Direct Tax Newsletter

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Tax Digest

- Recent case laws

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CBDT Notifies Registration & Filing Procedure for Form No. 98

[Notification No. 3 of 2026 dated September 15, 2026]

The Directorate of Income Tax (Systems), CBDT, has issued updated procedures for reporting entities to register and submit Form No. 98 (statement of Form No. 97 declarations received) under Rule 160. Reporting entities must register via the e-filing portal to generate an ITDREIN and designate a Principal Officer, though entities previously registered for Form No. 61 remain valid without fresh registration. Statements must be digitally signed and submitted on a half-yearly basis via the Reporting Portal—with deadlines set for October 31 (for declarations received by September 30) and April 30 (for declarations received by March 31). The guidelines also lay down procedures for correcting Data Quality Report (DQR) defects or filing Deletion Statements, alongside mandating robust data security and archival policies.

1. Stock Exchange Charges for Operational and Procedural Lapses Allowable as Business Expenditure

In the instant case[1], the assessee company claimed deduction under section 37(1) of the Income-tax Act, 1961 in respect of amounts paid to stock exchanges towards bad delivery/short delivery, late reporting, security deposit shortages, fund shortages, client code modifications and other similar charges incurred during the course of its business operations. The Assessing Officer treated such payments as penalties for violation of law and disallowed the same under section 37(1) read with Explanation 1 thereto. The Commissioner of Income-tax (Appeals) upheld the disallowance.

Aggrieved by the same, the assessee preferred an appeal before the Hon'ble Income-tax Appellate Tribunal (ITAT).

The Hon'ble ITAT observed that the charges in question were levied by the stock exchanges on account of operational and procedural lapses arising during the course of the assessee's business activities. It was further observed that such charges were compensatory in nature and were not incurred for any offence or purpose prohibited by law. The Hon'ble ITAT further observed that merely because the payments were described as "penalties" in the tax audit report would not alter their true character.

Accordingly, the Hon'ble ITAT held that the charges paid to stock exchanges for operational and procedural lapses were allowable as business expenditure under section 37(1) of the Income-tax Act, 1961 and did not fall within the ambit of Explanation 1 thereto. Consequently, the disallowance made by the Assessing Officer was deleted.

2. Registration Under Section 12AB Cannot Be Denied by Examining Mode or Quantum of Expenditure

In the instant case[2], the assessee-society was registered under the Karnataka Societies Registration Act, 1960 and was established with the objects of providing relief to the poor and medical relief. The assessee was granted provisional registration under section 12A(1)(ac)(vi) and thereafter filed an application in Form No. 10AB seeking final registration under section 12AB of the Income-tax Act, 1961. However, the Commissioner of Income-tax (Exemptions) rejected the application on the ground that the bank account reflected mostly cash deposits, the donations were not verifiable, the donations recorded in the financial statements were not reflected in the bank account and that no charitable activities had been carried out by the assessee.

Aggrieved by the same, the assessee preferred an appeal before the Hon'ble Income-tax Appellate Tribunal (ITAT).

The Hon'ble ITAT observed that the Commissioner of Income-tax (Exemptions) had himself recorded the details of donations received and expenditure incurred by the assessee towards its charitable objects, but nevertheless concluded that no donations were received and no charitable activities were carried out.

[1] ICICI Securities Ltd. v. Deputy Commissioner of Income-tax [2026] 190 taxmann.com 112 (Mumbai - Trib.)

[2] Society of St. Vincent De Paul Bondel v. Commissioner of Income-tax (Exemptions) [2026] 190 taxmann.com 272 (Bangalore - Trib.)

The Hon'ble ITAT further observed that, at the stage of granting registration under section 12AB, the scope of enquiry is confined to examining the genuineness of activities and compliance with applicable laws. The registration authority cannot step into the shoes of the Assessing Officer and undertake an assessment of income or question the mode or quantum of expenditure incurred by the trust. Further, there was no finding regarding non-genuineness of the activities carried on by the assessee and it was undisputed that the assessee had already commenced charitable activities and incurred expenditure towards attainment of its stated objects.

Accordingly, the Hon'ble ITAT held that rejection of registration under section 12AB was unjustified and directed the Commissioner of Income-tax (Exemptions) to grant registration to the assessee.

3. TDS Deduction and Balance Confirmations Give Rise to Triable Issue on Limitation

In the instant case[3], the respondent had advanced an unsecured loan to the petitioner on account of friendly relations. Subsequently, the petitioner deducted tax at source (TDS) on the interest payable on the loan and also issued balance confirmations acknowledging the outstanding liability. Upon failure of the petitioner to repay the loan amount, the respondent instituted a recovery suit. The petitioner, however, contended that the suit was barred by limitation and sought rejection of the plaint under Order VII Rule 11 of the Code of Civil Procedure, 1908. The Trial Court rejected the application holding that the issue of limitation required examination during trial.

Aggrieved by the same, the petitioner preferred a petition before the Hon'ble Delhi High Court contending that the suit was ex facie barred by limitation and, therefore, liable to be rejected at the threshold.

The Hon'ble High Court observed that the respondent had relied upon balance confirmations issued by the petitioner as well as TDS deductions made in respect of interest on the outstanding loan. The Hon'ble High Court further observed that sections 18 and 19 of the Limitation Act, 1963 contemplate extension of limitation on account of acknowledgment of liability and part payment. Whether the balance confirmations and TDS deductions constituted valid acknowledgment or payment for the purposes of extending limitation could be determined only after appreciation of evidence and could not be conclusively adjudicated at the stage of considering an application under Order VII Rule 11.

Accordingly, the Hon'ble High Court held that where limitation depends upon the effect of documents evidencing acknowledgment of liability and payments made towards the debt, the issue constitutes a triable question of fact and law and the plaint cannot be rejected at the threshold. Consequently, the petition was dismissed and the order of the Trial Court was upheld.

4. ESOP Expenditure Allowable; Valuation Report Cannot Be Disregarded for AY 2018-19

In the instant case[4], the assessee had claimed deduction of ₹51.48 crore towards expenditure incurred under the Employee Stock Option Scheme (ESOP). The Assessing Officer disallowed the

[3] Amit Gupta v. Sandeep Gupta [2026] 189 taxmann.com 899 (Delhi) (High Court of Delhi)

[4] Principal Commissioner of Income-tax v. Delhivery (P.) Ltd. [2026] 190 taxmann.com 581 (High court of Delhi)

deduction, which was deleted by the appellate authorities. The assessee had also furnished a share valuation report prepared by a Chartered Accountant for the purposes of section 56(2)(viib). The Assessing Officer rejected the valuation report on the ground that valuation was required to be carried out by a Merchant Banker pursuant to CBDT Notification No. 23/2018 dated 24 May 2018.

The Hon'ble High Court observed that the expenditure incurred towards ESOP was allowable as a deduction and upheld the deletion of the disallowance made by the Assessing Officer.

With regard to the valuation report, the Hon'ble High Court observed that the assessment year under consideration was AY 2018-19, corresponding to FY 2017-18. The requirement of obtaining valuation from a Merchant Banker, instead of a Chartered Accountant, was introduced by the CBDT Notification dated 24 May 2018 for the financial year subsequent to the year under consideration. Therefore, the Assessing Officer was not justified in disregarding the valuation report furnished by the assessee.

The Hon'ble High Court, therefore, upheld the orders of the appellate authorities deleting the disallowance of ESOP expenditure and the addition made under section 56(2)(viib). The appeal filed by the Revenue was accordingly dismissed.