

IBA INTERNATIONAL
BUSINESS ADVISORS

CONNEKT

April 2024

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Direct Tax Case Laws



Case Law 1:

Meaning of Occupation for Purpose of compiling let out value of House property.

RAVAL PADMANABHA SHASTRI ADIGA, v. INCOME-TAX OFFICER

FACTS :

The assessee owned a house, but during the relevant year, he only resided in it for a month while his son occupied it for the rest of the period. The assessee argued that due to his employment elsewhere, he couldn't occupy the house, so there should be a remission of the annual letting value for the period he wasn't there, under Section 23(3)(b). However, the authorities rejected the assessee's claim.

HELD :

The provision in Section 23(3)(b) grants relief when the assessee, due to employment or other reasons, has to reside elsewhere and cannot occupy their own house. This relief applies even if the house is deemed to be occupied by the owner's family. The focus is on the actual occupation by the assessee, not on occupation by relatives. Therefore, the occupation of the house by the son or other relative of the assessee should be disregarded, and the assessee is entitled to the relief under Section 23(3)(b).

The assessee, an individual, built a house in Udupi but could only reside there for a month due to employment elsewhere. His

son occupied the house for the remaining period. The assessee claimed relief under Section 23(3) due to his inability to occupy the property, which was denied by the authorities. The revenue argued that relief applies only if the house is entirely vacant, contrary to the assessee's claim that the provision was meant for situations like his.

After considering the arguments presented by both parties, the court held that the assessee was entitled to relief under Section 23(3). The section provides relief when the owner cannot occupy the property due to employment elsewhere. The court emphasized that the phrase "actually occupied" should be interpreted based on the reasons stated in the section itself, which includes situations where the owner has to reside elsewhere due to employment obligations. Therefore, the occupation by the son or any relative should be disregarded, and the assessee should be granted relief. The court directed the Income Tax Officer (ITO) to recompute the total income for the relevant assessment years based on the actual occupation by the assessee. Consequently, the appeals were allowed in favor of the assessee.

Case Law 2:

Unjustified denial of registration under section 12A.

Jamiatul Banaat Tankaria v. Commissioner of Income-tax

Direct Tax : Case Laws

FACTS :

The assessee applied for registration of their trust under section 12AB and submitted the required documents. However, the Commissioner requested further details on the trust's activities. After reviewing the information provided, the Commissioner concluded that the trust's objectives primarily benefited a specific religious community, Muslims. Consequently, the Commissioner denied registration under section 12A, stating that the trust did not qualify as a religious trust but rather a religious-cum-charitable trust. Therefore, exemption under section 11 was not applicable.

HELD :

The appeal concerns the rejection of an application for registration under section 12AB of the Income-tax Act, 1961 by the Commissioner (Exemption). The Commissioner based his decision on the belief that the trust's objectives primarily favored a specific religious community, Muslims. However, upon review, it was found that the Commissioner had misinterpreted the law. The Supreme Court had previously ruled that a trust serving the interests of a particular religious community could still qualify as a charitable entity benefiting the public at large.

Furthermore, the provision of section 13(1)(b) of the Act, which pertains to denying exemption under section 11, should only be applied during the granting or denying of exemption, not during the registration process. Despite one object of the trust focusing on providing scholarships to Muslim students, the majority of its objectives were deemed charitable and not specific to any particular community. Thus,

the rejection of registration based on section 13(1)(b) was considered erroneous.

Consequently, the order denying registration was overturned, and the Commissioner (Exemption) was directed to grant registration to the trust under section 12A. This decision aligns with previous judicial interpretations and ensures that the trust's predominantly charitable objectives serve the general public, warranting its registration under the Income-tax Act.

Direct Tax Circulars & Notifications



S. No Circulars

1. Circular No. 04/2024, F. No. 275/01/2023-IT(B)

Waiver of Interest and Penalties under Section 194S

The Income-tax Act, 1961 mandates a 1% tax deduction on payments for transferring virtual digital assets under section 194S. Specified persons failed to file Form No. 26QE and pay corresponding TDS due to unavailability of Form, resulting in penalties. To rectify this, the Central Board of Direct Taxes has extended the filing deadline to May 30, 2023, for deductions made between July 1, 2022, and February 28, 2023. To clarify the same, the CBDT has issued the circular which states that Penalties and interest incurred until 30-05-2023 will be waived to address the concerns of affected parties.

