Direct Tax Newsletter

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# Tax Digest

- Recent case laws

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NEWS FEED

## CBDT Notifies Inbar Holding as Pension Fund Under Sec. 10(23FE)

*Notification no. 1/2026, dated 05-01-2026*

The Central Board of Direct Taxes (CBDT) has issued Notification No. 1/2026 dated 05-01-2026, notifying Inbar Holding RSC Limited as a specified pension fund for the purposes of Section 10(23FE) of the Income-tax Act, 1961.

## 1. AO Cannot Tax Gross Receipts Where Real Income is Service Charges

In the instant case[1], the assessee, MKF Logistics (P.) Ltd. was engaged in the business of freight forwarding and handling of cargo. For A.Y. 2016-17, it filed its return of income declaring a total revenue of about Rs. 31.32 lakhs. During assessment proceedings, the Assessing Officer observed that the gross receipts reflected in Form 26AS were substantially higher than the turnover disclosed in the profit and loss account.

The assessee submitted that, in the course of its freight forwarding business, it collected gross amounts from customers, of which only the service charges retained by it constituted its income. The remaining amount represented freight charges payable to airlines or shipping companies. These freight collections were credited to a separate "freight payable" account and were neither routed through the profit and loss account nor claimed as expenditure.

The Assessing Officer, however, treated the difference between the gross receipts reflected in Form 26AS and the income disclosed by the assessee as undisclosed income and made an addition. On appeal, the Commissioner (Appeals) deleted the addition, against which the Revenue preferred an appeal before the Tribunal.

The Tribunal held that, in a freight forwarding business, the assessee's real income is confined to the service charges earned, rather than the entire gross collections received from customers. It noted that the assessee had furnished detailed reconciliations along with documentary evidence demonstrating remittance of freight charges to airlines and shipping companies, and that such amounts were not claimed as expenditure.

The Tribunal further observed that the mere reflection of gross receipts in Form 26AS could not, by itself, justify an addition unless it was established that the entire amount constituted consideration for services rendered by the assessee. Accordingly, the Tribunal upheld the order of the Commissioner (Appeals), deleted the addition, and dismissed the Revenue's appeal.

## 2. Section10(23BBA) Exemption Not Available to Temples

In the instant case[2], the assessee-petitioners were either administrative bodies of temples under the Malabar Devaswom Board or temples represented by their administrative bodies. They sought the benefit of section 10(23BBA) for exemption from income tax, for a refund of TDS deducted on deposits held in the names of the respective temples with financial institutions, and, in some cases, a declaration of exemption.

The administrative bodies were constituted under schemes framed pursuant to section 58 of the Madras Hindu Religious and Charitable Endowments Act, 1951, and under the scheme, the properties and endowments from which income arose belonged to the deity/temple, with the administrative bodies managing such properties and income.

In some instances, assessment orders were passed against the temples, while in others, claims for refund of Tax Deducted at Source (TDS) on temple deposits were rejected or notices under section 148A were issued. Aggrieved by the order, the

[1] Deputy Commissioner of Income-tax vs. MKF Logistics (P.) Ltd. - [2025] (Delhi - Trib.)

[2] Madhur Sree Madanantheswara Vinayaka Temple vs. Income-tax Officer [2025] (High Court of Kerala)

assessee preferred a writ petition to the Kerala High Court.

The Court held that the exemption contemplated under section 10(23BBA) is only for the body or authority created by the statute to govern public religious institutions, but the said provision is not intended to provide exemptions to public religious institutions governed by such body or authority. In other words, the exemption contemplated as per the said provision is for the income of bodies like the Devaswom Board, Waqf Board, etc., and not to the religious establishments governed by such institutions.

Further, there is a separate provision for exemption under sections 11, 12, and 12A for religious establishments. The religious institutions referred to in section 10(23BBA), including trusts, endowments, or societies, are eligible for exemption under sections 11 and 12 upon complying with the conditions stipulated in those provisions.

