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## Tax Digest

- Recent case laws

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### CBDT Notifies 47 CIT(A) for Appeals in Search and Survey Assessments

In view of Circular No. 170/2025 dated 15th December 2025, this CBDT notification specifies designated Commissioners of Income Tax (Appeals) across India who will handle appeals related to search, requisition, survey, and related penalty cases under sections 246A and 248 of the Income-tax Act.

These Commissioners will hear appeals arising from assessments or penalties based on material seized or impounded during search/survey actions. The notification lists the jurisdictions and corresponding appellate authorities and comes into effect from the date of publication in the Official Gazette.

## 1. Policy Advocacy for EU-India Business Is Charitable Activity u/s 2(15)

In the instant case<sup>1</sup>, the assessee, a non-profit company, registered under section 8 of the Companies Act, 2013, filed its Form No. 10AB for regular registration under section 12A(1)(ac)(vi) as it was engaged in "Advancement of any other objects of general public utility", which were charitable activities.

The CIT (Exemptions) rejected the request for regular registration under section 12A(1)(ac)(vi) and also cancelled the provisional registration granted for assessment years 2024-25 to 2026-27 on the ground that the assessee was not engaged in any charitable activity as defined under section 2(15).

On appeal, the Delhi Tribunal held that as per the object of the assessee, it had to promote commerce in India with the European Union business community and to protect & facilitate the interest of the European Union business community in India by advocacy of policy between the European Union business community and the Indian public authorities regarding trade policy, ease of doing business, intellectual property right protection and European union investment protection in India.

It was evident from the assessee's object that it had to build an overall environment that secures the interests and well-being of the European Union business community, so that they have ease of doing business in India. The issue here was only whether an entity that watches over the business interests of its members can be said to be engaged in charitable activities as defined under section 2(15).

In the given case, it was not the case of the CIT that the assessee was found engaged in any trade and commerce. The assessee was various European business entities, European trade associations, etc. Thus, the CIT was not justified in the eyes of the law by rejecting the registration under section 12A on the reason that the assessee was not doing any charitable activity within the ambit of section 2(15).

## 2. ITAT Rectification Limitation Runs From Order Receipt Date

In the instant case<sup>2</sup>, the assessee, Accost Media LLP, filed a rectification application under section 254(2) of the Income-tax Act, 1961, seeking rectification of an order passed by the Income Tax Appellate Tribunal dated 10-12-2024. The said order was received by the assessee on 24-3-2025, and the rectification application was filed on 16-7-2025.

The Registry of the Tribunal issued a notice stating that the rectification application was barred by limitation, as it was filed beyond six months from the end of the month in which the Tribunal's order was passed. The assessee explained that the application could not have been filed before the order was received and was therefore within the prescribed time limit. However, the Tribunal rejected the rectification application as time-barred by order dated 13-10-2025.

Aggrieved, the assessee filed a writ petition before the Bombay High Court challenging the rejection of the rectification application. The High Court examined section 254(2), read with rule 34A and rule 9 of the Income-tax (Appellate Tribunal) Rules, 1963, and observed that a rectification application cannot be filed without being served with a copy of the order sought to be rectified.

<sup>1</sup> Federation of European Business in India vs. Commissioner of Income-tax (Exemption) - [2025] (Delhi-Tribunal)

<sup>2</sup> Accost Media LLP vs. Deputy Commissioner of Income-tax [2025] (High Court of Bombay)

The High Court held that the period of limitation for filing a rectification application under section 254(2) commences from the date of communication of the Tribunal's order and not from the date on which the order is passed. Since the assessee had filed the rectification application within six months from the date of receipt of the order, the Tribunal had misdirected itself in treating the application as time-barred.

Accordingly, the High Court held that the rectification application was filed within time and quashed the Tribunal's order rejecting the application as barred by limitation, while permitting the assessee to raise all contentions on merits in the appeal filed against the original Tribunal order.

