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## Tax Digest

- Recent case laws

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### **CBDT specifies infrastructure businesses under Schedule V of Income-tax Act, 2025**

*[Notification No. 70/2026 / S.O. 2768(E) dated June 1, 2026]*

The Central Government has notified businesses engaged in infrastructure sub-sectors forming part of the Updated Harmonised Master List of Infrastructure Sub-Sectors as eligible businesses for the purposes of Schedule V [Table: Sl. No. 7] of the Income-tax Act, 2025. The notification has been issued in exercise of the powers conferred under section 11(5) read with Note 5(d)(ii) of Schedule V and excludes businesses already covered under Note 5(d)(i) of the said Schedule. The notification has come into force with effect from 1 June 2026.

## 1. TDS Credit Cannot Be Denied Where Corresponding Income Has Been Assessed

In the instant case<sup>1</sup>, the assessee had not filed a return of income for the relevant assessment year. Subsequently, the assessment was reopened under section 147 based on information available in Form 26AS reflecting certain receipts in the assessee's name. Since the assessee did not comply with the notice issued under section 148 or furnish the requisite details, the Assessing Officer completed the assessment ex parte and treated the entire receipts reflected in Form 26AS as taxable income.

While computing the tax liability, however, the Assessing Officer did not grant credit for the tax deducted at source (TDS) appearing in Form 26AS in respect of such receipts. The CIT(A) upheld the action of the Assessing Officer.

Aggrieved by the same, the assessee preferred an appeal before the Hon'ble Tribunal and contended that once the receipts reflected in Form 26AS had been brought to tax, denial of credit for taxes already deducted therefrom would result in double taxation to that extent.

The Hon'ble Tribunal observed that although the assessee had not filed a return of income or formally claimed TDS credit, once the corresponding receipts had been assessed as income, the taxes already deducted and deposited to the credit of the Central Government could not be denied merely on technical grounds. It was further held that grant of TDS credit is consequential and co-terminus with the assessment of the corresponding income, subject to verification of the relevant TDS entries and their correlation with the income assessed.

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<sup>1</sup> Manoj Kumar Soman v. Circle [2026] 186 taxmann.com 1086 (Mumbai - Trib.)

Accordingly, the Hon'ble Tribunal restored the matter to the file of the Assessing Officer with a direction to verify the TDS claim from Form 26AS and departmental records and grant due credit in accordance with law after providing reasonable opportunity of being heard to the assessee.

## 2. Procedural Delay in Filing Return Cannot Override Substantive Entitlement to Section 80P Deduction

In the instant case<sup>2</sup>, the petitioners, being co-operative societies eligible for deduction under section 80P, had filed returns of income belatedly due to various reasons including delay in completion of statutory audits. Applications for condonation of delay were filed under CBDT Circular Nos. 13/2023 and 14/2024. However, the Chief Commissioner rejected the applications primarily on the ground that certain particulars sought from the societies had not been furnished.

Aggrieved by the same, the petitioners filed writ petitions before the Hon'ble Madras High Court.

The Hon'ble High Court observed that the petitioner societies were otherwise entitled to deduction under section 80P and that the CBDT had issued the aforesaid circulars to alleviate genuine hardship faced by co-operative societies in complying with the return filing requirements. It was further observed that the authorities had adopted an unduly technical approach while considering the condonation applications, contrary to the object and spirit of the circulars.

The Hon'ble High Court held that denial of substantive benefits merely on account of

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<sup>2</sup> Vickrapandiyam Primary Agricultural Co-operative Credit Society Ltd. v. Chief Commissioner of Income-tax [2026] 187 taxmann.com 97 (High Court of Madras)

procedural delay was not justified, particularly where there was no allegation of tax evasion and the delay was attributable to genuine hardship. Accordingly, the Hon'ble High Court set aside the orders rejecting the condonation applications and directed that the delay in filing the returns be treated as condoned, with consequential assessment and appellate proceedings to be carried out in accordance with law.