Further, the income of such body or authority alone is exempted, and the establishments/institutions which are under the administration of the said authority, as such, are not exempted from the liability to pay the income tax. A proviso to the said provision confirms the said aspect, by clearly specifying that the provisions under the said Act should not be construed to mean that the income of any proposed endowment or society which is subjected to the administration by the bodies referred to in the provision is exempted from tax.

### 3. Sec. 10(23C)(iiiad) Exemption Not Denied for Drop-Down Error

In the instant case[3], the assessee received manufacturing undertakings of three companies pursuant to court-approved schemes of demerger and filed its return accordingly, which culminated in an assessment order allowing carry forward of accumulated business losses and unabsorbed depreciation.

The Commissioner invoked revisionary jurisdiction under section 263, taking the view that the arrangement was akin to an amalgamation and that the conditions prescribed under section 72A(2), particularly the requirement that the amalgamating companies had been in existence for at least 3 years, were not fulfilled.

On appeal, the Tribunal set aside the revisionary order. The matter reached before the Madras High Court.

The Madras High Court held that the jurisdiction under section 263 can be exercised only when the assessment order is both erroneous and prejudicial to the interests of the revenue. In the present case, the foundational error committed by the Commissioner was mischaracterising a demerger as an amalgamation, despite the assessee having placed on record the Company Court's orders clearly evidencing the nature of the transaction.

The Court observed that, while section 72A governs the carry-forward and set-off of accumulated losses and unabsorbed depreciation in cases of amalgamation and demerger, the three-year condition applies only under section 72A(2), which deals with amalgamation. In contrast, section 72A(4), applicable to demergers, does not impose any such condition. The assessee had specifically

[3] Sri Shivaganga Yoga Centre vs. Income-tax Officer (Exemption) [2025] (ITAT Bangalore)

pointed out this distinction in its reply to the show-cause notice, and the same was even reflected in the Commissioner's order, indicating due consideration of the explanation.

In the absence of any demonstrable error in the assessment order, the direction issued under section 263 amounted to nothing more than a roving and fishing enquiry, which is impermissible in law. Accordingly, the High Court held that the pre-conditions for invoking section 263 were not satisfied and answered the questions of law in favour of the assessee and against the revenue.

### 4. No Tax on Unexplained Cash Where Withdrawals Exceed Deposits

In the instant case[4], the assessee, Sri Shivaganga Yoga Centre, a charitable trust running a Yoga Centre and conducting a postgraduate diploma course, filed its return of income for A.Y. 2019-20 claiming exemption under section 10(23C)(iiiad) in respect of course fees collected from students. The Central Processing Centre processed the return under section 143(1).

The CPC denied the exemption on the ground that the assessee had not selected section 10(23C)(iiiad) in the relevant drop-down menu under "section under which exemption claimed" in Schedule – Personal Information and had not filed Schedule IE-4. The assessee explained that the omission occurred due to a technical issue in the return-filing utility and that its aggregate annual receipts did not exceed the monetary limit prescribed under rule 2BC.

A rectification application filed under section 154 was rejected on the ground that the issue was debatable. The Commissioner (Appeals) upheld the denial of exemption. The matter reached before the Tribunal.

The Tribunal observed that if an issue is debatable, it could not have been adjusted while processing the return under section 143(1). It was noted that the denial of exemption was based solely on non-selection of the relevant drop-down option and non-filing of Schedule IE-4, and not on any inconsistency or incorrect claim in the return of income.

The Tribunal held that mere technical or procedural lapses in filling the return could not be the basis for denial of a substantive exemption, particularly when the necessary information was otherwise available on record, and the assessee satisfied the conditions prescribed under section 10(23C)(iiiad).

Accordingly, the Tribunal directed the Assessing Officer to verify the factual eligibility of the assessee and allow the exemption under section 10(23C)(iiiad), or under section 11, if otherwise admissible in accordance with law. The appeal was allowed for statistical purposes.

[4] Madhusudan Reddy Pasham vs. ACIT [2025] (Hyderabad-Trib.)