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DIRECT TAX UPDATES:

JULY' 2026 | AN E-NEWSLETTER

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NOTIFICATION / CIRCULAR

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TAX BITES

ITAT, Hyderabad: Chennamaneni Mithun Chand v. ACIT [ITA 970 & 980 of 2026]

- *The Hon'ble tribunal held that the assessment orders were barred by limitation under Section 153 and that additions of Rs. 287 crores and Rs. 118 crores under Section 56(2)(x) based on excel sheets seized from third-party premises, without any corroborative evidence, were unsustainable in law.*

Bombay High Court: CIT v. Impact Foundation [ITA No. 126/2024]

'Fishing Inquiry: Bombay High Court upholds quashing of income tax revision against Impact Foundation]

The Court dismissed the Deptt. Appeal against Impact Foundation holding that revisionary proceedings under the IT Act could not be sustained merely because the Commissioner believed the AO should have conducted further enquiry. The Court held that where the AO has examined an issue and taken a plausible view, the Commissioner cannot invoke revisionary powers simply because he holds a different opinion. Its case was selected for scrutiny, following which notices under Sections 143(2) and 142(1) were issued. During the assessment proceedings, the assessee furnished details from time to time. Subsequently, the CIT initiated revision proceedings under Section 263, alleging that the assessee had claimed utilisation of accumulated funds without proper proof, and that the AO had failed to verify the claim. The ITAT allowed the assessee's appeal, finding that the AO had already examined the issue. The Revenue challenged order before the HC. Rejecting the appeal, the HC found that the assessee had already furnished details regarding utilisation of accumulated funds during the original assessment proceedings. The Court also held that the Commissioner had not independently conducted any enquiry to show that the assessing officer's view was legally unsustainable. Accordingly, the High Court upheld the tribunal's order and dismissed the Department appeal

Bombay High Court: Accost Media LLP v. DCIT [ITA No. 753/2025]

[Bombay High Court set aside ITAT Order for failing to decide challenge to faceless assessment procedure]

The High Court has set aside ITAT Order, holding that the tribunal failed to adjudicate a taxpayer's jurisdictional objection alleging non-compliance with the mandatory assessment procedure. The Court ruled that the issue went to the root of the matter and required adjudication by the Tribunal. The case arose from the assessment of Accost Media LLP (Petitioner) for the A.Y. 2021-22. The AO treated purchases and labour expenses as unexplained expenditure. The CIT(A) partly allowed the taxpayer's appeal. It restricted the disallowance of the expenditure, and the tribunal upheld that decision. Before the High Court, Petitioner contended that the AO had not followed the mandatory procedure prescribed under Section 144B before passing the assessment order. It also argued that it was denied an opportunity to respond to the allegation that certain suppliers could not be physically verified. According to the taxpayer, that allegation appeared for the first time in the assessment order and not in the show-cause notice. The Revenue argued that the jurisdictional objection had never been raised before the Tribunal. Rejecting that contention, the Court held that the taxpayer had specifically raised the issue in its rectification application before the Tribunal. It further held that the tribunal had failed to return any finding on that objection. The Court also held that the Tribunal was required to examine the documentary evidence produced by the taxpayer to establish the genuineness and creditworthiness of the transactions. Accordingly, the High Court set aside the ITAT Order.

Madras High Court: M/s Schwing Setter (India) Pvt. Ltd. v. Assistant Commissioner of Income Tax/Income Tax Officer [WP No. 6230/2022]

[Madras High Court quashes Reassessment based on material already examined during original assessment]

The Madras High Court has set aside the reassessment proceedings initiated against an engineering equipment manufacturer after finding that the IT Deptt. reopened the assessment based on material that had already been disclosed and examined during the original assessment. Schwing Setter (India) Pvt. Ltd. ('Petitioner') challenged the notice reopening its assessment, the order rejecting its objections and the consequential reassessment year. During the original assessment, the AO sought details of large expenses reflected in P&L A/c. The Petitioner furnished the requested information. The Original Assessment was completed without making any disallowance on that issue. After two years later, the IT Deptt. reopened the assessment. The reason recorded stated that the company had claimed a net loss on foreign currency and transaction which department considered notional in nature and liable to be disallowed. The company argued that the documents relied on for reopening had accompanied the original return and had also been furnished in response to the assessing officer's queries during the original assessment. The IT Deptt. contended that the reopening was justified. Rejecting the contention, the court found that the financial statements accompanied the original return and that the assessing officer had specifically sought details regarding large expenses before completing the assessment. The court held that the issue relating the provision for warranty had already been expressly considered in the original assessment order.

