

LATEST CASE LAWS

- Amjad Ahmed Shaikh Versus Income Tax Officer [Bombay High Court]
- Commissioner of Income Tax Versus Shell India Markets Pvt. Ltd. [Bombay High Court]
- Lufthansa Cargo AG Versus Assistant Commissioner of Income Tax & Ors. [Delhi High Court]

UPDATES

- CBDT Notification No. 24/2025 dated 28 March, 2025
- Circular No. 5 of 2025 dated 28 March, 2025

EDITOR'S COLUMN

- Supreme Court: Vaibhav Goel & Anr. versus Deputy Commissioner of Income Tax & Anr.: The case involves a dispute over income tax demands raised after the approval of a Resolution Plan under the Insolvency and Bankruptcy Code (IBC).

TAX BITES

- M/S Keynesian Financial Services Ltd. Versus DCIT: ITAT Kolkata
- Turkish Airlines INC. Versus ACIT, International Taxation: ITAT Delhi
- Anil Dattaram Pitale Versus Income Tax Officer: ITAT Mumbai



DIRECT TAX UPDATES

MARCH, 2025

An E - Newsletter

Bombay HC: AMJAD AHMED SHAIKH VERSUS ITO: 2025 (3) TMI 358

[Income Tax Notice & Order issued in the name of a deceased person]

Background: The case concerns a dispute regarding the validity of income tax notices and assessment orders issued by the Department in the name of a deceased individual. The petitioner, Amjad Ahmed Shaikh, is the legal heir of Late Ahmed Gulamnabi Shaikh, who passed away on August 13, 2016. Despite being notified of the death in May 2018, the Income Tax Department issued notices and assessment orders u/s 148 & u/s 147 against the deceased in 2022 and 2024. The details of demise was also updated by the deceased son by May 2018. Furthermore, the notices were issued in the name of the deceased individual and not to any legal representative. The petitioner challenged these actions before the Bombay HC, arguing that tax proceedings against a dead person are null and void.

Decision: The Bombay High Court quashed the reassessment notices and orders issued under Section 148, 147 r/w 144 and 156 against the deceased person, Ahmed Gulamnabi Shaikh, despite the Income Tax Department being informed of his death in May 2018. The Court held that issuing notices in the name of a deceased individual was legally null and void, relying on precedents. It is also observed that the claim of ignorance by the Department was unjustified, given the records of formal intimation for the same. The Hon'ble Court rules in the favour of the petitioner, held that the notices were legally invalid as they were issued in the name of a deceased person. However, the court clarified that the tax authorities could still initiate fresh proceedings against the legal representatives in accordance with the laws and regulations.

Bombay HC: COMMISSIONER OF INCOME TAX VERSUS SHELL INDIA MARKETS PVT. LTD. 2025 (4) TMI 90

[Income Tax Notice on the company amalgamated into other company]

Background: The dispute before the Bombay High Court that the Revenue Department issued a reassessment notice under Sec 148 in the name of Shell Technology India Pvt. Ltd., a company that had already ceased to exist due to its amalgamation with Shell India Markets Pvt. Ltd. This merger had been approved by the High Court. Despite this, the reassessment proceedings were initiated and the final order was passed in the name of the amalgamated (transferor) company. Shell India Markets Pvt. Ltd., the transferee company, contested the validity of the proceedings, arguing that the notice and the consequential order were void since they had been issued in the name of a non-existent entity.

Decision: The Bombay High Court held that the issuance of a notice and passing of an assessment order in the name of a non-existent company was fundamentally invalid. The court clarified that it was immaterial whether the Revenue had actual knowledge of the amalgamation. What was relevant was the legal fact that the company had ceased to exist, and proceedings initiated against such an entity could not be sustained in law. The High Court relied on binding precedents from the Supreme Court, which had consistently ruled that reassessment proceedings against a non-existent company are void ab initio, regardless of the Revenue's awareness. Consequently, the court dismissed the appeal filed by the Revenue, affirming the Tribunal's view that the reassessment was invalid in law. However, the court added that this conclusion was confined to the procedural defect regarding the identity of the assessee and did not bar the Revenue from initiating fresh proceedings against the correct legal entity, provided such action was permissible within the statutory time limits.

