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Tax Digest

- Recent case laws

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Direct Tax Newsletter

1. Sports Training Trust Eligible for Section 12AB & 80G

In the instant case[1], the assessee-trust was formed to impart taekwondo and self-defence training to students, including underprivileged girls in government schools. It also provided free training to underprivileged students. The trust applied for registration under section 12AB and approval under section 80G. The CIT(E) rejected the assessee's applications for registration under sections 12AB and 80G on the ground that imparting sports training to students did not constitute 'education' within section 2(15). Aggrieved by the order, the assessee preferred an appeal to the Bangalore Tribunal.

The Tribunal held that the registered trust's principal object revolved around promoting and instilling the values of sportsmanship among the youngster, developing young athletes in taekwondo, and providing sports training to the children/students from rural and underprivileged class/areas. It was also noted that the appellant's object was closely aligned with the national education policy announced by the central government of India in 2020.

[1] Yakshit Yuva Foundation vs. Commissioner of Income-tax, Exemption [2026] 184 taxmann.com 245 (Panaji-Trib.)

CBDT Notifies Income Tax Rules 2026 Effective from 01-04-2026

Notification no. 22/2026, dated 20-03-2026

The Central Board of Direct Taxes (CBDT) has notified the Income-tax Rules, 2026 vide Notification No. G.S.R.

It was obvious from the annual activity reports submitted for three years that the appellant trust had reached out to thousands of students to inspire and instil self-defence among underprivileged girls studying in government-aided schools. Thus, the assessee was organising its operation with much less commercial exploitation. The holistic vouching suggested that charging nominal fees from students in substance lacked commercial principle.

The term 'education' has been interpreted in the context of Section 2(15) by the Hon'ble Apex Court in Loka Shikshana Trust v. CIT [1975] 101 ITR 234 (SC). The Hon'ble Lordship therein held that what education connotes in clause 2(15) is the process of training and developing the knowledge, skill, mind, and character of students by normal schooling. It clearly emerges that so long as the assessee is engaged in developing any knowledge or skill or character of school/college-going students, such assessee's activities of imparting scholastic training shall fall within the scope of 'education' for section 2(15).

In the instant case, the assessee was admittedly engaged in imparting and developing sports knowledge to school-going girls and underprivileged students, either in-house or through workshops. Thus, an activity of providing scholastic sports training and conducting incidental workshops was with a focal view to develop the sports knowledge, skills, mind & character of school students, which could fall within the realm of 'education' as used in section 2(15).

2. No Section 12AB Denial for Missing Irrevocability Clause

In the instant case[2], The petitioners were public charitable trusts registered under the applicable laws and had either applied for fresh registration or renewal of registration under section 12AB. The Commissioner (Exemptions) rejected their applications primarily on the ground that the trust deeds did not contain explicit irrevocability and/or dissolution clauses.

Further, while filing Form 10AB, the trusts were required to answer whether the trust deed contained a clause stating that the trust is irrevocable. The e-filing utility did not permit submission of the form unless the applicant selected "Yes." Accordingly, the petitioners selected "Yes," even though their trust deeds did not expressly contain such a clause. The Department treated this as furnishing false or incorrect information, constituting a specified violation under section 12AB.

The matter reached before the High Court.

The Bombay High Court held that a public charitable trust is inherently irrevocable by operation of law, unless the trust deed expressly provides a power of revocation. The Court observed that under the Maharashtra Public Trusts Act (MPT Act), even where a trust is revoked, the trust property does not revert to the settlor but is dealt with in accordance with statutory provisions, such as vesting in the Public Trusts Administration Fund or being applied to similar charitable purposes. Thus, the fundamental condition of revocability, as contemplated under section 63 of the Income-tax Act, can never be satisfied merely due to the absence of an explicit clause.

The Court categorically ruled that the absence of an irrevocability clause or dissolution clause in the

[2] Chamber of Tax Consultants vs. Commissioner of Income-tax (Exemptions) [2026] 184 taxmann.com 374 (High Court of Bombay)

trust deed is not a valid ground for rejecting registration under section 12AB. It emphasised that neither section 12AA nor section 12AB prescribes such a requirement. The statute only requires satisfaction regarding the genuineness of activities and the charitable nature of objects, and not the presence of specific drafting clauses in the trust deed.

The Court also relied on statutory safeguards already embedded in law. It noted that provisions such as section 13(1)(c) prevent misuse of income or property for the benefit of specified persons, including the settlor, while section 115TD imposes exit tax on dissolution or conversion of trusts. Additionally, section 55 of the MPT Act incorporates the doctrine of cy-pres, ensuring that trust assets are applied to similar charitable purposes rather than reverting to the settlor. These safeguards adequately address the Revenue's concerns.

