

## LATEST CASE LAWS

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## UPDATES

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# DIRECT TAX UPDATES

## SEPTEMBER, 2025

An E - Newsletter

## **ALLAHABAD HC: Mahesh Gautam v. Commissioner of Income Tax [Income Tax Appeal No. 436 of 2012]**

**[Notice u/s 148 Income Tax Act must be personally served via speed post for valid service u/s 27]**

**Background:** The Income Tax Department issued reassessment notices to the appellant under Section 148 of the Income Tax Act via speed post. The appellant did not respond, leading to an ex parte assessment order. While the Commissioner of Income Tax initially quashed the proceedings due to improper service, ITAT reversed this decision, presuming that service was valid because the undelivered envelope was not on record. Later, appellant then challenged the ITAT's order before the Allahabad HC, arguing that the notice was never validly served, a prerequisite for reassessment.

**Decision:** The Allahabad HC allowed the appeal, ruling that the notice was not validly served and setting aside the ITAT's order. The Court held that the legal presumption of service under Section 27 of the General Clauses Act, 1897, applies only to notices sent via registered post, which is "addressee-specific." In contrast, speed post is merely "address-specific" and requires proof of personal delivery to the assessee to constitute valid service for a tax notice. As there was no proof of personal delivery, the notice was not affixed to the premises when the assessee was found to be untraceable. Therefore, the court concluded that the service was invalid, rendering the subsequent reassessment proceedings void.

## **MADRAS HC: Cakes N Bakes v. The Commercial Tax Officer [W.P. No. 19651 of 2007]**

**[No Tax Exemption On Bakery Products Sold at Snack Bar]**

**Background:** Cakes N Bakes, a Chennai (Petitioner) based firm operating a licensed restaurant and snack bar, contended that the bakery products sold at its outlet should be exempt from tax under the government notification G.O.P. No. 570, dated June 10, 1987. The Petitioner argued that since their establishment prepared and sold food and drinks, their bakery items should fall under the general exemption for "food and drinks." This position was previously supported by a favorable 1999 ruling from the Tamil Nadu Taxation Special Tribunal. However, the Sales Tax Appellate Tribunal later reversed this stance, leading the firm to challenge the denial of the exemption in the Madras HC.

**Decision:** The Madras HC dismissed the petitioner's writ petition, affirming that bakery products sold in a snack bar are not eligible for tax exemption under the specified notification. The bench meticulously discussed the relevant tax schedules and determined that the exemption for "food and drinks" was specifically limited to items like tea and coffee, as listed in Sl. No. 9 of the First Schedule. The Court observed that bakery products were classified under a separate and distinct entry Sl. No. 11, which was not included in the exemption notification. Therefore, the Court upheld the decision of the tax authorities, clarifying that specific classifications in tax law take precedence over broader categories.

## **DELHI HC: Raj Krishan Gupta And Ors v. Principal Director Of Income Tax (Investigation) -1 New Delhi [W.P.(C) 11005/2024]**

**[Surprise searches can be conducted on Family's Lockers u/s 132 of Income Tax Act over suspicion of Undisclosed Assets]**

**Background:** The Income Tax Department conducted a surprise search on three private lockers belonging to a family at South Delhi vaults on 11<sup>th</sup> May 2024, seizing gold, diamonds, and bullion worth over Rs. 4.6 crore. The family challenged this action in the Delhi HC. They argued that it was illegal because the department failed to issue a prior notice or summons, which they claimed was a prerequisite under Section 132 of the Income Tax Act. They further contended that the department acted without a valid "reason to believe" they possessed undisclosed assets, rendering the search a mere "fishing expedition".

**Decision:** The Delhi HC dismissed the petition and upheld the legality of the search and seizure. The Court found that the department's "reason to believe" was based on credible intelligence from a discreet enquiry, which revealed that the family's holding of expensive lockers was inconsistent with their known financial profile. The bench clarified that the conditions for a search under Section 132(1) are mutually exclusive, meaning the department can lawfully conduct a search based on the suspicion of undisclosed assets without first issuing a notice mentioned in clause a. The Court concluded that the department's belief was formed in good faith, and therefore the search was valid.

