

# DIRECT TAX UPDATES:

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## IN THIS ISSUE

### LATEST CASE LAWS

- *Calcutta High Court: Basu Tea Pvt. Ltd. v. The Union of India & Ors. [WPA 18470 of 2025]*
- *Gujarat High Court: Herald Global Ventures Pvt. Ltd v. The Chief Commissioner of Income Tax [SCA No. 11722 of 2024]*
- *Delhi High Court: Principal Commissioner of Income Tax v. Boeing India Pvt. Ltd. [ITA 586/2025]*

### EDITOR'S COLUMN

#### *Income Tax Appellate Tribunal: M/s A2Z Maintenance and Engg. Services Ltd. v. DCIT*

The ruling reiterates that share issue expenses are not automatically capital in nature. Where funds raised are demonstrably used for working capital or business operations, proportionate deduction is allowable as revenue expenditure. The decision also strengthens the principle that genuine hedging transactions and business-related financial costs cannot be treated as speculative or capital merely due to their form.

### NOTIFICATION / CIRCULAR

- **Circular No. 1 of 2026 dated 23<sup>rd</sup> March 2026** : Clarification regarding power to condone delay in filing Form No. 10A under sub-clause (i) clause (ac) of sub-section (1) of Section 12A of the Income Tax Act, 1961.
- **Circular No. 3 of 2026 dated 30<sup>th</sup> March 2026** : Notification of Sovereign Wealth Fund under Schedule V [Table: Sl. No. 7. Note 5(a)(ii)(G)] of the Income Tax Act, 2025
- **Circular No. 4 of 2026 dated 31<sup>st</sup> March 2026** : Referencing by Document Identification Number (DIN)

### TAX BITES

#### *ITAT, Mumbai: DCIT v. F A Constructions [ITA No. 3895 to 3897 of 2025]*

- The Mumbai Bench of the Income Tax Appellate Tribunal (ITAT) on 23 January, held that that additions under Section 69A cannot be made merely on doubts about utilisation, if the source of cash withdrawals is from disclosed bank accounts.

## *Calcutta High Court: Basu Tea Pvt. Ltd. v. The Union of India & Ors. [WPA 18470 of 2025]*

**[Reassessment Quashed due to Defective Service of Notice under Section 148]**

The High Court quashed the order passed under Section 148A(d) and the consequential notice issued under Section 148 for A.Y. 2017–18, holding that reassessment proceedings were vitiated due to defective service of notice.

The department had merely uploaded the SCN under Section 148A(b) on the income tax portal and sent communications to an old, inactive email ID of the assessee. As no reply was filed, the AO proceeded ex parte. The Court held that although portal-based communication is a recognized mode, service cannot be treated as valid where there is serious doubt regarding effective communication and the assessee is deprived of an opportunity to respond.

Accordingly, the reassessment order and notice were set aside for failure to ensure proper service, violating principles of natural justice.

**Key takeaway:** Mere uploading on the portal or sending notice to an outdated email ID may not constitute valid service where it denies the assessee a meaningful opportunity of being heard.

## *Gujarat High Court: Herald Global Ventures Pvt. Ltd v. The Chief Commissioner of Income Tax [SCA No. 11722 of 2024]*

**[Delay in Form 10-IC filing condoned; benefit under Section 115BAA allowed]**

The Gujarat High Court held that a **bona fide delay of 54 days** in filing Form 10-IC cannot deprive an eligible assessee of the concessional tax rate under Section 115BAA. The Court emphasized that the expression “genuine hardship” must be interpreted liberally to advance justice.

The assessee initially claimed deduction under Section 80-IAC, which was denied due to shareholding issues. It subsequently opted for the concessional regime under Section 115BAA, paid taxes, and filed the return with delay. The authorities rejected condonation; however, relying on **B.M. Malani v. Commissioner of Income Tax**, the Court held the delay to be bona fide and directed acceptance of Form 10-IC.

