



A.C. Bhuteria & Co.
Chartered Accountants

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

Ph: 033-46002382/ 40032841
Email id: info@acbhuteria.com

Tax Digest

- Recent case laws

March 30, 2026

1. Reopening Based on Mere Change of Opinion Not Sustainable

In the instant case¹, The assessee's case for AY 2013–14 was originally selected for scrutiny under section 143(3). During the assessment, the Assessing Officer specifically raised queries regarding the cash deposits made in various bank accounts and called upon the assessee to explain the source of such deposits. In response, the assessee explained that the deposits were made out of the cash balance available in the cash book, and also furnished the cash book itself for verification. After examining this material, the AO did not make any addition in relation to the cash deposits in the original assessment.

Subsequently, the AO issued notice under section 148 and sought to reopen the assessment. One of the reasons recorded was that cash deposits aggregating to about ₹5.11 crore in various bank accounts were allegedly unexplained and taxable under section 68. According to the AO, although the assessee claimed that these deposits came out of opening cash-in-hand, the cash book appeared to have been prepared only to justify expenditure and income, and therefore the deposits were treated as unexplained cash credits. In other words, the AO attempted in reassessment to revisit the very same

CBDT Clarifies Power to Condone Delay in Filing Form No. 10A

Circular no. 01/2026, dated 23-03-2026

The CBDT has clarified that the jurisdictional Principal Commissioner or Commissioner of Income-tax is the authorized authority to condone delays in filing Form No. 10A under Section 12A(1)(ac)(i) of the Income-tax

¹ [Magestic Premises \(P.\) Ltd. v. Assistant Commissioner of Income-tax, Central \[2026\] 184 taxmann.com 382 \(High Court of Bombay\)](#)

cash deposits which had already been examined in the original scrutiny proceedings.

The Bombay High Court held that the reopening on the section 68 issue was unsustainable. It observed that in the original scrutiny, a specific query had already been raised regarding these cash deposits, the assessee had given a full explanation, and the cash book was also produced before the AO. Since all material facts had already been disclosed and examined, there was no failure on the part of the assessee to disclose fully and truly all material facts. Therefore, the AO could not reopen the assessment merely by taking a different view on the same material. The Court held that this was nothing but a mere change of opinion, which cannot justify reassessment, and accordingly quashed the notice under section 148.

2. Section 56(2)(viib) – AO cannot reject DCF valuation and substitute NAV method without cogent material

In the instant case², the assessee, a microfinance company, issued 75,61,126 rights shares during AY 2015-16 to another NBFC, Manappuram Finance Ltd., at ₹83.32 per share, which included a share premium of ₹73.32 per share. For determining the share value, the assessee adopted the DCF method under Rule 11UA, supported by a Chartered Accountant's valuation report.

The Assessing Officer rejected the DCF valuation on the ground that the CA had relied on management inputs without conducting audit or due diligence. The AO then applied the NAV method, arrived at a lower value of ₹48 per share, and treated the differential as taxable income under section 56(2)(viib), making an addition of about ₹27.54

crore. The CIT(A) confirmed the addition. The Revenue also argued that the valuation report had been obtained two years after the issue of shares, and therefore could not be accepted as valid for Rule 11UA purposes.

The Chennai Tribunal held that section 56(2)(viib) is an anti-abuse provision intended to curb the introduction of unaccounted money through share premium. In the present case, neither the AO nor the CIT(A) had doubted the genuineness of the transaction, nor had they brought any material on record to show that any unaccounted money had been introduced in the guise of share premium. The Tribunal further held that once the assessee has exercised an option under Rule 11UA to value unquoted shares either under the NAV method or the DCF method, the AO cannot simply substitute one method for another unless he brings cogent material to show perversity or defect in the method

Applying these principles, the Tribunal found that the AO had not shown why the DCF projections were incorrect, and in fact the assessee demonstrated that its actual profits exceeded the projected figures. The Tribunal also noted that the share issue, including the premium, had been approved by the RBI. As regards the objection that the valuation report was obtained after the issue of shares, the Tribunal held that even a subsequent valuation report would not invalidate the claim if the share price stood substantiated. Accordingly, the Tribunal held that the addition under section 56(2)(viib) was unsustainable and directed its deletion.