Delhi HC: LUFTHANSA CARGO AG VERSUS ASSISTANT COMMISSIONER OF INCOME TAX & ORS. 2025 (4) TMI 89

[Rejection of application for nil withholding tax certificate]

Background: The case involves Lufthansa Cargo AG, a tax resident of Germany engaged in international cargo transportation, disputing the rejection of its application for nil withholding tax certificate under Section 195(3) of the Income Tax Act, 1961. The petitioner had been receiving such certificates for over a decade, as its income from international aircraft operations was exempt under Article 8 of the India-Germany Double Taxation Avoidance Agreement (DTAA). However, for the financial year 2024-25, the tax authorities rejected the application and instead issued a certificate mandating a 0.10% withholding tax rate. The petitioner challenged this decision, arguing that there had been no change in its operations or tax status.

Decision: The Delhi High Court found that the rejection lacked proper justification and directed the issuance of a nil withholding tax certificate while allowing the authorities to reassess the petitioner's taxability independently. The Delhi High Court ruled in favor of Lufthansa, directing the issuance of a nil withholding tax certificate under Section 197. The court noted that Lufthansa, a German tax resident, had consistently received such certificates for over a decade and that its income from international air cargo operations was exempt under Article 8 of the India-Germany DTAA. The Assessing Officer's decision to impose a 0.10% withholding tax lacked justification. The court held the rejection unsustainable but allowed future taxability assessments independently.

Key Highlights:

CBDT Notification No. 24/2025 dated 28 March, 2025 on Central Government, under Section 10(46) of the Income-tax Act, 1961, has notified the *Karnataka Urban Water Supply & Drainage Board, Bangalore* (PAN: AAATK5837F) as a tax-exempt entity for specific income types.

Specified Exempt Income:

- Establishment, administrative, supervision, water charges, and rent collected under the Karnataka Urban Water Supply and Drainage Board Act, 1973.
- Forfeiture of earnest money deposits.
- Penalties, sale of scrap, storage charges, issue of tender forms, and survey charges.
- Interest earned on bank deposits.

Conditions for Exemption:

- The Board must not engage in any commercial activity.
- The nature of specified income and activities must remain unchanged during the exemption period.
- It must file income tax returns as per Section 139(4C)(g) of the Income-tax Act.

Applicability:

- The notification applies to assessment years 2024-25 to 2028-29, corresponding to financial years 2023-24 to 2027-28.

Circular No. 5 of 2025 dated 28 March, 2025 on Order under section 119 of the Income-tax Act, 1961 for waiver on levy of interest under section 201(IA)(ii)/ 206C(7) of the Act, as the case maybe, in specific cases.

- The circular addresses the issue of interest being levied on taxpayers for delays in TDS/TCS payments due to technical glitches.
- It allows for the waiver or reduction of interest under specific conditions.
- Conditions for waiver include the payment being initiated and debited from the taxpayer's account on or before the due date, with the delay in credit to the government being due to technical issues beyond the taxpayer's control.
- The concerned tax authority (CCIT/DGIT/Pr. CCIT) will issue a speaking order after hearing the applicant and verifying the technical glitches.
- If the interest has already been paid, it can be considered for waiver, and a refund may be issued.
- Waiver applications must be filed within one year from the end of the financial year in which the interest was charged.
- The application for waiver should be disposed of within six months of receipt.
- The order by the tax authority (CCIT/DGIT/Pr. CCIT) is final.



SUPREME COURT: VAIBHAV GOEL AND ANR. VERSUS DEPUTY COMMISSIONER OF INCOME TAX AND ANR; [CIVIL APPEAL NO. 49 OF 2022]

The case involves a dispute over income tax demands raised after the approval of a Resolution Plan under the Insolvency and Bankruptcy Code (IBC).

Background

The Corporate Insolvency Resolution Process (CIRP) was initiated concerning corporate debtor M/s. Tehri Iron and Steel Casting Ltd. During the CIRP proceeding a Resolution Plan was submitted by the IRP before the NCLT, which the NCLT approved. After the plan's approval, the Income Tax Department issued demand notices for income tax dues for assessment years 2012-13 and 2013-14, which were not included in the approved Resolution Plan.

