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## Tax Digest

- Recent case laws

June 29, 2026

### Updated Return (ITR-U) Excel Utilities for AY 2022-23 Released as per Finance Act, 2026

The Income Tax Department has made available the Excel utilities for filing Updated Returns (ITR-U) in respect of ITR Forms 1 to 7 for Assessment Year 2022-23, incorporating the amendments introduced by the Finance Act, 2026. The revised utilities enable eligible taxpayers to furnish updated returns in accordance with the amended statutory provisions. Taxpayers intending to rectify omissions or inaccuracies in their previously filed returns for AY 2022-23 may now use the updated Excel utilities and file the revised return through the e-Filing portal.

**1. Registration under section 12AB cannot be denied merely for absence of NOC from Charity Commissioner**

In the instant case<sup>1</sup>, the assessee, a charitable institution engaged in educational activities, was converted into a Section 8 company under the Companies Act, 2013. Pursuant to such conversion, it filed an application in Form 10AB seeking registration under section 12AB and also intimated the change to the Charity Commissioner by filing the prescribed change report under the Maharashtra Public Trusts Act, 1950.

The CIT(Exemptions) rejected the application on the ground that the assessee had not obtained a No Objection Certificate (NOC) from the Charity Commissioner before conversion into a Section 8 company.

Aggrieved thereby, the assessee preferred appeal before the Hon'ble Mumbai ITAT. It was contended that the Maharashtra Public Trusts Act, 1950 does not require prior approval or NOC from the Charity Commissioner for such conversion and that the prescribed change report had been duly filed.

The Hon'ble Tribunal observed that the charitable nature of the objects and genuineness of the activities of the assessee were never disputed. It further observed that section 22 of the Maharashtra Public Trusts Act only requires reporting of the change to the Charity Commissioner and does not mandate obtaining prior approval or NOC. No finding had also been recorded by the competent authority that the conversion was invalid or contrary to law.

Accordingly, the Hon'ble Tribunal held that registration under section 12AB could not be denied

merely for absence of a No Objection Certificate from the Charity Commissioner and directed the CIT(Exemptions) to grant registration in accordance with law.

**2. Rectification order reducing refund cannot be passed without prior notice and opportunity of hearing**

In the instant case<sup>2</sup>, the assessee-society claimed exemption under section 11 in its return of income, which was processed under section 143(1) and refund was granted. Subsequently, the Assessing Officer passed an order under section 154 withdrawing the exemption on the ground that details of registration under section 12AB were not furnished in the return, thereby converting the refund into a tax demand. The rectification request filed by the assessee was also rejected.

Aggrieved thereby, the assessee preferred appeal before the Commissioner (Appeals). During the pendency of the appeal, the Department adjusted the refund against the outstanding demand and initiated recovery proceedings by directing the assessee to deposit 20% of the demand. Thereafter, the assessee filed a writ petition before the Hon'ble Calcutta High Court.

The Hon'ble High Court observed that the proviso to section 154(3) mandates issuance of prior notice and opportunity of hearing where a rectification order enhances an assessment or reduces a refund. Since the impugned order under section 154 had withdrawn the exemption, converted the refund into a tax demand and was passed without issuing any prior notice, the same was prima facie without jurisdiction and in violation of the principles of natural justice. The Hon'ble Court further observed

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<sup>1</sup> [Bombay Xaverian Corporation \(P.\) Ltd. v. Commissioner of Income-Tax \(Exemption\) \[2026\] 187 taxmann.com 267 \(Mumbai - Trib.\)](#)

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<sup>2</sup> [Refuge v. Income-tax Officer \[2026\] 187 taxmann.com 414 \(High Court of Calcutta\)](#)

that adjustment of refund without prior intimation under section 245 was also not sustainable in law.

The Hon'ble High Court further observed that where a Nil return with refund claim is converted into a tax demand and an appeal against such order is pending, the assessment assumes the character of a high-pitched assessment. Accordingly, recovery proceedings should remain in abeyance till disposal of the appeal.

Accordingly, the Hon'ble High Court directed the appellate authority to dispose of the appeal expeditiously and restrained the Revenue from taking any coercive recovery action against the assessee till disposal of the appeal.

### **3. Taxability of income of a co-operative bank under liquidation to be determined on the basis of real income theory**

In the instant case<sup>3</sup>, the assessee, a co-operative bank under liquidation, earned interest on recoveries from borrowers and bank deposits during the liquidation process. The Assessing Officer denied the benefit of section 80P and brought the interest income to tax. The assessee contended that no real income had accrued as the amounts realised were subject to overriding statutory obligations towards the Deposit Insurance and Credit Guarantee Corporation (DICGC) and other creditors.

Aggrieved thereby, the assessee preferred appeal before the Hon'ble Ahmedabad ITAT.

The Hon'ble Tribunal observed that the assessee had not claimed deduction under section 80P in its returns and, therefore, the question of disallowing such deduction did not arise. The real issue for

consideration was whether any taxable income had actually accrued to the assessee in view of its liquidation status and statutory obligations.

The Hon'ble Tribunal further observed that under the Income-tax Act, tax can be levied only on income that has actually accrued or arisen. Where a co-operative bank under liquidation is subject to overriding statutory obligations and the receipts are required to be applied towards discharge of such liabilities, the taxability of such receipts must be examined on the touchstone of the real income theory and the principle of diversion of income by overriding title.

Accordingly, the Hon'ble Tribunal set aside the orders of the lower authorities and restored the matter to the file of the Assessing Officer for fresh examination after verifying whether any real income had accrued to the assessee in light of its statutory obligations and the applicable judicial precedents.

### **4. Penalty under section 271(1)(c) cannot be levied where bogus purchase addition is sustained on estimation basis**

In the instant case<sup>4</sup>, the assessee was subjected to reassessment pursuant to information received from the Maharashtra Sales Tax Department regarding alleged bogus purchases. The Assessing Officer treated the purchases as non-genuine, made addition to the income of the assessee and initiated penalty proceedings under section 271(1)(c) for furnishing inaccurate particulars of income.

During the course of appellate proceedings, the addition towards alleged bogus purchases was restricted to 12.5% on an estimated basis. However,

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<sup>3</sup> [Visnagar Nagarik Sahakari Bank Ltd. v. Assistant Commissioner of Income-tax \[2026\] 187 taxmann.com \(Ahmedabad - Trib.\)](#)

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<sup>4</sup> [Principal Commissioner of Income-tax v. Elcon Pipe and Fittings \(P.\) Ltd. \[2026\] 187 taxmann.com 886 \(High Court of Bombay\)](#)

penalty under section 271(1)(c) continued to be levied in respect of the sustained addition.

Aggrieved thereby, the assessee preferred appeal before the Hon'ble Mumbai ITAT. The Hon'ble Tribunal deleted the penalty holding that where the quantum addition is sustained merely on estimation, penalty under section 271(1)(c) cannot be levied.

Aggrieved by the order of the Hon'ble Tribunal, the Revenue preferred appeal before the Hon'ble Bombay High Court.

The Hon'ble High Court observed that the addition sustained in the quantum proceedings was purely on an estimated basis. It further observed that penalty under section 271(1)(c) cannot be imposed where the addition is sustained merely on estimation or guesswork. Accordingly, the Hon'ble Tribunal was justified in deleting the penalty.

Accordingly, the Hon'ble High Court upheld the order of the Hon'ble Tribunal and dismissed the appeal filed by the Revenue.

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