## Key Highlights of the 2025 Notification/Circular:

### **Circular No. 14/2025 dated 25<sup>th</sup> September 2025, Extension of timelines for filing of various reports of audit.**

The Central Board of Direct Taxes has extended the deadline for filing audit reports for the Financial Year 2024-25, relevant to the Assessment Year 2025-26. The extension applies to assessee who are required to get their accounts audited under the Income Tax Act, 1961. Under its powers granted by Sec. 119 of the Act, the CBDT has moved the ‘specified date’ for furnishing these audit reports from September 30, 2025, to October 31, 2025.

### **Circular No. 13/2025 dated 19<sup>th</sup> September 2025, Offers a waiver of interest under Section 220(2) for the late payment of demand in certain cases.**

The Central Board of Direct Taxes has waived interest under Section 220(2) for taxpayers facing new demands due to the incorrect allowance of a tax rebate under Section 87A on special rate incomes. This waiver is only applicable if the demand raised from the rectification is paid in full on or before December 31, 2025. If payment is not made by this date, interest will be charged from the original due date.

### **CBDT Notification No. 148/2025 [F. No. 300196/41/2025-ITA-I] dated 22<sup>nd</sup> September 2025, On Exemption from specified income U/s 10(46) to Real Estate Regulatory Authority**

The Central Government has exempted specific income of the ‘Real Estate Regulatory Authority’ of Rajasthan, Jaipur, from income tax under Section 10(46) of the Income-tax Act, 1961. The exempted income includes government grants, fees, and penalties collected under the RERA Act, and interest earned on these amounts. This exemption is conditional on RERA Rajasthan not engaging in any commercial activity and filing its income tax returns as required. The notification is effective retrospectively from Assessment Year 2023-24 and will apply through Assessment Year 2027-28.



**Supreme Court: Vijay Krishnaswami @ Krishnaswami Vijayakumar v. The Deputy Director of Income Tax (Investigation): 2025 (9) TMI 106 [Criminal Appeal Nos. 3146-3148 Of 2025 (Arising Out of SLP (Cri) Nos. 3618-3620 of 2024)]**

**[Continuation of the prosecution initiated by the revenue u/s 276C(1) against the Appellant after passing an order by the Settlement Commission would amount to an abuse of the process of the Court.**

## **Background:**

Mr. Krishnaswami Vijayakumar faced criminal prosecution for willful tax evasion under Section 276C(1) of the Income Tax Act after a search was conducted where over Rs. 4.93 crores unaccounted cash was seized from his residence. While the prosecution was pending, he approached the Income Tax Settlement Commission, disclosed the additional income, and sought immunity. The Commission was satisfied with his cooperation and therefore granted him immunity from penalty, but could not grant immunity from prosecution because a separate petition to quash the criminal case was already before the Madras High Court.

## **Department's Contentions:**

The Income Tax Department argued that the criminal prosecution was valid and should proceed because it was initiated before the appellant filed his application with the Settlement Commission. The Department relied on the proviso to Section 245H(1), which explicitly bars the Commission from granting immunity from prosecution if criminal proceedings have already been instituted. They contended that the unaccounted cash found during the search, which was not declared in the income tax return, constituted a clear case of willful tax evasion that warranted a trial.

## **Decision of the High Court:**

The Madras High Court dismissed Mr. Vijayakumar's petition to quash the criminal proceedings, siding with the Income Tax Department. The High Court reasoned that since the criminal complaint was filed before the settlement application, the proceedings were legally sound. It further held that the appellant's defenses, such as the claim that the cash belonged to a different assessment year, were matters of fact that could only be decided during a full trial and were not sufficient grounds to quash the case at a preliminary stage.