EDITOR'S COLUMN

Delhi High Court: PCIT v. M/s Globe Capital Market Ltd. [ITA No. 364/2024]

EDITOR'S COMMENTS

The decision reaffirms that a buyback under Section 68 of the Companies Act is a capital reduction and not an acquisition of property. Consequently, Section 56(2)(x) cannot be invoked merely because the buyback price is lower than the fair market value.

ISSUE

Whether a company's buyback of its own shares at a price lower than the fair market value determined under Rule 11UA constitutes an "acquisition of property" within the meaning of Section 56(2)(x) of the Income-tax Act, 1961, thereby attracting tax on the difference between the fair market value and the buyback price as deemed income in the hands of the company.

BACKGROUND

The controversy arose from the assessment proceedings for Assessment Year 2018–19, wherein the Assessing Officer invoked Section 56(2)(x) of the Income-tax Act, 1961, which taxes the receipt of property for inadequate consideration. The Assessing Officer treated the company's buyback of its own shares at a price lower than their fair market value as an acquisition of "property" and, applying Rule 11UA, brought the differential amount to tax as deemed income under Section 56(2)(x). On appeal, the Commissioner of Income-tax (Appeals) held that a buyback of a company's own shares is, in substance, a reduction of share capital under Section 68 of the Companies Act, 2013, and not an acquisition of property, and accordingly deleted the addition. The Income Tax Appellate Tribunal affirmed this view. Before the Delhi High Court, the Revenue contended that shares are expressly included within the definition of "property" under Section 56(2)(x) and that the provision makes no distinction between the acquisition of a company's own shares and those of another company. It was further argued that Section 56(2)(x), introduced to widen the scope of taxation of undervalued transactions, squarely applied to the buyback in question. .

DECISION

The High Court ruled in favour of the taxpayer and he Delhi High Court held that **buy-back of a company's own shares under Section 68 of the Companies Act, 2013 is a capital reduction mechanism and not an acquisition of "property" by the company**. Upon buy-back, the shares are statutorily extinguished and destroyed; therefore, the company cannot be said to have acquired a capital asset so as to attract Section 56(2)(x) of the Income-tax Act. Consequently, the difference between the buy-back price and the fair market value cannot be taxed as deemed income under Section 56(2)(x).

Notification No. 6 of 2026 dated 12th May 2026 : CBDT approves M/s Shree Hari Arogyam Foundation for scientific research under Section 35(1)(iia).

❖ The Principal Chief Commissioner of Income Tax (Exemptions), Delhi, vide Notification No. 06/2026 dated 13th May, 2026, has granted approval to M/s Shree Hari Arogyam Foundation (PAN: ABGCS1785A), a company having its registered office at Gandhinagar, Gujarat, for the purpose of 'Scientific Research' under clause (iia) of sub-section (1) of Section 35 of the Income Tax Act, 1961, read with Rule 5F of the Income Tax Rules, 1962. This approval enables donors making contributions to the said company to claim a weighted deduction on such contributions under the said provision. The notification is applicable for five consecutive Assessment Years from AY 2026-27 to AY 2030-31, and it has been certified that no person is adversely affected by granting retrospective effect to this notification.