With respect to Form 10AB, the Court strongly criticised the design of the e-filing utility. It held that the system compelled applicants to select "Yes" to proceed with filing, thereby forcing them to make a declaration that may not strictly align with the wording of the trust deed. The Court ruled that such compelled responses cannot be treated as false or incorrect information, and the Department cannot penalise applicants for deficiencies in its own system.

The Court further directed the Revenue to modify the utility of Form 10A/10AB and replace the existing question with a more appropriate formulation: "Is the trust/institution revocable?".

3. ITAT Questions Rs. 12.54 Cr Gift to Shilpa Shetty | Section 68 Addition Upheld

In the instant case[3], the assessee, Shilpa Shetty Kundra, was an individual who earned income from a business or profession and interest income. During the relevant assessment year, she received a gift from her husband amounting to Rs. 12.54 crores.

During the assessment proceedings, the assessee furnished copies of the gift deed and the acknowledgement for the income tax return filed by her husband. However, the Assessing Officer (AO) found that the husband had shown income of Rs. 27,71,020 in his return of income for A.Y 2020-21, which is not commensurate with the amount of gift of Rs. 12,54,54,594.

The AO issued a show-cause notice to the assessee and, unsatisfied with the response, made additions to the assessee's income under section 68. On appeal, the CIT(A) affirmed the addition made by the AO. The matter reached the Mumbai Tribunal.

The ITAT observed that although the assessee had produced the gift deed and PAN details, she failed to demonstrate the actual movement of funds, as neither the bank statements nor clear evidence of transfer were produced before the authorities. The assessee failed to provide details of the transaction involved and/or the mode of payment for the gift. The assessee did not file the bank statement, despite the AO specifically asking on various occasions. Even her husband's income tax return was not commensurate with the amount gifted.

The assessee claimed that she had received a gift from her husband out of natural love and affection. However, the mode of payment/mode of gift/detail of transferring the gifted amount was nowhere mentioned in the Gift Deed.

[3] Shilpa Shetty Kundra vs. Deputy Commissioner of Income-tax - [2026] 184 taxmann.com 318 (Mumbai-Trib.)

The Tribunal further observed discrepancies in the explanation regarding the source of the funds. The assessee claimed that the donor had received funds from an overseas entity (Kuki Investments), but the relevant entries were not properly correlated with disclosures in the donor's income-tax returns, particularly in Schedule FA relating to foreign assets.

The financial details and schedules in the donor's returns also did not clearly substantiate the availability of funds or their subsequent transfer as a gift. Consequently, the Tribunal held that the assessee had not fully discharged the primary onus under Section 68 to establish the identity of the donor, the genuineness of the transaction, and the donor's creditworthiness with cogent documentary evidence.

At the same time, the Tribunal noted that certain additional documents, including income-tax returns and bank statements, had been produced only at the appellate stage and required proper verification. Considering the overall circumstances, the Tribunal remanded the matter back to the jurisdictional Assessing Officer for fresh examination.

4. ITAT Allows Salary and Expense Claims | Business Held Ongoing

In the instant case[4], the assessee, a sole proprietor, was engaged in providing assistance, advisory, and commercial information services to Canpotex for the sale of Canadian Muriate of Potash under an exclusive market service agreement, later amended to include delivery of 25,000 MT.

For AY 2023–24, the assessee executed the delivery in April 2022 and received commission in May 2022, as reflected in the bank statement. The return of income, later revised, declared a total income of about Rs. 10.63 crores, and the case was selected for scrutiny under CASS with notice under section 143(2).

During the assessment, the AO held that the assessee's business had ceased upon expiry of the agreement and, on that basis, treated the employees' salaries as personal expenditure and disallowed them. The AO also made an ad hoc disallowance of 50% of other expenses and disallowed audit fees, citing the expiry of the agreement on 31-12-2022. The Commissioner (Appeals) upheld the AO's view, against which the assessee appealed to the Tribunal.

The Tribunal held that the AO failed to apply the fundamental accounting principle of going concern, under which a business is presumed to continue unless proven otherwise. The assessee had maintained the business setup and continued efforts to generate business, and there was no cogent evidence of closure. It was further observed that expenses had declined compared to earlier years, were under ordinary heads accepted in past assessments, and books were consistently maintained on a cash basis. The auditors' invoices were disregarded on mere assumptions.

Accordingly, the Tribunal held that the disallowances were based on an erroneous assumption that the business had ceased. The disallowance of salary and other expenses, earlier accepted, was unjustified. The appeal was allowed, and the additions were deleted.

[4] Rajeev Khanna vs. Deputy Commissioner of Income-tax [2026] 184 taxmann.com 195 (Delhi-Trib.)