271B, as the assessee failed to furnish the tax audit report under Section 44AB. The penalty was levied for non-filing of the tax audit report despite the fact that the assessee's activities do not constitute 'business' under the Income-tax Act.
On appeal, the CIT(A) upheld the order of the AO. The aggrieved assessee filed the instant appeal before the Tribunal.

The Tribunal held that all transactions undertaken by the assessee were exclusively with its members, and the same were reported under the GST regime. AO, after a detailed scrutiny, accepted the returned income on the basis of mutuality, thereby acknowledging that the assessee was not carrying on any 'business' or 'profession' as contemplated under the Act.

It is well settled that the provisions of Section 44AB of the Act apply only to income under the head "Profits and gains of business or profession." In the present case, since the assessee's activities do not fall within the ambit of "business or profession," the provisions of Section 44AB of the Act are inapplicable.

Therefore, the levy of penalty under section 271B for failure to file the tax audit report under section 44AB is not tenable under the present circumstances of the case.

2. Burden to Prove Agricultural Use for Section 54B Relief Lies on Assessee

In the instant case[2], the assessee, an individual, sold agricultural land for a substantial consideration. He filed his return of income, declaring agricultural income and claiming a deduction under section 54B. During the reassessment proceedings, the Assessing Officer (AO) disallowed the claim of deduction as the assessee failed to furnish any conclusive evidence of agricultural produce or sales for the period 2015-16.

Furthermore, specific bills submitted by the assessee were undated or pertained to years after the year in question. Unsatisfied with the evidence, AO concluded that no agricultural activity was carried out on the land during the stipulated two years and disallowed the claim of deduction.

Aggrieved-assessee preferred an appeal to the CIT(A). CIT(A) deleted the additions made by AO. Aggrieved-revenue filed the instant appeal before the Tribunal.

The Tribunal held that the initial burden of proving eligibility for deduction under Section 54B rests with the assessee. Only when prima facie evidence

[1] Commissioner of Police Coimbatore City Tamilnadu Police Canteen v. Income tax Officer [2025] (Chennai - Trib.)

[2] Income-tax Officer v. Nitinbhai Kanubhai Patel - [2025] (Ahmedabad-Trib.)

of agricultural use is furnished does the onus shift to the Department.

In the instant case, the assessee failed to file cogent, verifiable, and contemporaneous records of cultivation during the relevant period. CIT(A) erred in reversing the finding of the AO without recording independent satisfaction that the assessee had indeed discharged this initial burden.

Therefore, the order of CIT(A) was set aside, and the matter was restored to his file with a direction to decide the issue afresh after conducting an independent and comprehensive examination of all relevant evidence.

3. AO to Re-Examine Interest Disallowance u/s 36(1)(iii) on Commercial Expediency

In the instant case[3], the assessee, a private limited company, filed its income tax return for the relevant assessment year. The case was reopened under Section 147, and a notice under Section 148 was issued. During the reassessment proceedings, the assessee furnished a reply to the notice issued by the Assessing Officer (AO) and enclosed the necessary documents.

The AO was not satisfied with the explanation and issued a show-cause notice along with a draft assessment order, proposing a disallowance under section 36(1)(iii). Since the assessee did not furnish any response to the said show-cause notice, the AO completed the assessment under section 147.

The aggrieved assessee preferred an appeal to the CIT(A). CIT(A) set aside the entire assessment to the file of the AO with a direction to complete the assessment de novo. Aggrieved by the order, the assessee preferred an appeal to the Hyderabad Tribunal.

The Tribunal held that the undisputed fact was that the assessment was completed under section 147 with a single disallowance made under section 36(1)(iii). The assessee filed a reply dated 12/01/2022, enclosing books of account, computation of income, and other relevant details. After considering the assessee's submission, the AO issued a show-cause notice to the assessee. The assessee failed to comply with the said show cause notice.

It was held that the proceedings were substantially participated in by the assessee, except for the final stage relating to the proposed disallowance under section 36(1)(iii). The assessee was partially ex parte, i.e., confined to the issue of disallowance under section 36(1)(iii). The proviso to section 251(1)(a) indeed empowers the CIT(A) to set aside an assessment made under section 144, but such power must be exercised in a judicious and proportionate manner.

Where the default is limited to a single issue, as in the present case, directing a full de novo assessment goes beyond what is necessary for proper adjudication, accordingly, CIT(A) should have restricted the remand to the specific issue of disallowance under section 36(1)(iii) instead of directing the AO to redo the entire assessment de novo.

4. Letting Premises to Fund Charity Not Business Activity

In the instant case[4], assessee-trust was registered under the Bombay Trust Act, 1950 and the Societies Registration Act, 1860. It operated a library under the name of 'Marwadi Navyuvak Vachanalaya' with

[3] Kausalya Agro Farms and Developers (P.) Ltd. vs. Income-tax Officer - [2025] (Hyderabad-Trib.)

[4] Marwadi Navyuvak Vachanalaya v. Commissioner of Income-tax(Exemption) - [2025] (Pune-Trib.)

the primary aim of offering a conducive and supportive environment for financially underprivileged students to focus on their studies.

The trust applied for registration under Section 12A and Section 12AB. During the verification process, the CIT(E) noticed that the trust was earning substantial income from renting out properties. The aggrieved assessee filed the instant appeal before the Tribunal.

The Tribunal held that the CIT(E) had determined that the primary activity of the trust is letting out property on rent, which constitutes a business activity. He was of the opinion that the receipts were prima facie from an activity in the nature of the advancement of any other object of general public utility, wherein fees are charged for the services rendered.

However, the assessee should not be denied registration under Section 12A merely for earning rental income by letting out a part of the premises which has been utilised for the objects of the trust. The proviso to Section 2(15) of the Act would not be attracted for earning rental income by letting out a part of the premises which has been utilised for the objects of the trust.

Therefore, the assessee should not be denied registration under Section 12A.