### **3. Delay Caused by Death of Counsel Cannot Shut Out a Jurisdictional Challenge**

In the instant case<sup>3</sup>, the assessee's appeal before the National Faceless Appeal Centre (NFAC) was dismissed on account of a delay of 430 days. The assessee submitted that the delay had occurred due to the illness and subsequent death of his authorised representative, who was handling all tax matters and had access to the faceless portal. The Tribunal declined to condone the delay and upheld the dismissal of the appeal.

Aggrieved by the same, the assessee preferred an appeal before the Hon'ble Calcutta High Court and contended that the reassessment proceedings were also invalid as the approval for issuance of notice under section 148 had allegedly not been obtained from the prescribed authority prescribed under section 151.

The Hon'ble High Court held that the Tribunal had taken an overly rigid and hyper-technical view. It relied on the principle that delay-condonation provisions should be applied liberally where substantial justice is at stake, and observed that in a digital/faceless environment, the death of an authorised representative can operate as a serious disabling circumstance for an assessee. More

importantly, the Court noted that a jurisdictional defect in reassessment approval, if established, would go to the root of the matter and could make the proceeding a nullity; such an issue should not be buried merely behind limitation.

Accordingly, the High Court condoned the 430-day delay, set aside the ITAT order, and remanded the matter to the ITAT for fresh adjudication on merits. It specifically directed the Tribunal to decide the jurisdictional validity of the reassessment approval under section 151 as a preliminary issue and endeavour to dispose of the appeal within six months. The ruling is useful because it reinforces that procedural delay should not be used to protect a potentially void reassessment, especially where the delay arose due to bona fide circumstances like the death of the taxpayer's professional.

### **4. Profit Estimation Must Be Based on Comparable Cases and Nature of Business**

In the instant case<sup>4</sup>, the assessee, engaged in the wholesale trade of medicines, filed a return declaring a turnover of ₹2.36 crore and income at a net profit rate of 2.05%. Since the assessee failed to produce books of account and supporting documents during the assessment proceedings, the Assessing Officer estimated the income by applying a profit rate of 20% of the turnover.

On appeal, the CIT(A) accepted the turnover disclosed by the assessee. However, considering the non-production of books of account and supporting documents, the income was estimated at 5% of the turnover.

Aggrieved by the estimation of income at 5% of the turnover, the assessee preferred an appeal before

<sup>3</sup> [Jayanta Ghosh v. Income-tax Officer, Maniktala \[2026\] 186 taxmann.com 1026 \(High Court of Calcutta\)](#)

<sup>4</sup> [Md. Babar Ali v. Income-tax Officer \[2026\] 187 taxmann.com 153 \(Kolkata - Trib.\)](#)

the Hon'ble Tribunal contending that the adopted profit rate was excessive, particularly in view of the low-margin nature of the wholesale medicine business and the profit rates disclosed in the preceding and subsequent years.

The Hon'ble Tribunal observed that although the books of account were not produced and the income was liable to be estimated, such estimation must be made on a reasonable basis having regard to the nature of business, past profit history and other relevant material. It was further observed that the assessee had disclosed net profit rates of 2.05% in the year under consideration, 1.53% in the preceding year and 1.42% in the subsequent year. The Hon'ble Tribunal also noted that neither the Assessing Officer nor the CIT(A) had relied upon any comparable case while adopting profit rates of 20% and 5%, respectively.

Accordingly, the Hon'ble Tribunal held that the profit rate adopted by the CIT(A) was on the higher side and directed that the assessee's income be computed by applying a net profit rate of 4% of the turnover, thereby partly allowing the assessee's quantum appeal.

The Tribunal also deleted penalties. The penalty under section 271B for delay/failure in filing the tax audit report was cancelled because the assessee was from a remote village, was not technologically proficient, and had relied on a tax consultant; moreover, the AO had also wrongly taken inflated GST turnover while levying penalty. The penalty for non-compliance with notices was also deleted because the same reasonable cause applied throughout, and the CIT(A) had inconsistently deleted penalty for some defaults but sustained it for others. The ruling is useful because it recognises that profit estimation must be commercially realistic and penalty should not be automatic where non-compliance is explained by bona fide reliance, lack of technical knowledge, and consultant lapse.

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