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DIRECT TAX UPDATES:

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  The Hon'ble Tribunal held that where the Assessing Officer of the searched person and the other person is the same, the limitation under Section 153B is to be reckoned from the date of transfer of jurisdiction under Section 127.

Delhi High Court: Pr. Commissioner of Income Tax v. SpiceJet Ltd. [ITA Nos. 539/2026 & 540/2026]

[Section 37(1): Delhi High Court allows deduction of FCCB issue expenses as revenue expenditure]

The Court dismissed the Revenue appeals, holding that expenditure incurred in connection with the issue of Foreign Currency Convertible Bonds (**FCCB's**) is allowable as revenue expenditure under Section 37(1) of the Income Tax Act, 1961. The Assessee had claimed deduction of expenditure incurred towards the issue of FCCB's. The Revenue contended that since the FCCB's were convertible into equity shares, the expenditure was capital in nature as it resulted in strengthening of the assessee capital base. It was further argued that the expenditure could not be claimed entirely in the year of issue and ought to have been spread over the life of the FCCB's. Rejecting the revenue contention, the High Court held that it is a settled position of law that expenditure incurred in connection with the issue of debentures or for obtaining a loan constitutes revenue expenditure. Relying upon the decisions of the Supreme Court in ***India Cements Ltd. v. CIT* and *Madras Industrial Investment Corporation Ltd. v. CIT***, as well as its earlier decision in ***Jagatjit Industries Ltd.***, the Court held that the liability is incurred the moment the FCCBs are issued and the funds are utilised for the purposes of the business. The Court further observed that the issue regarding proportionate amortisation had not been raised before the lower authorities and, in any event, stood concluded by its earlier decisions. Holding that no substantial question of law arose for consideration, the High Court dismissed the Revenue's appeals.

Karnataka High Court: Pr. Commissioner of Income Tax, Koramangala, Bangalore & Anr. v. Shri Ravi Shankar Shetty [ITA No. 225 of 2021]

[Section 56(2)(ix): Karnataka High Court holds that business advances for procurement of stock-in-trade cannot be taxed as forfeited advances]

The Court dismissed the Revenue's appeal, holding that Section 56(2)(ix) was inapplicable where the advances were received for procuring land as stock-in-trade and there was no forfeiture of such advances. The assessee, engaged in the business of procurement of land for real estate projects, had received advances aggregating to Rs. 21.89 crore from Metro Corp and M/s Metro Corp Infrastructure Ltd. under an agreement for procuring lands. The Assessing Officer treated Rs. 21.11 crore as income under Section 56(2)(ix), holding that the advances had been virtually forfeited since they had remained outstanding for nearly eight years. The CIT(A) upheld the addition, whereas the Tribunal deleted it. Before the High Court, the Revenue contended that the advances had been utilised by the assessee for purchasing assets in his own name and, having remained unclaimed for several years, amounted to forfeited advances. Rejecting the contention, the High Court held that the amounts were not received in the course of negotiations for transfer of a capital asset but were entrusted to the assessee for carrying out a business activity of procuring lands, which constituted stock-in-trade and not capital assets. The Court further held that mere lapse of time does not amount to forfeiture and that, so long as the advances continued to be reflected as liabilities in the books of account, the conditions prescribed under Section 56(2)(ix) were not satisfied. Accordingly, the Court upheld the Tribunal's order and dismissed the Revenue's appeal.

ITAT Bangalore: Arakere Channappa Vishwanath v. ITO [ITA No. 3016/Bang/2025]

[Section 115BB: ITAT Bangalore holds only net winnings from online gaming are taxable]

The Tribunal allowed the assessee's appeal, holding that the Assessing Officer erred in taxing the entire gross gaming receipts of Rs 2.33 crore under Section 115BB. The assessment was initiated on the basis of information received from the Compliance Risk Information Unit and details furnished by Gameskraft Technologies Pvt. Ltd. under Section 133(6), which reflected gross gaming winnings credited to the assessee's gaming wallet. The AO treated the entire gross receipts as taxable income under Section 115BB, and the CIT(A) affirmed the addition. Before the Tribunal, the assessee contended that the gross wallet credits merely represented intermediate transactions, including repeated circulation of funds and buy-in amounts, and that after adjusting the buy-in amounts of Rs 2.61 crore, the gaming activity had resulted in a net loss of Rs 27.99 lakh. The Tribunal held that the authorities had failed to examine the corresponding buy-in amounts and had erroneously taxed gross transactional movements instead of real income. Referring to the provisions introduced by the Finance Act, 2023, namely Sections 115BBJ and 194BA, Rule 133 of the Income-tax Rules and CBDT Circular No. 05/2023, the Tribunal observed that the legislative intent was to tax only net winnings from online games. Accordingly, it held that no income was chargeable to tax under Section 115BB on the facts of the case, deleted the addition of Rs 2.33 crore, and allowed the assessee's appeal.

Supreme Court: Director of Income Tax (IT)-I v. Superstar Libra Ltd. [Civil Appeal Nos. 3334–3336 of 2012]

EDITOR'S COMMENTS

- Hospitality and entertainment offered on board a cruise do not alter the essential nature of the activity as the carriage of passengers under the Income Tax Act.
- Ruling on the applicability of the presumptive taxation regime for non-resident shipping companies under Section 44B, the court observed that ancillary services provided during a voyage do not take the operation outside the scope of the provision.

ISSUE

Whether a foreign shipping enterprise operating round-trip cruise services with hospitality and entertainment facilities is engaged in the business of carriage of passengers so as to be entitled to presumptive taxation under Section 44B of the Income-tax Act, 1961.