Notification No. 56 of 2026: India and Japan sign MOU for mutual assistance in collection of taxes under their Double Taxation Avoidance Convention

❖ The Ministry of Finance, Department of Revenue, vide Notification No. 56/2026 has notified the Memorandum of Understanding (MOU) signed between the Government of India and the Government of Japan for assistance in collection of taxes, as the mode of application of Article 26A of the Indo-Japan Double Taxation Avoidance Convention. The MOU was signed at Tokyo on 30th June, 2025 and at New Delhi on 8th July, 2025, with the latter date being the date of entry into force. In exercise of powers under Section 90(1) of the Income Tax Act, 1961, the Central Government has directed that all provisions of the said MOU shall be given effect to in India, and the same shall apply in respect of any request for collection of taxes made after 8th July, 2025..

Notification F. No. ADG(S)-1/PAN/M/3699/2026 : CBDT Prescribes New Forms and Procedure for PAN Correction Under Income-Tax Act, 2025

❖ The Director General of Income-tax (Systems), Delhi, in exercise of powers under Rule 158(12) of the Income-tax Rules, 2026, has issued an order specifying the application forms and procedure for correction or changes in PAN data with effect from 01.04.2026. Two separate forms have been prescribed — Form PAN CR-01 for individuals and Form PAN CR-02 for non-individuals — which can be submitted either physically at PAN Centers of M/s UTIITSL or M/s Protean eGov, or online through their respective websites. The forms require applicants to furnish details such as name (as per Aadhaar), date of birth/incorporation, address, contact details, and supporting documents including proof of identity, address, and PAN, with Aadhaar number being mandatory for all except exempt categories.

ITAT, Delhi: Sham Sunder Dhingra v. ACIT, Central Circle -8, New Delhi [ITA No. 6191/Del/2025]

CASE SUMMARY

Background: The assessee, Sh. Sham Sunder Dhingra, filed his return of income for AY 2020-21 declaring income of ₹5.16 lakh. Subsequently, a search under Section 132 was conducted on the ALM Group on 03.01.2023, during which digital evidence, including WhatsApp chats, emails, and Excel sheets recovered from the mobile phone of one of the group's key persons, allegedly indicated that the assessee had received commission income of ₹20.92 lakh from the ALM Group. Based on this information, the assessment was reopened under Sections 147/148, and the Assessing Officer treated the alleged commission receipts as unexplained money under Section 69A and added ₹20.92 lakh to the assessee's income, assessing the total income at ₹26.08 lakh. The CIT(A) upheld the addition, following which the assessee appealed before the ITAT.

Held: The ITAT Delhi Bench held that the provisions of Section 69A can be invoked only where the assessee is found to be the owner of unexplained money, bullion, jewellery, or other valuable articles. In the present case, no money, bullion, jewellery, or valuable article was found in the possession of the assessee. The addition was based merely on documents and digital records allegedly showing commission receipts. Therefore, the essential conditions for invoking Section 69A were not satisfied, and the Assessing Officer erred in treating the entire alleged commission receipts as unexplained income under that provision. The Tribunal further relied upon its earlier decision in Sanjay Wahi v. ACIT involving identical facts and observed that only the profit element embedded in the commission receipts could be taxed.

Result: The Tribunal partly allowed the assessee's appeal and directed the Assessing Officer to treat only 20% of the gross commission receipts as taxable income instead of taxing the entire amount of ₹20.92 lakh under Section 69A. Consequently, the addition was substantially reduced

Significance: This decision reiterates the settled principle that Section 69A cannot be invoked merely on the basis of documents or digital evidence showing alleged receipts unless the assessee is found to be the owner of unexplained money, bullion, jewellery, or other valuable articles. The ruling draws a distinction between undisclosed business receipts and unexplained money under Section 69A. It also affirms that where alleged commission receipts are established, only the income or profit component embedded therein can be brought to tax and not the entire gross receipt. The judgment is therefore significant in limiting the indiscriminate application of Sections 69A and 115BBE in cases involving alleged commission income detected through search and digital evidence.

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ADDRESS	5, Babar Lane, Bengali Market, New Delhi – 110001
EMAIL	delhi@alalegal.in | commercial@alalegal.in
PHONE	011–43036677 | +91 98918 98911

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