



# Direct Tax Newsletter

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16, Strand Road, Diamond Heritage,  
Room No. H-703,  
Kolkata – 700001

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Ph: 033-46002382/ 40032841  
Email id: [info@acbhuteria.com](mailto:info@acbhuteria.com)

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## Tax Digest

- Recent case laws

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1. Section 43B Deduction Denied on



**Budget 2026: The Finance Minister targets higher tax revenue in FY27 to boost growth**

Source : [economictimes.com](http://economictimes.com)

Under Budget 2026, Finance Minister Nirmala Sitharaman on Sunday proposed to increase the collection of direct and indirect taxes for the next fiscal year starting April 1, raising the government's gross tax revenue target to Rs 44.04 lakh crore for 2026-27, banking on steady economic growth and improved compliance.

Tax collections have remained resilient, supported by strong GST inflows and higher direct tax compliance, even as the government continues to rationalise rates and widen the tax base.

payable said liabilities or otherwise due under prescribed under section 139(1). The CIT(A) deleted the additions made by the AO towards the disallowance of liabilities under Section 43B. Aggrieved by the order, the AO filed an appeal before the Tribunal.

The Tribunal held that there is no concept of deemed payment of liability referred to under section 43B for claiming a deduction towards said liability while computing the income from business or profession. A person cannot, by contract, transfer or shift his statutory obligations to another

<sup>1</sup> Deputy Commissioner of Income-tax vs. Corteva Agriscience Services India (P.) Ltd. [2026] (Hyderabad-Trib.)

and claim a deduction under section 43B. In order to claim a deduction under Section 43B, there should be actual payment of liability as stipulated thereon, and such payment, if made on or before the due date for filing the return of income under Section 139(1) in terms of the proviso to Section 43B, is allowable as a deduction.

In the present case, the assessee transferred the liability related to leave encashment, bonus payment of employees to the transferee undertaking and claimed that, upon transfer of said liability, the liability payable to the employees has been discharged by invoking a deeming fiction even though there is no provision under the Act, including section 43B of the Act, for deeming payment.

Whether the transferee entity has paid the employees and claimed deduction towards the said liability while computing income from business or profession is not relevant to decide whether the assessee can claim deduction for the said liability under Section 43B of the Act. The assessee cannot claim a deduction towards the said liability under section 43B of the Act while computing income from business and profession.

## **2. Delhi ITAT Had No Power to Dismiss Transferred Appeal**

In the instant case<sup>2</sup>, the assessee had filed an appeal before the Tribunal, Lucknow Bench, against an order passed by the Commissioner (Appeals). Pursuant to a notice issued under section 127(2), the cases of the Sahara Group pending before various authorities were transferred to Delhi for administrative convenience. Consequently, the President of the Tribunal, in exercise of powers

under rule 4 of the Income-tax (Appellate Tribunal) Rules, transferred the assessee's appeal from the Lucknow Bench to the Delhi Bench.

Thereafter, the Delhi Bench dismissed the appeal as well as the corresponding cross-objection on the ground that it lacked territorial jurisdiction to hear and decide the matter, while granting liberty to the parties to file fresh appeals before the Lucknow Bench. Aggrieved, the assessee filed writ petitions before the Delhi High Court challenging the dismissal of the appeals.

The High Court held that the Delhi Bench was fully aware that the appeals had been transferred pursuant to the President of the Tribunal's administrative order. It held that once a matter is transferred from one Bench to another, no statutory authority, including the Tribunal, can overturn such an administrative order except a competent court examining its legality.

The Court further held that even if the Delhi Bench was of the view that it lacked territorial jurisdiction, it ought to have placed the matter before the President for appropriate directions, rather than dismissing the appeals and directing the parties to institute fresh proceedings. Such action amounted to setting the President's administrative order at nought and was unsustainable in law.

Accordingly, the High Court set aside the orders passed by the Tribunal and restored the matters to the file of the Delhi Bench to be decided on merits. The writ petitions were allowed in favour of the assessee.