Department Contentions:

The Income Tax Department argued that the demands for the assessment years 2012-13 and 2013-14 were valid. They based this argument on an order dated 21st May 2019, passed by the National Company Law Tribunal (NCLT). Specifically, the Income Tax Department referred to paragraph 44 of the NCLT order. In that order, the NCLT had addressed the issue of statutory dues and stated that the decision regarding reliefs and concessions in respect of these dues (such as payment in installments, waiver of coercive action, waiver of pre-deposit for filing appeals, and waiver of interest, penal interest, or damages) was to be determined by the respective government departments. The Income Tax Department interpreted this to mean that they had the authority to raise demands for unpaid tax dues, even if those dues were not included in the approved Resolution Plan.

Decision of the Court

The Supreme Court held that as per Section 31(1) of the Insolvency and Bankruptcy Code (IBC) and the Court's previous ruling in *Ghanashyam Mishra and Sons Pvt. Ltd. v. Edelweiss Asset Reconstruction Company Ltd.* [(2021) 9 SCC 657] once a resolution plan is approved, it is binding on all parties, including statutory authorities. Dues not included in the resolution plan stand extinguished. The Court found that the demands raised by the Income Tax Department for the assessment years 2012-13 and 2014-15 were invalid and unenforceable.

Our View

This judgment reinforces the binding nature of an approved resolution plan under the IBC. It provides clarity that statutory dues, including income tax demands, not forming part of the resolution plan, stand extinguished. This decision aims to facilitate the successful implementation of resolution plans, enabling corporate debtors to start with a clean slate. The ruling also prevents the unsettling of resolution applicants with unexpected claims after the plan's approval.

EDITOR'S COMMENTS

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M/S KEYNESIAN FINANCIAL SERVICES LTD. VERSUS DCIT: 2025 (4) TMI 150 - ITAT KOLKATA

This case involves the reopening of an assessment under section 147 of the Income Tax Act, where the Assessing Officer (AO) reopened the case based on information that the assessee had brought back unaccounted funds from shell companies. The Income Tax Appellate Tribunal (ITAT) found that the reasons recorded by the AO for reopening the assessment were vague and lacked specific details such as transaction details, mode of payment, amount received, and the source of the funds. The ITAT concluded that the reopening of the assessment was not valid due to the AO's non-application of mind and upheld that reopening of assessment cannot be allowed on the basis of vague reasons.

TURKISH AIRLINES INC. VERSUS ACIT, INTERNATIONAL TAXATION, GURGAON: 2025 (4) TMI 144 - ITAT DELHI

The ITAT Delhi ruled in favor of Turkish Airlines, holding that the Delivery Order (DO) charges collected in India for cargo transportation are not taxable under Indian tax laws. The Assessing Officer had treated these charges as income taxable in India, arguing that they were separate from the airline's core operations. However, the tribunal relied on Article 8 of the India-Turkey DTAA, which states that profits from the operation of aircraft in international traffic, including ancillary activities, are taxable only in the airline's home country (Turkey). Since the Delivery Order (DO) charges were directly linked to cargo transportation and formed an essential part of the airline's revenue, the tribunal held that they were covered under the DTAA exemption. Accordingly, the ITAT set aside the tax demand and ruled that the income was not taxable in India.

ANIL DATTARAM PITALE VERSUS INCOME TAX OFFICER: 2025 (4) TMI 84 - ITAT MUMBAI

In this case, the ITAT Mumbai ruled in favor of the assessee, Anil Dattaram Pitale, who had received a new flat in a redevelopment project in exchange for surrendering his old flat. The Assessing Officer (AO) treated the difference between the stamp duty value of the new flat and the indexed cost of the old flat as income under Section 56(2)(x) of the Income-tax Act. However, the tribunal held that this was a case of "extinguishment" of the old property and not a transfer for inadequate consideration, making Section 56(2)(x) inapplicable. ITAT further noted that the transaction could, at most, attract capital gains tax, for which the assessee would be eligible for exemption under Section 54. Accordingly, the tribunal set aside the lower authorities' decisions and directed the deletion of the addition, ruling in favor of the assessee.

- [Just few days before deadline govt. amends GST Amnesty Scheme under Section 128A to give relief to GST registered taxpayers](#)
- [New income tax slabs from April 1, 2025: Know tax slabs, rates under new, old tax regime for FY 2025-26 \(AY 2026-27\)](#)
- [Income tax saving: How paying health insurance premium can help you save tax under section 80D for FY 2024-25](#)