BACKGROUND

The assessee, acting as an agent of Superstar Libra Ltd. (SLL), a non-resident shipping company, sought a certificate under Section 195 by claiming that the income of SLL was taxable under Section 44B at the presumptive rate of 7.5% of the gross cruise fare collected. The Assessing Officer rejected the claim, holding that SLL's activities primarily involved hospitality and entertainment and not the carriage of passengers, as the cruises originated from and terminated at Mumbai Port. Accordingly, the AO estimated the deemed income at 25% of the cruise fare. The CIT(A) held that Section 44B was applicable and estimated the income at 7.5% of the gross receipts. The ITAT affirmed the order of the CIT(A). Aggrieved, the Revenue appealed before the High Court, which dismissed the appeals, leading to the present civil appeals before the Supreme Court.

DECISION

The Supreme Court dismissed the Revenue's appeals and upheld the applicability of Section 44B. The Court held that the Assessing Officer had adopted an unduly restrictive interpretation of the expression "carriage" by confining it to transportation from one port to another. It agreed with the concurrent findings of the CIT(A) and the ITAT that round-trip cruise services fall within the ambit of "carriage" under Section 44B and that the provision of ancillary hospitality and entertainment services does not alter the character of the activity. Finding no perversity in the concurrent findings of fact, the Court held that the estimated income of SLL was liable to be computed under Section 44B at the statutory presumptive rate and dismissed the civil appeals

NOTIFICATION/CIRCULAR

Notification No. 80/2026 dated 10th July, 2026: CBDT notifies conditions for non-deduction of tax at source for IFSC Units claiming deduction under Section 147

❖ The Central Board of Direct Taxes (CBDT), vide Notification No. 80/2026/F. No. 275/19/2026-IT(B) dated 10th July, 2026, has notified the conditions under which tax shall not be deducted at source on specified payments made to Units located in an International Financial Services Centre (IFSC) claiming deduction under Section 147 of the Income-tax Act, 2025. The notification prescribes the eligible IFSC Units, the specified financial services covered, the conditions to be fulfilled by the payee and the payer, and introduces Form No. 1(N) for furnishing the statement-cum-declaration by the payee opting to claim deduction under Section 147. The notification shall be deemed to have come into force on 1st April, 2026, and it has been certified that no person is adversely affected by giving retrospective effect to the notification.

Notification No. 94/2026 dated 21st July, 2026: CBDT amends definition of 'specified fund' under the Income-tax Rules, 2026

❖ The Central Board of Direct Taxes (CBDT), vide Notification No. 94/2026/F. No. 370142/24/2026-TPL dated 21st July, 2026, has amended Rule 157 of the Income-tax Rules, 2026 by substituting the definition of "specified fund". The amended definition includes Category I and Category II Alternative Investment Funds regulated under the SEBI (Alternative Investment Funds) Regulations, 2012 or the International Financial Services Centres Authority (Fund Management) Regulations, 2022 and located in an International Financial Services Centre, as well as funds referred to in Schedule VI [Note 1(g)] to the Income-tax Act, 2025. The amendment came into force on the date of its publication in the Official Gazette.

Notification No. 97/2026 dated 24th July, 2026: CBDT notifies Form ITR-B for block assessment under the Income-tax Act, 2025

❖ The Central Board of Direct Taxes (CBDT), vide Notification No. 97/2026/F. No. 370142/11/2026-TPLdated 24th July, 2026, has amended the Income-tax Rules, 2026 to notify Form ITR-B for furnishing the return of undisclosed income for the block period under the Income-tax Act, 2025. The notified form prescribes the manner of reporting undisclosed income, its head-wise and item-wise break-up, computation of tax payable, details of taxes paid, and verification requirements in respect of block assessment proceedings. The notification also contains explanatory notes regarding the computation of the block period, reporting requirements for different tax years, treatment of international and specified domestic transactions, and corresponding references to the Income-tax Act, 1961 wherever applicable. It has been certified that no person is adversely affected by giving retrospective effect to the notification.

ITAT, Delhi: Sudhir Aggarwal v. DCIT, Central Circle-28 New Delhi [ITA Nos. 3823 to 3830/Del/2026]

CASE SUMMARY

Background: A search under Section 132 was conducted on the Alankit Group on 18.10.2019, pursuant to which proceedings under Section 153C were initiated against the assessee on the basis of seized material alleged to pertain to him. The assessee's case was transferred to the Central Circle under Section 127 on 20.10.2020, a satisfaction note under Section 153C was recorded on 24.12.2021, notices under Section 153C were issued on 28.12.2021, and assessment orders were passed on 30.03.2023 for AYs 2013-14 to 2020-21. Before the ITAT, the assessee challenged the assessments as being barred by limitation under Section 153B, contending that the limitation period commenced from the date of transfer of jurisdiction under Section 127, when the Assessing Officer of the searched person and the other person became the same.

Held: The ITAT held that the assessment orders were barred by limitation under Section 153B. Following its co-ordinate Bench decision in Ajay Gupta v. DCIT, the Tribunal held that where the Assessing Officer of the searched person and the other person is the same, the limitation is to be reckoned from the date of transfer of jurisdiction under Section 127. Since the assessee's case was transferred on 20.10.2020 and the assessment orders were passed only on 30.03.2023, they were beyond the prescribed period of limitation and liable to be quashed**.**

Result: The Tribunal allowed the legal ground raised by the assessee, quashed the assessment orders for all the assessment years as barred by limitation, and left the remaining grounds of appeal open as academic.

Significance: This decision reiterates that where the Assessing Officer of the searched person and the other person is the same, the limitation for completing assessment under Section 153C is to be computed from the date of transfer of jurisdiction under Section 127, and any assessment made beyond the prescribed period is liable to be quashed as barred by limitation.

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