## **3. Society Acting as Pharma Promotion Conduit Not Eligible for Section 12A Registration**

<sup>2</sup> *Sahara India Ltd vs. Income-tax Appellate Tribunal [ [2026] (Delhi High Court)*

In the instant case<sup>3</sup>,

The assessee was a society that organised seminars, conferences, and events to upgrade members and the general public. It received substantial grants from various pharma companies. It applied for registration under section 12A.

During the proceedings, the Commissioner (Exemptions) observed that the charitable activity carried on by the assessee was negligible compared to the gross amount of collection received from various pharma companies. Thus, he denied the registration under section 12A. The matter reached before the Amritsar Tribunal.

ITAT Held

The Amritsar Tribunal held that out of the total grants of Rs. Forty lakhs (approx.) received from various pharma companies by the assessee society has resulted in only a meagre expenditure of Rs. 2.51 lakhs for sponsoring free medicines for type-1 diabetic children, which is just 6.2% of the total receipts.

The rest of the amount received from the pharma companies has been expended for organising various seminars, conference, events, for practicing doctors, including star category hospitality, at luxurious hotels, entertainment by professional singers, travelling expenses, professional fees to the President of the society and relatives and for all other reasons, other than for “charitable purpose” as defined under section 2(15). Furthermore, note that the “Uniform Code for Pharmaceutical Marketing Practices (UCPMP) 2024” also explicitly prohibits the offering of gifts and incentives to doctors or their family members.

In the instant case, the actual charitable activity conducted by the society was negligible (being only Rs. 2.51 lakhs against total grants received from pharma companies amounting to Rs. Forty lakhs). The society acted to facilitate networking between doctors and pharma companies, and its activities were non-charitable and outside the scope of section 2(15). Thus, the Commissioner (Exemptions) was justified in refusing the application for registration under section 12A.

#### **4. AO Must Tax Only Net Income Even If Section 11 Exemption Is Denied**

In the instant case<sup>4</sup>, the assessee-trust filed its return, claiming exemption under Section 11. Assessing Officer (AO) denied exemption on the ground that the assessee did not hold a valid registration under section 12A/12AB for the relevant assessment year. Accordingly, he brought to tax the assessee's entire receipts without allowing any deduction for expenditure.

On appeal, CIT(A) affirmed the action of AO. Aggrieved-assessee filed the instant appeal before the Tribunal.

The Tribunal held that the assessee did not hold a valid registration under section 12A/12AB for the relevant assessment year. The claim of exemption under section 11 could not have been allowed for the said year. To this limited extent, the action of AO in denying exemption under section 11 does not call for any interference and stands on a firm statutory footing. However, the controversy does not rest merely on the denial of exemption under section 11, but extends to the manner in which the assessee's income was computed thereafter.

Even where an assessee-trust is not entitled to exemption under section 11 for a particular

<sup>3</sup> C-Dot Forum vs. CIT (Exemptions) Chandigarh [2026] (Amritsar-Trib.)

<sup>4</sup> Adhi Ganesh Mandir Charitable Trust vs. Income-tax Department [2026] (ITAT Bombay)

assessment year, the computation of income has to be made in accordance with ordinary principles of commercial accounting, subject, of course, to the provisions of the Act. The denial of exemption does not confer an unfettered right upon the Revenue to assess gross receipts as income. The AO is duty-bound to examine the expenditure incurred wholly and exclusively for the purposes of earning such receipts and to determine the real income chargeable to tax. Any computation that proceeds to tax receipts without undertaking this exercise is fundamentally flawed.

In the instant case, the AO brought the entire receipts to tax without examining or verifying the expenditure reflected in the assessee's income and expenditure account. Such an approach is clearly unsustainable in law. The denial of exemption under section 11 does not automatically authorise the revenue to tax a trust's gross receipts. The computation must necessarily be confined to the net income, arrived at after allowing legitimate expenditure incurred in furtherance of the objects of the trust, unless such expenditure is specifically disallowable under the Act.

Accordingly, the matter was restored to the AO with a limited direction to recompute the income of the assessee after duly examining and verifying the expenditure claimed in the income and expenditure account and thereafter bringing only the net income, if any, to tax in accordance with the law.