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

Direct Tax Newsletter

Tax Digest

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Form 1 Live for Foreign Assets Disclosure Scheme (FAST-DS 2026)

The Income Tax Department has enabled Form 1 under the *Foreign Assets of Small Taxpayers Disclosure Scheme, 2026* on the e-filing portal under *e-File → Income Tax Forms*. Eligible taxpayers can electronically declare undisclosed foreign income/assets up to ₹1 crore (taxable @ 60% tax and penalty) or unreported tax-paid foreign assets up to ₹5 crore (payable at a flat fee of ₹1 lakh) until December 31, 2026. Assessees are advised to complete valuations as of March 31, 2026, and file within the deadline to secure immunity under the Black Money Act, 2015.

1. Transfer of tenancy rights taxable as capital gains where computation provisions are workable

In the instant case[1], the assessee, an individual, transferred tenancy rights in respect of a flat for a consideration of ₹7 crore. The tenancy rights had been inherited by the assessee from his father under a will. The assessee contended that since the cost of acquisition of the tenancy rights was not ascertainable, the computation mechanism under section 48 could not be applied and, consequently, the transfer was not chargeable to capital gains tax. Alternatively, the assessee claimed that the fair market value of the tenancy rights as on 01.04.2001 be adopted as the cost of acquisition.

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

The Hon'ble Tribunal observed that the tenancy rights constituted a capital asset and were identifiable, transferable and capable of valuation. The difficulty in determining the cost of acquisition of the tenancy rights inherited through a will could not, by itself, result in the transfer being taken outside the ambit of capital gains taxation.

The Hon'ble Tribunal further held that the transfer of tenancy rights was chargeable to capital gains tax and that the computation mechanism did not fail merely because the cost of acquisition required determination. However, considering the assessee's alternative claim, the matter was restored to the Assessing Officer for examining the valuation report and determining the fair market value of the tenancy rights as on 01.04.2001 and the consequential indexed cost of acquisition.

Accordingly, the Hon'ble Tribunal held that the transfer of tenancy rights was chargeable to capital gains tax. However, the matter was restored to the Assessing Officer for determining the fair market value of the tenancy rights and the consequential indexed cost of acquisition.

2. MEIS benefits taxable as revenue receipts under section 2(24)(xviii)

In the instant case[2], the assessee received incentives under the Merchandise Exports from India Scheme (MEIS) during A.Ys. 2016-17 and 2017-18. The assessee had initially offered the MEIS receipts to tax as revenue receipts but subsequently claimed before the CIT(A) that the same were capital in nature. The CIT(A) accepted the assessee's claim and treated the MEIS benefits as capital receipts.

Aggrieved thereby, the Revenue preferred appeal before the Hon'ble Mumbai ITAT.

The Hon'ble Special Bench observed that the nature of a government incentive is required to be determined by applying the purpose test, i.e., whether the incentive is intended to assist in setting up or expanding the business or is granted for the purpose of enabling the assessee to carry on its business more profitably. The Hon'ble Tribunal further considered the scope of section 2(24)(xviii), which specifically includes assistance by way of subsidy, grant, cash incentive, duty drawback, waiver, concession or reimbursement within the definition of income.

The Hon'ble Special Bench observed that the objective of MEIS was to offset infrastructural inefficiencies and associated costs involved in

[1] Viral Chandresh Virvadia v. Income-tax Officer [2026] 189 taxmann.com 606 (Mumbai - Trib.)

[2] Deputy Commissioner of Income-tax v. Aarti Drugs Ltd. [2026] 189 taxmann.com 964 (Mumbai - Trib.)

exporting goods and to enhance the competitiveness of Indian exports. The benefit was not linked to setting up a new unit, expansion of an existing unit or acquisition of any capital asset. Accordingly, applying the purpose test, the MEIS benefit was held to be revenue in nature.

The Hon'ble Special Bench further held that the expression "assistance by whatever name called" used in section 2(24)(xviii) is wide enough to cover the benefits received under MEIS. Accordingly, the MEIS benefits received by the assessee were held to fall within the ambit of section 2(24)(xviii) and were taxable as revenue receipts.

Accordingly, the Hon'ble Special Bench held that MEIS benefits received under the Foreign Trade Policy, 2015 are taxable as revenue receipts under section 2(24)(xviii) for A.Y. 2016-17 onwards.

3. TDS credit dispute arising from mismatch in Form 26AS and books remanded for verification

In the instant case[3], the assessee received transferable development rights (TDRs) in exchange for surrendering his land and building to the municipal corporation for road widening. The assessee subsequently sold the TDRs for ₹6.02 crore and claimed the consideration as a capital receipt not chargeable to tax on the ground that the TDRs had no ascertainable cost of acquisition. The Assessing Officer treated the TDRs as a capital asset under section 2(14) and brought the sale consideration to tax as long-term capital gains, which was also upheld by the CIT(A).

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

[3] Kamlesh Pukhraj Talera v. Deputy Commissioner of Income-tax [2026] 189 taxmann.com 571 (Bangalore - Trib.)

The Hon'ble Tribunal observed that the TDRs constituted a capital asset and that their transfer for consideration attracted section 45. It further observed that, unlike cases involving self-generated TDRs, the assessee had surrendered an identifiable capital asset, i.e. land and building, in exchange for the TDRs. Therefore, the cost of acquisition of the TDRs was ascertainable and attributable to the land surrendered.

The Hon'ble Tribunal further held that the computation mechanism under section 48 remained workable, as the cost of the land surrendered represented the cost of acquisition of the TDRs. Accordingly, the transfer of TDRs was chargeable to capital gains and the cost attributable to the land surrendered was required to be deducted while computing the taxable capital gains.

The Hon'ble Tribunal also rejected the assessee's contention that the assessment was restricted to verification of the refund claim, observing that the notice under section 143(2) did not state that the case was selected for limited scrutiny.

Accordingly, the Hon'ble Tribunal held that the transfer of TDRs was chargeable to capital gains tax. However, the Assessing Officer was directed to compute the capital gains after allowing the cost of acquisition attributable to the land surrendered by the assessee.

4. TDS credit cannot be denied for employer's failure to deposit tax

In the instant case[4], the assessee, an employee of Kingfisher Airlines, had TDS of ₹14,65,787 deducted

[4] Avni Dogra v. Assistant Commissioner of Income-tax [2026] 189 taxmann.com 808 (High court of Delhi.)

from his salary by the employer. However, the employer failed to deposit the TDS with the Revenue, due to which credit of the said TDS was not granted to the assessee while processing the return under section 143(1), resulting in a demand of ₹19,06,310.

Aggrieved thereby, the assessee preferred a writ petition before the Hon'ble Delhi High Court.

The Hon'ble High Court observed that the assessee could not be held responsible for the failure of the employer to deposit the TDS after deducting the same from his salary. The assessee could not be deprived of his legitimate right to claim credit of the tax actually deducted from his income merely due to the default of the deductor.

The Hon'ble High Court accordingly held that where tax has been deducted from the assessee's income, credit thereof cannot be denied merely because the deductor has failed to deposit the same with the Revenue.

Accordingly, the intimation under section 143(1) was quashed and set aside to the extent it related to the non-grant of TDS credit.