



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

Tax Digest

- Recent case laws

October 12, 2026

CBDT Notifies Income-tax (Sixth Amendment) Rules, 2026

[Notification No. 134/2026 dated October 8, 2026]

The Central Board of Direct Taxes (CBDT) has issued the *Income-tax (Sixth Amendment) Rules, 2026*, which come into force immediately upon their publication in the Official Gazette. The notification amends Rule 231 to explicitly incorporate provisions governing the waiver of penalty under Section 440 of the Income-tax Act, 2025. Additionally, it substitutes Form No. 161 as the revised application form for taxpayers seeking a waiver of penalty. The updated form mandates structured disclosures, including personal and contact details, specific assessment and order particulars with Document Identification Numbers (DIN), detailed computations of under-reported income and additional tax payable, challan deposition details, and a formal undertaking that no appeal has been or will be filed against the relevant order.

1. Stock Exchange Charges Allowable as Business Expenditure; Penalty Not Sustainable for Bona Fide Cess Claim

In the instant case¹, the assessee, ICICI Securities Ltd., a securities broking company, claimed deduction of charges levied by stock exchanges for various operational violations, including bad or short delivery, late reporting, security and fund shortages, and client code modifications. The Assessing Officer disallowed the expenditure under section 37(1) of the Income-tax Act, 1961, treating the charges as penalties for violations of law. The CIT(A) upheld the disallowance.

Separately, the Assessing Officer levied penalty under section 270A in respect of the assessee's claim for deduction of health and education cess. The assessee contended that the claim was made in good faith, relying on the prevailing decision of the jurisdictional High Court, and that the disallowance arose due to a subsequent retrospective amendment introduced by the Finance Act.

The Hon'ble ITAT observed that the stock exchange charges were compensatory in nature and were not incurred for any purpose prohibited by law. Merely describing such charges as penalties in the audit report would not determine their actual character. Accordingly, the expenditure was held to be allowable under section 37(1), and the disallowance was deleted.

With regard to the penalty under section 270A, the Tribunal observed that the assessee had made the cess claim on the basis of the prevailing judicial position. The subsequent retrospective amendment, by itself, did not establish that the

assessee had under-reported income or misreported particulars. Accordingly, the penalty was deleted, and the appeals filed by the assessee were allowed.

2. Deletion of additions under section 68 and restriction of trading liability additions upheld

In the instant case², the assessee-company filed its return of income for A.Y. 2012-13 declaring nil income. During the reassessment proceedings pursuant to the Tribunal's earlier remand, the Assessing Officer made additions of ₹6.27 crore and ₹19.13 crore under section 68 in respect of transactions with two companies, treating them as unexplained cash credits. The Assessing Officer also made additions towards alleged bogus trading liabilities. The CIT(A) upheld the additions.

Aggrieved thereby, the assessee preferred an appeal before the Hon'ble Kolkata ITAT, which partly allowed the appeal after admitting additional evidence. The Tribunal deleted the additions under section 68 after considering the transaction details, account confirmations and an accountant's certificate evidencing payment and deduction of tax at source. It also deleted certain additions towards trading liabilities and restricted others based on the evidence produced.

Aggrieved by the order of the Hon'ble Tribunal, the Revenue preferred an appeal before the Hon'ble Calcutta High Court, challenging the deletion and restriction of the additions and the admission of additional evidence.

The Hon'ble High Court observed that the Tribunal had examined the additional evidence and recorded

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

² Principal Commissioner of Income-tax v. Shelter Infra Projects Ltd. [2026] 191 taxmann.com 248 (High Court of Calcutta)

detailed findings regarding the genuineness of the transactions. It further held that the admission of additional evidence was permissible under Rule 18(4) of the Income-tax (Appellate Tribunal) Rules, 1963. Since the Tribunal's findings were based on evidence and were not perverse, the issues raised by the Revenue involved questions of fact and no substantial question of law arose for consideration.

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

3. Electricity subsidy linked to power charges held to be a revenue receipt

In the instant case³, the assessee, a company engaged in the manufacture of potassium chlorate, received electricity subsidy from the Government of Pondicherry under a scheme intended to promote industrial growth. The assessee treated the subsidy as a capital receipt not liable to tax. However, the Assessing Officer treated the subsidy as a revenue receipt, holding that it was provided towards the cost of electricity consumed in the course of business.

Aggrieved by the assessment order, the assessee preferred an appeal before the Commissioner (Appeals), who upheld the treatment of the subsidy as a revenue receipt on the ground that it reduced the cost of electricity and assisted the profitability of the business. On further appeal, the Hon'ble ITAT dismissed the assessee's appeal, holding that the subsidy was granted after commencement of production and was linked to electricity charges rather than capital investment. The Hon'ble Madras

High Court also upheld the decision of the lower authorities.

Aggrieved by the order of the Hon'ble High Court, the assessee preferred an appeal before the Hon'ble Supreme Court.

The Hon'ble Supreme Court observed that the nature of a subsidy must be determined by applying the "purpose test". Since the subsidy was linked to actual electricity charges incurred after commencement of production and reduced business operating costs, rather than supporting capital investment, it was held to be a revenue receipt.

Accordingly, the Hon'ble Supreme Court held that the electricity subsidy was a revenue receipt chargeable to tax and dismissed the appeal filed by the assessee.

4. Entire Purchases Cannot Be Disallowed Where Sales Are Accepted and Supporting Evidence Is Furnished

In the instant case⁴, the assessee filed a return of income which was selected for scrutiny due to substantial purchases from suppliers whose reported income and tax-filing status raised doubts regarding the genuineness of the transactions. As the suppliers did not respond to notices issued under section 133(6) of the Income-tax Act, 1961, the Assessing Officer treated the purchases as bogus and made an addition under section 69C read with section 115BBE. The CIT(A) upheld the addition.

³ [Mepco Industries Ltd. v. Commissioner of Income-tax \[2026\] 191 taxmann.com 224 \(Supreme Court of India\)](#)

⁴ [Principal Commissioner of Income-tax-18 v. Pravesh Kumar Jaiswal \[2026\] 191 taxmann.com 246 \(High Court of Calcutta\)](#)

On further appeal, the Hon'ble ITAT deleted the addition after considering the books of account, purchase invoices, banking payment details and other supporting evidence. The Tribunal noted that the sales had been accepted and the books of account had not been rejected under section 145(3).

On appeal by the Revenue, the Hon'ble Calcutta High Court observed that the addition was based primarily on the non-response of suppliers and the alleged cancellation or suspension of their GST registrations. The Court held that where sales are accepted and supporting evidence is furnished, the corresponding purchases cannot be disallowed in their entirety merely because the suppliers are untraceable or fail to respond to departmental notices. The addition, being based on presumption rather than tangible material, was therefore unsustainable.

Accordingly, the Hon'ble High Court upheld the deletion of the addition by the Tribunal and dismissed the Revenue's appeal, holding that no substantial question of law arose.