## **Decision of the Supreme Court:**

The Supreme Court overturned the High Court's decision and quashed the prosecution, ruling that its continuation was an abuse of the legal process. The Court found that the Department had violated its own binding circulars, which mandate that prosecution for tax evasion should only be launched after a penalty for concealment is confirmed by the ITAT, a step that was never taken. Since the Settlement Commission had already granted immunity from penalty based on a "full and true disclosure," the very foundation of the charge of "willful" evasion was negated. The Court concluded that the Department's conduct lacked fairness and imposed a cost of Rs. 2,00,000 on the Revenue for pursuing a case in "blatant disregard" of its own rules.

## **EDITOR'S COMMENTS**

- This judgment decisively establishes that a taxpayer who achieves a settlement and is granted immunity from penalty cannot be subjected to criminal prosecution on the same set of facts.
- The Supreme Court has affirmed that departmental circulars are not mere suggestions but are binding instructions that must be followed, reinforcing the principle that tax authorities must act with procedural fairness and consistency.

**ITAT DEHRADUN: Mr. Rakesh Sharma v. ACIT, Central Circle, Dehradun [ITA No. 38/DDN/2024]**

**[The assessment was quashed because the mandatory satisfaction note was never recorded]**

The case arose after the Income Tax Department initiated action under Section 153C based on documents found during a search of a completely different person's premises. Mr. Sharma challenged the proceedings, arguing that the department had skipped a crucial first step: the Assessing Officer of the searched person had never recorded a formal "satisfaction note" to confirm the documents belonged to him before transferring the case. Agreeing with this argument, the Tribunal held that this note is a mandatory legal requirement, not a mere formality. By failing to produce this foundational document, the entire assessment against Mr. Sharma was declared void from the start, providing a vital check on the department's powers and reinforcing that procedural safeguards must be strictly followed.

**ITAT DELHI: M/s. One Mobikwik Systems Ltd v. Joint Commissioner of Income Tax, Gurgaon [ITA Nos. 7830/Del/2018]**

**[The ITAT held that fees paid to payment gateways are service charges, not commission. Therefore, Mobikwik was not required to deduct TDS under Section 194H]**

The Income Tax Appellate Tribunal has held that fees paid by companies like Mobikwik to payment gateways are for services rendered and do not qualify as "commission" under Section 194H of the Income Tax Act. The case arose after the Income Tax Department raised a tax demand on Mobikwik for not deducting Tax at Source on these payments, arguing they were commission paid to an agent. The ITAT decisively rejected this, confirming the relationship is principal to principal, not principal and agent. This landmark decision quashes the tax demand against Mobikwik and sets a clear precedent that such service charges are not subject to TDS under Section 194H.

**ITAT DELHI: M/s. Zenith Portfolio and Insurance Advisors (P) Ltd. v. ACIT, Central Circle 3, Delhi [No.- ITA No. 2221 to 2223/DEL/2024]**

**[The ITAT held that the satisfaction note was "vague" and not as per the provisions of section 153C of the Act]**

In this case, ITAT quashed the assessment proceedings initiated under Section 153C of the Income-tax Act, 1961, due to a defective satisfaction note. The case arose from a search where documents allegedly belonging to the assessee were seized from a third party's premises. The AO recorded a consolidated satisfaction note to assume jurisdiction for multiple assessment years. The ITAT ruled that the satisfaction note was vague and invalid because it failed to specify which seized documents were incriminating, how they belonged to the assessee, and to which specific assessment year they pertained. Relying on precedents, including the Supreme Court's decision in CIT v. Sinhgad Technical Education Society, the Tribunal held that the absence of a clear, year-wise correlation between the seized material and the assessee's income rendered the AO's assumption of jurisdiction unlawful, thus allowing the assessee's appeal on this preliminary legal ground.

- CBDT extends 'specified date' for filing of various reports of audit for the Assessment Year 2025-26 from 30th September 2025 to 31st October 2025
- Income tax return filing due date extended again by the tax department.
- TDS on Post Office schemes: Not all post office schemes are tax-free.
- For AY 2025-26, seniors get higher exemptions, rebates, and special tax benefits under the old and new regimes.

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