3. Write-off not allowable as bad debt; guarantee payments not deductible; accrued interest taxable on accrual basis

² *Asirvad Micro Finance Ltd. v. Deputy Commissioner of Income-tax* [2026] 184 taxmann.com 430 (ITAT, Chennai)

In the instant case³,

The assessee, United Breweries Ltd., had advanced certain amounts to its business associates / associates of subsidiaries. These advances were not backed by any legal obligation for repayment and were more in the nature of prospective investment for allotment of shares in future. The assessee also discharged guarantees given in respect of loans raised by its subsidiaries and their associates, and further claimed that certain interest, though contractually stipulated, had not really accrued as income because it had not been received.

The assessee claimed deduction of the written-off advances as bad debts under section 36(1)(vii) and also claimed deduction of the guarantee payments as business expenditure under section 37(1). In addition, it disputed the taxability of interest on the footing of the real income theory. The Assessing Officer as well as the first appellate authority disallowed these claims. However, the Tribunal granted relief to the assessee. The High Court reversed the Tribunal and restored the disallowances, holding that the Tribunal had upset well-reasoned findings without adequate material. The matter thereafter reached the Supreme Court.

The Supreme Court upheld the High Court's decision and dismissed the assessee's appeals. On the bad debt issue, the Court accepted the High Court's reasoning that an amount advanced merely to help a business associate, without any material showing a legal obligation to repay, could not be treated as a "debt"; further, in the absence of evidence showing actual irrecoverability or recovery efforts, the write-off was not allowable as bad debt. On the guarantee payment issue, the Court held that discharge of guarantees for subsidiaries and their associates, in

the absence of any legal or business compulsion, was a gratuitous payment and not expenditure incurred wholly and exclusively for the assessee's business. On the interest issue, the Court held that once the agreement gave the assessee a right to claim interest, the income had legally accrued with passage of time, and mere non-receipt could not attract the real income theory so as to avoid taxability.

The Supreme Court therefore affirmed that: (i) the advances could not be treated as bad debts in the absence of a real debt and proof of irrecoverability, (ii) guarantee payments made without legal or business necessity were not deductible under section 37(1), and (iii) interest that had accrued contractually was taxable on accrual basis notwithstanding non-receipt. Accordingly, the assessee's civil appeals were dismissed and the decision of the Karnataka High Court was affirmed.

4. Section 54 exemption allowable where new residential property was booked within one year before transfer; possession beyond statutory period not fatal

In the instant case⁴, the assessee had purchased a flat in December 2011 and sold the same on 19 December 2014, resulting in a long-term capital gain of about ₹2.31 crore. In the return for AY 2015–16, the assessee claimed exemption under section 54 on the basis of investment in a new residential property consisting of two adjoining flats booked/purchased on 31 October 2014, i.e., within one year prior to the transfer of the original residential asset.

The Assessing Officer noted that, under the agreement for sale, possession of the new property was proposed to be delivered on 31 December 2018,

³ [United Breweries Ltd. v. Commissioner of Income-tax \[2026\] 184 taxmann.com 495 \(Supreme Court of India\)](#)

⁴ [Arvinder Singh Sahni vs. Deputy Commissioner of Income-tax \[2026\] 184 taxmann.com 429 \(ITAT, Mumbai\)](#)

whereas the three-year period reckoned by the AO would expire on 19 December 2017. On this basis, the AO held that the conditions of section 54 were not satisfied and disallowed the exemption. The Commissioner (Appeals) affirmed the disallowance on the ground that the assessee had failed to satisfy the statutory conditions. The Mumbai Tribunal held that the only controversy was with respect to the date of possession, since it was undisputed that the assessee had purchased the new residential property within one year prior to the sale of the old property. Relying on the Bombay High Court decision in *Vembu Vaidyanathan*, as affirmed by the Supreme Court, along with other High Court rulings, the Tribunal held that the date of allotment/purchase is paramount for section 54 purposes, and that possession is not a sine qua non for allowing the exemption. It further observed that where the investment in the new residential property has been made within the prescribed period, the fact that possession, completion or occupancy certificate is obtained later does not by itself disentitle the assessee from relief.

Since the assessee had admittedly purchased the new residential property within one year before the transfer of the original asset, the Tribunal held that the conditions of section 54 stood satisfied. The delayed possession date mentioned in the agreement could not be used to deny the exemption. Accordingly, the addition made by the Assessing Officer and sustained by the Commissioner (Appeals) was deleted, and the assessee's appeal was allowed.