**Key takeaway:** Procedural delay should not defeat substantive tax benefits where genuine hardship is demonstrated.

## *Delhi High Court: Principal Commissioner of Income Tax v. Boeing India Pvt. Ltd. [ITA 586/2025]*

**[Assessment in name of non-existent amalgamated entity held void]**

The Delhi High Court held that **an assessment order passed in the name of a non-existent company post-amalgamation is void ab initio and cannot be cured under Section 292B.**

Boeing International Corporation Pvt. Ltd. had amalgamated with Boeing India Pvt. Ltd. and duly intimated the department. Despite this, the AO passed the final assessment order in the name of the erstwhile entity. The Revenue argued that the defect was technical due to ITBA portal limitations. The Court rejected this contention, holding that such defect is substantive and not procedural, and the assessee cannot be prejudiced due to system constraints.

Accordingly, the Court upheld the ITAT order quashing the assessment and dismissed the Revenue’s appeal.

**Key takeaway:** Assessment framed in the name of a non-existent entity post amalgamation is invalid, and such defect is not curable under Section 292B.

# EDITOR'S COLUMN

## *Income Tax Appellate Tribunal: M/s A2Z Maintenance and Engg. Services Ltd. v. DCIT [ITA No. 3505 to 3507/Del/2016]*

### EDITOR'S COMMENTS

The ruling reiterates that **share issue expenses** are **not automatically capital in nature**. Where funds raised are demonstrably used for working capital or business operations, proportionate deduction is allowable as revenue expenditure. The decision also strengthens the principle that genuine hedging transactions and business-related financial costs cannot be treated as speculative or capital merely due to their form.



### ISSUE

Whether **share issue expenses** incurred in IPO are allowable as deduction where the funds raised were utilised for working capital and general corporate purposes, and whether other additions relating to loan processing fees, commodity hedging loss and forex hedging premium were sustainable.

### RULING

The ITAT *inter alia* deleted the disallowance of **share issue expenses**, holding that where IPO proceeds are utilised for working capital and general corporate purposes, proportionate expenditure qualifies as revenue expenditure allowable u/s 37.

### BACKGROUND

M/s A2Z Maintenance and Engineering Services Ltd. was subjected to search and seizure proceedings under the Income Tax Act, pursuant to which assessments were framed under **Section 153A read with Section 143(3)** for Assessment Years 2011-12, 2012-13 and 2013-14. In the course of assessment proceedings, the Assessing Officer made multiple additions including disallowance of **loan processing fees, share issue expenses incurred in relation to IPO, alleged speculative loss on commodity forward contracts**, and disallowance of **premium paid towards hedging of foreign currency loans**.

The assessee preferred appeals before the Commissioner of Income Tax (Appeals), who granted partial relief by deleting additions relating to **loan processing fees and forex hedging premium**, while sustaining the additions pertaining to **share issue expenses and commodity forward trading loss**. Aggrieved by the findings of the CIT(A), the assessee filed further appeals before the Tribunal against the confirmed additions, whereas the Revenue preferred cross appeals challenging the relief granted by the CIT(A) on the remaining issues.

### DECISION

The ITAT allowed the assessee's appeal and deleted the disallowance of **share issue expenses**, holding that where funds raised through IPO are utilised for **working capital and general corporate purposes**, the proportionate expenditure is allowable as **revenue expenditure under Section 37**. The Tribunal noted that the Assessing Officer himself had acknowledged utilization of funds for business purposes and therefore such expenses could not be treated as capital in nature. Accordingly, the addition confirmed by the CIT(A) was set aside.

The Tribunal also upheld deletion of additions relating to **loan processing fees, loss on commodity forward contracts, and premium paid for hedging foreign currency loan**, holding that these expenses were incurred in the ordinary course of business and could not be disallowed as speculative or capital expenditure. Consequently, the assessee's appeals were allowed and Revenue's appeals were dismissed.