### **3. Dividend Income Not Eligible for Deduction Under Section 36(1)(viii)**

In the instant case<sup>3</sup>, the assessee, National Cooperative Development Corporation (NCDC), a statutory corporation engaged in providing long-term finance for agricultural and industrial development, claimed deduction under section 36(1)(viii) of the Income-tax Act, 1961 in respect of:

- i. dividend income on investments in shares,
- ii. interest earned on short-term bank deposits, and
- iii. service charges received for monitoring loans under the Sugar Development Fund.

The Assessing Officer, during the scrutiny assessment, disallowed the claim, holding that the receipts lacked a direct nexus with the business of providing long-term finance as required under section 36(1)(viii).

Aggrieved, the assessee preferred appeals before the CIT(A), which were dismissed. The disallowances were confirmed by the Income Tax Appellate Tribunal and thereafter by the High Court. Aggrieved by the High Court's judgment, the assessee filed appeals before the Supreme Court.

The Supreme Court held that the phrase "derived from" signifies a strict, first-degree nexus. It connotes a requirement of a direct, first-degree nexus between the income and the specified business activity. It is judicially settled that "derived from" is narrower than "attributable to".

Assessee contended that the substance of redeemable preference shares is effective loans, as the fixed redemption schedule and dividend rate assimilate them to the nature of debt. However, the AO drew attention to the admitted factual position that these receipts are "investments in agricultural-based societies by way of contribution to share capital".

AO submitted that under Section 85 of the Companies Act, 1956, preference shares unequivocally remain share capital and cannot be treated as loans.

The Supreme Court held that dividends are a return on investment dependent on the profitability of the investee company, and that this distinction is fundamental to the income's

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<sup>3</sup> National Cooperative Development Corporation vs. Assistant Commissioner of Income-tax - [2025] (Supreme Court)

genealogy. There is a fundamental distinction between a shareholder and a creditor. The basic characteristic of a loan is that the person advancing the money has the right to sue to recover the debt.

In stark contrast, a redeemable preference shareholder cannot sue for the money due on the shares or claim a return of the share money as a matter of right, except in the specific eventuality of winding up.

This is also the reason SC holds that the immediate source of dividend income is the investment in share capital, not the business of providing loans. Since the statute specifically mandates 'interest on loans', extending this fiscal benefit to 'dividends on shares' would defy the legislative intent. Therefore, the Supreme Court held that dividend income does not qualify as profits derived from the business of providing long-term finance.

#### **4. No Penalty for Concealment Without Inaccurate ITR Details**

In the instant case<sup>4</sup>, the assessee-company, incorporated in Canada and engaged in the exploration of natural gas and oil, had entered into a joint venture with a state corporation and executed production sharing contracts with the Government of India for oil and gas fields in Gujarat. For A.Y. 2004-05, it filed a return declaring Nil income processed under section 143(1).

The case was selected for scrutiny and assessment under section 143(3), which determined the total income of about Rs. 180.28 crores after disallowances and initiated penalty proceedings under section 271(1)(c).

In response, the assessee filed an appeal before the CIT(A), wherein the CIT(A) deleted the penalty. Aggrieved by the order, the AO filed an appeal to the Tribunal. The Tribunal also upheld the deletion of the penalty. The matter reached before the High Court.

The High Court held that the AO had not made any addition to the income of the assessee under section 143(1) for furnishing inaccurate particulars of income. The AO had made additions to the assessee's income during the regular assessment proceedings, which were confirmed by the CIT(A). Thus, the additions to the assessee's income were made under section 143(3).

The additions to the income of the assessee under section 143(3) would not amount to the furnishing of inaccurate particulars of income. Subsequently, the assessee filed an appeal before the Tribunal, which confirmed the additions to the assessee's income, and the penalty proceedings were initiated accordingly.

The Supreme Court in the case of CIT v. Reliance Petroproducts (P.) Ltd. held that the word 'particulars' used in section 271(1)(c) connotes the details of the claim made. The assessee must have furnished inaccurate particulars of his income. Where no information given in the return is found to be incorrect, the assessee cannot be held guilty of furnishing inaccurate particulars.

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<sup>4</sup> Director of Income-tax (International Taxation) vs. Niko Resources Ltd - [2025] (High Court of Gujarat)

Since no addition was made under section 143(1) for furnishing inaccurate particulars of income, no penalty could be levied upon the assessee.