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Tax Digest

- Recent case laws

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CBDT Clarifies Jurisdictional Subordination of JCIT(A) and Addl. CIT(A)

[Notification No. 133/2026 dated September 30, 2026]

The Central Board of Direct Taxes (CBDT) has issued an amendment to the principal Notification S.O. 359 dated March 30, 1988, in exercise of powers conferred under Section 238 of the Income-tax Act, 2025. The update explicitly clarifies that Joint Commissioners of Income-tax (Appeals) and Additional Commissioners of Income-tax (Appeals) shall be subordinate to the respective Principal Chief Commissioners of Income-tax or Chief Commissioners of Income-tax within whose territorial or functional jurisdiction they perform their appellate functions. This jurisdictional clarification comes into force with immediate effect from the date of its publication in the Official Gazette.

1. Addition under section 69 cannot be sustained where unlisted shares and loans/advances are duly explained

In the instant case¹, the assessee-company filed its return for A.Y. 2018-19 declaring nil income. During scrutiny proceedings, the Assessing Officer noted investments in unlisted shares of Rs. 6.74 crores and short-term loans and advances of Rs. 12.46 crores. The Assessing Officer made an aggregate addition of Rs. 19.21 crores under section 69 read with section 115BBE of the Income-tax Act, 1961, which was confirmed by the CIT(A).

Aggrieved thereby, the assessee preferred an appeal before the Hon'ble Kolkata ITAT. The Hon'ble Tribunal examined the assessee's bank accounts and audited balance sheets and found that the investments and loans/advances were duly disclosed in the books of account and were carried forward from the preceding assessment year. Accordingly, the Tribunal directed the Assessing Officer to delete the addition.

Aggrieved by the order of the Hon'ble Tribunal, the Revenue preferred an appeal before the Hon'ble Calcutta High Court. The Hon'ble High Court observed that section 69 applies where the assessee fails to offer a satisfactory explanation regarding the nature and source of investments. In the present case, the Tribunal had examined the relevant bank accounts and audited balance sheets and found the investments and loans/advances to be properly explained.

Accordingly, the Hon'ble High Court held that there was no perversity or illegality in the order of the

Tribunal and no substantial question of law arose. The appeal filed by the Revenue was dismissed.

2. Mere execution of JDA did not result in taxable transfer in the relevant year

In the instant case², the assessee, a member of Punjabi Cooperative House Building Society, held rights in a 500 sq. yards plot. The Society entered into a Tripartite Joint Development Agreement dated 25.02.2007 with the developers, under which the assessee was entitled to monetary consideration of Rs. 82.50 lakhs and a flat measuring 2,250 sq. ft. The Assessing Officer treated the execution of the JDA as a transfer under section 2(47) of the Income-tax Act, 1961 and assessed long-term capital gains of Rs. 1.77 crores for A.Y. 2007-08. The CIT(A) confirmed the assessment.

Aggrieved thereby, the assessee preferred an appeal before the Hon'ble ITAT, contending that mere execution of the JDA did not result in a taxable transfer during the relevant assessment year and that consideration which had neither accrued nor been actually received could not be subjected to capital gains tax. The Hon'ble ITAT, however, dismissed the appeal.

Aggrieved by the order of the Hon'ble ITAT, the assessee preferred an appeal before the Hon'ble Punjab & Haryana High Court. The Hon'ble High Court examined the applicability of section 2(47) of the Income-tax Act, 1961 read with section 53A of the Transfer of Property Act, 1882 in the context of the JDA.

¹ Principal Commissioner of Income-tax v. Kushmunda Financial Consultants (P.) Ltd. [2026] 190 taxmann.com 628 (High Court of Calcutta)

² Surjeet Kaur Dalam v. Commissioner of Income-tax [2026] 190 taxmann.com 707 (High Court of Punjab & Haryana)

The Hon'ble High Court held that mere execution of the Tripartite JDA dated 25.02.2007 did not constitute a taxable transfer for A.Y. 2007-08. The Hon'ble High Court further held that consideration which had neither accrued nor was actually received could not be subjected to capital gains tax.

Accordingly, the appeal was disposed of in favour of the assessee.

3. Cash deposits from recorded business receipts not taxable under section 69A

In the instant case³, the assessee, engaged in paddy trading, made cash deposits of Rs. 43.55 lakhs during the demonetisation period. The Assessing Officer treated the deposits as unexplained money under section 69A of the Income-tax Act, 1961, despite the assessee's explanation that the deposits represented cash sales of paddy recorded in the regular books of account. The CIT(A) confirmed the addition.

Aggrieved thereby, the assessee preferred an appeal before the Hon'ble Chennai ITAT. The Hon'ble Tribunal observed that the assessee had furnished the regular books of account, cash book, financial statements and other supporting records. It further noted that the books had not been rejected under section 145(3) and there was no material to establish that the purchases were bogus, sufficient stock was unavailable or the recorded sales were fictitious.

The Hon'ble Tribunal held that mere concentration of cash sales before demonetisation or deposit of such cash during the demonetisation period could not, by itself, justify treating the deposits as unexplained under section 69A. Where the assessee

explains the source of cash as recorded business receipts and supports the explanation through regular books and other contemporaneous records, the Revenue must bring material to establish that such receipts were fictitious or originated from an undisclosed source.

Accordingly, the Hon'ble Tribunal held that the cash deposits of Rs. 43.55 lakhs could not be treated as unexplained money under section 69A and directed the Assessing Officer to delete the addition. The appeal was allowed.

4. Reassessment notice issued after four years without valid approval under section 151 is invalid

In the instant case⁴, the assessment of the assessee for A.Y. 2007-08 was reopened by the Assessing Officer by issuing notice under section 148 on 21.08.2012, after expiry of four years from the end of the relevant assessment year. The reassessment was initiated on the ground that the assessee had failed to admit gain on sale of certain properties. The CIT(A) upheld the reassessment proceedings.

Aggrieved thereby, the assessee preferred an appeal before the Hon'ble Hyderabad ITAT and raised an additional legal ground challenging the validity of the notice under section 148 on the ground that the mandatory approval under section 151 had not been obtained.

The Hon'ble Tribunal observed that since the notice under section 148 was issued after expiry of four years, prior approval of the competent authority under section 151 was mandatory. Though the Assessing Officer had stated that the notice was issued with the approval of the competent authority, the Revenue failed to produce any record evidencing such approval despite being granted

³ [Vellaisamy Sekar v. Income-tax Officer \[2026\] 190 taxmann.com 520 \(Chennai - Trib.\)](#)

⁴ [Nukarapu Surya Prakasa Rao v. DCIT – \[2026\] 190 taxmann.com 344 \(Hyderabad - Trib.\)](#)

repeated opportunities. The Tribunal held that mere mention of approval in the assessment order was not sufficient to establish that valid approval under section 151 had been obtained before issuance of notice under section 148.

Accordingly, the Hon'ble Tribunal held that the notice issued under section 148 was invalid and quashed the same. Consequently, the reassessment proceedings were also vitiated and the other grounds raised by the assessee were rendered infructuous. The appeal was allowed.