# NOTIFICATION/CIRCULAR

## **Circular No. 1 of 2026 dated 23<sup>rd</sup> March 2026 : Clarification regarding power to condone delay in filing Form No. 10A under sub-clause (i) clause (ac) of sub-section (1) of Section 12A of the Income Tax Act, 1961.**

❖ The Central Board of Direct Taxes in a relief to charitable trusts and institutions issued circular clarifying the authority empowered to condone delays in filing Form No. 10A under Section 12A of the Income-tax Act, 1961. The Board has expressed that the jurisdictional Principal Commissioner of Income-tax (PCIT) or Commissioner of Income-tax (CIT) shall have the authority to condone delays in filing Form 10A, provided there is a reasonable cause. This clarification seeks to determine whether such powers rest with the CPC Bengaluru or the jurisdictional authorities. Previously, the Income Tax Department's CPC in Bengaluru handled registration application processing, but there was still confusion about who was authorized to grant condonation for delayed filings. CBDT, to avert genuine hardships, has exercised its authority under section 119(2)(b) and confirmed that eligible trusts are not refused registration benefits only due to delays.

## **Circular No. 3 of 2026 dated 30<sup>th</sup> March 2026 : Notification of Sovereign Wealth Fund under Schedule V [Table: Sl. No. 7. Note 5(a)(ii)(G)] of the Income Tax Act, 2025**

CBDT has issued a circular prescribing the **procedure and compliance framework** for **Sovereign Wealth Funds (SWFs)** under **Schedule V of the Income-tax Act, 2025**, enabling eligible SWFs to claim tax exemption on specified investment income in India. The circular requires SWFs seeking notification to file an **application in Form I** with the designated CBDT Member (Foreign Tax & Tax Research Division). SWFs already notified under **Section 10(23FE)** of the Income-tax Act, 1961 are **not required to file fresh application**, but must comply with **quarterly reporting in Form II**. Fresh applicants under the 2025 Act must file **Form I** and comply with ongoing reporting requirements.

**Key takeaway:** CBDT has streamlined the **notification and reporting process for SWFs**, providing procedural clarity for availing tax exemptions under the new law.

## **Circular No. 4 of 2026 dated 31<sup>st</sup> March 2026 : Referencing by Document Identification Number (DIN)**

CBDT has issued Circular reinforcing the **mandatory requirement of quoting a Document Identification Number (DIN)** in all communications issued by Income-tax authorities.

The circular, issued in exercise of powers under Section 119 of the Income-tax Act, 1961 and aligned with recent legislative amendments introduced through the Finance Act, 2026, reiterates that any communication such as notices, letters, orders, summons, or correspondence issued by an income-tax authority must **mandatorily bear a computer-generated DIN**.

The circular also outlines **specific exceptions** where issuance of communication without DIN may be permitted. These include situations involving technical difficulties, non-availability of electronic systems, delays in PAN migration, absence of PAN, or system constraints preventing issuance of DIN-enabled communication. However, such instances are strictly treated as **exceptions and require prior or post-facto approval from the competent authority** within 15 days, with reasons recorded in writing.

## *ITAT, Mumbai: DCIT v. F A Constructions [ITA No. 3895 to 3897 of 2025]*

### CASE SUMMARY

**Background:** The matter arose from reassessment proceedings wherein the AO treated cash withdrawals made by the Assessee from disclosed bank accounts as unexplained money under Section 69A of the Income Tax Act, 1961. The assessment were completed ex-parte under Section 144. The CIT (A) upheld the validity of reopening but deleted the additions under Section 69A. Aggrieved by this, the Revenue preferred appeals before the Tribunal.

**Held:** The Hon'ble Tribunal held that Section 69A is attracted only where (i) the money is not recorded in the books of account, and (ii) the Assessee fails to satisfactorily explain its nature and source. In the instant case, the cash withdrawals were made from disclosed bank accounts and were duly recorded. The Tribunal observed that mere doubts regarding the utilization of cash withdrawals cannot justify invocation of Section 69A.

**Result:** The Tribunal upheld the order of the CIT(A) deleting the additions and dismissed all appeals filed by the Revenue.

**Significance:** The decision reiterates that Section 69A cannot be invoked in the absence of unrecorded money or failure to explain its source. It is the settled principle that suspicion regarding utilization of funds does not constitute a valid basis for invoking deeming provisions.

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