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## Tax Digest

- Recent case laws

February 9, 2026

### 1. Provision for Salary Revision Allowed as Accrued Liability

In the instant case<sup>1</sup>, the assessee, a Government of Maharashtra undertaking, has consistently followed the same method of creating provisions for salary revisions since the financial year 1976-77. It was bound to implement the Pay Commission's recommendations as and when sanctioned by the State Government.

During the relevant assessment year, the assessee created a provision for salary on account of the expected increase in annual personnel cost arising from the implementation of the Sixth Pay Commission. The matter reached the Mumbai Tribunal.

The Tribunal held that the assessee consistently followed the same method of creating provisions towards salary revision since the financial year 1976-77, based on past experience and a reasonable estimation of the enhanced liability. The provision in question was created in respect of services already rendered by the employees during the relevant previous year, and only the quantification of the enhanced salary was deferred to a future date, subject to formal approval.

The liability, therefore, had accrued during the year under consideration and cannot be characterised as



#### Draft Income-tax Rules 2026 and new forms out

Source : [indiatoday.in](http://indiatoday.in)

The drafts have been opened for public comments for 15 days, until February 22, 2026. The tax department has

<sup>1</sup> Haffkine Bio Pharmaceutical Corporation vs. ACIT [2026] (Mumbai-Trib.)

contingent in nature. The mere deferment of approval or payment does not render the liability contingent. In view of the consistent accounting practice followed by the assessee, the binding nature of the Pay Commission recommendations, and the settled legal position that a provision for an accrued but unquantified liability is allowable as a deduction, the disallowance of the provision was unjustified.

## **2. Delay Condoned for Illiterate Assessee – Matter Remanded**

In the instant case<sup>2</sup>, the assessee, a small milk vendor and having a limited educational background, did not file his return of income for the relevant assessment year under section 139(1) on an honest and bona fide belief that his income did not exceed the maximum amount not chargeable to tax.

During the assessment proceedings, the Assessing Officer (AO) found that the assessee had made huge cash deposits in his savings account. In addition, the assessee made payments to contractors. The AO taxed the entire cash deposits as unexplained money under section 69A and contractor payments as unexplained expenditure under section 69C in the absence of any reply from the assessee.

On appeal, the CIT(A) dismissed the appeal of the assessee by not condoning the delay in filing the appeal before him and not considering the case of the assessee on the merits. Aggrieved by the order, the assessee filed an appeal to the Bangalore Tribunal.

The Tribunal held that the assessee filed the computation of income, along with a copy of the audited financials, and the acknowledgement of filing the audit report under section 44AB. The assessee vehemently argued that the assessee is a

small milk vendor, and taxing the entire cash deposit amounting to Rs. 1.05 crores, as well as the payment made to the contractor amounting to Rs. 4.22 lakhs, is highly unjustified.

It is an undisputed fact that the assessee could not represent his case before both the authorities below. The CIT(A) did not even consider the case of the assessee on merits and dismissed the appeal by not condoning the delay of 163 days in filing the appeal before him. It is opined that the assessee, being an illiterate person, on an honest and bona fide belief that the communication received is a mere notice and being unaware that the final appellate order has been passed, is a sufficient cause for filing the appeal belatedly before the CIT(A).

Accordingly, the delay in filing the appeal before the CIT(A) by 163 days is condoned. The entire issue in dispute is remitted to the AO's file for decision afresh in accordance with the law.

## **3. AO Cannot Reject Share Valuation and LTCL Without Basis**

In the instant case<sup>3</sup>, the assessee company was engaged in the business of generating and supplying power and energy. Along with its holding company, the assessee decided to sell its entire shareholding in four group companies to a Singapore-incorporated company, part of the KKR group in the USA. The assessee received a total consideration of Rs. 39.25 crores, as against the purchase cost of shares at Rs. 202.19 crores. This resulted in a long-term capital loss (LTCL) of around Rs. 183 crores.

The assessee furnished voluminous documentary evidence to justify its claim of LTCL on the sale of shares, including a valuation report determining the

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<sup>2</sup> Muniyappa Prashanth Kumar vs. Income-tax Officer Ward 4(3)(3) [2026] (Bangalore-Trib.)

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<sup>3</sup> Asst. CIT, Circle 3.3.1 vs. Shapoorji Pallonji Solar Holdings (P.) Ltd. [2026] (Mumbai-Trib.)

valuation of the shares as on the date of sale. However, the Assessing Officer (AO) rejected the assessee's claim of LTCL primarily on the reasoning that the assessee failed to furnish the requisite documentary evidence. On appeal, the CIT(A) allowed the LTCL claim. Aggrieved by the order, the AO filed the instant appeal before the Tribunal.

The Mumbai Tribunal held that the assessee had sold shares to a completely unrelated foreign entity. Therefore, it cannot be said that the sale of shares was made to generate a loss as part of a premeditated arrangement. When transactions are between unrelated parties, the cost of such transactions is determined through negotiation, taking into account various factors, including the net worth and profitability of the entity whose shares are transacted.

In this case, a careful analysis of the chart clearly demonstrated that the sale value per share of the companies exceeds their Net Asset Value (NAV) as of the date of sale. Further, the AO had not made any adverse observations with reference to the value determined by the independent valuer appointed by the assessee. Although the department had ample opportunities to challenge the assessee's share valuation at various stages, it failed to do so. Even the department had not furnished any material to demonstrate what, according to the department, would have been the value of shares as on the date of sale.

Without doing his homework, the AO cannot summarily reject the valuation of the assessee and the LTCL arising out of the sale of shares. Therefore, the impugned LTCL claim of the assessee was to be allowed.

#### **4. Commissioner Bound by ITAT Special Bench in Section 264 Revision**

In the instant case<sup>4</sup>, the petitioner, an individual, filed an application under section 264 before the Principal Commissioner seeking revision of the tax treatment of capital gains computed under section 50. He contended that such gains were taxable at the rate prescribed under section 112 in view of the decision of the jurisdictional Tribunal Special Bench in SKF (India) (2024) 168 taxmann.com 328 (Mumbai – Trib.).

The Principal Commissioner, by order passed under section 264, declined to grant relief and refused to follow the Special Bench decision. Aggrieved by the order, the petitioner filed a writ petition to the Bombay High Court.

The High Court held that the Commissioner completely misdirected himself by failing to follow the Tribunal's binding decision in SKF (India) (supra). It is not for the Commissioner to decide whether the Tribunal was correct in its decision or not. Even though he may, in his personal opinion, believe the decision wrongly applied the law, he is bound to follow it. If lower authorities are permitted to disregard binding decisions because they believe those decisions are wrong, it would lead to complete chaos in the administration of tax laws.

Accordingly, the writ petition was allowed, and the impugned order passed under section 264 was set aside. The matter was remanded to the Commissioner to pass a fresh order on the assessee's application, following the decision of the Special Bench of the Tribunal in SKF (India).

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<sup>4</sup> Samir N. Bhojwani vs. Principal Commissioner of Income-tax - [2026] (High Court of Bombay)