Notifications :

1. Notification No. 2 of 2024

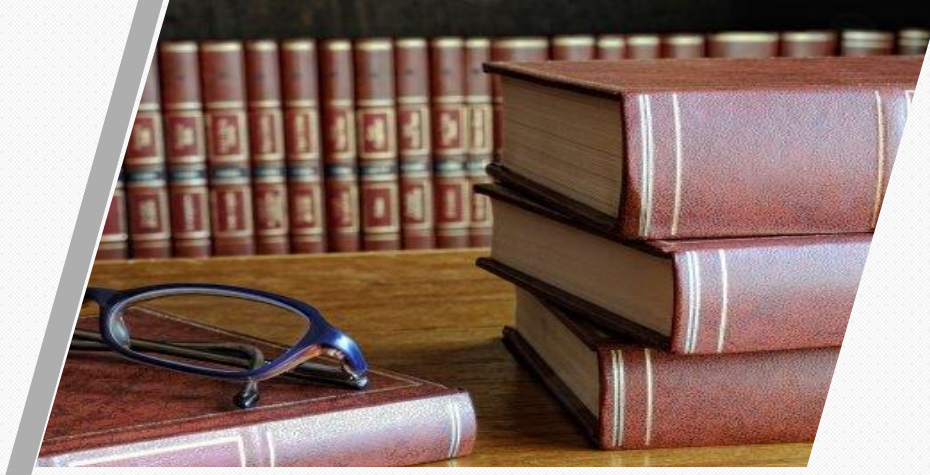
CBDT issue clarification on time limit to verify Income Tax Returns

Time limit for verification of Income Tax Return (ITR) is 30 days from the date of transmitting the data of ITR electronically. It is clarified that:

- ❖ If ITR is uploaded and e-verification/ITR-V is submitted within 30 days of uploading – the date of uploading the return of income shall be considered as the date of furnishing the ITR.
- ❖ If ITR is uploaded but e-verification or ITR-V is submitted after 30 days of uploading – the date of e-verification/ITR-V submission shall be treated as the date of furnishing the ITR and all consequences of late filing of return under the Act shall follow, as applicable.

This notification will come into effect from 01.04.2024.

Indirect Tax : Case Laws



Case Law 1:

In the matter of Arvind Goyal CA v. Union of India. [W.P.(C) 12499/2021 dated January 19, 2023]

Facts of the case :

Arvind Goyal (“the Petitioner”) is a Chartered Accountant and a search proceeding was carried out at his residence on December 4, 2020 by GST officers, AE, Delhi (“the Respondent”) and during this search, the Respondent found cash amounting to INR 1,22,87,000/- which was taken in possession, however, no seizure memo was issued, only a panchnama was drawn up which indicated that the Respondent have taken possession of certain items including cash amounting to INR 1,22,87,000/-. Further, the amount of INR 18,87,000/- was returned to the Petitioner along with the laptop and mobile phones seized during the search.

The Petitioner contended that: -

The Respondent had no reason to believe that any goods liable for confiscation were lying or any records relevant to the proceeding were available in their premises. Further, contended that the Respondent had no power to seize any cash in exercise of its powers under Section 67(2) of the CGST Act as currency is excluded from the definition of goods and thus cannot be seized. The Respondent contended that they had merely “resumed” cash as is noted in the

panchnama and therefore, the same cannot be considered as seizure.

Findings by the Judge:

Observed that, a plain reading of Section 67(2) of the CGST Act indicates that the seizure is limited to goods liable for confiscation or any documents, books, or things, which may be “useful for or relevant to any proceedings under this Act.

Further observed that, cash does not fall within the definition of goods and, prima facie, it is difficult to accept that cash could be termed as a ‘thing’ useful or relevant for proceedings under the CGST Act.

Noted that, there is no provision that entitles the Respondent to “resume” assets therefore, the action taken by the Respondent was a coercive action and no provision in the CGST Act could support an action of forcibly taking over possession of currency from the premises of any person, without effecting the same.

Opined that, the powers of search and seizure are draconian powers and must be exercised strictly in terms of the statute and only if the necessary conditions are satisfied.

Held that, the action of taking away currency was illegal and without any authority of law.

Directed the Respondent to return the balance amount along with the interest accrued thereon to the Petitioner and to release the bank guarantee furnished the by Petitioner.

Legal & Regulatory Notifications



S. No Notifications

RESERVE BANK OF INDIA

1. Appointment/re-appointment of Director, Managing Director or Chief Executive Officer in Asset Reconstruction Companies

The Reserve Bank of India has issued detailed guidelines pertaining to the appointment or re-appointment of Directors, Managing Directors, or Chief Executive Officers within Asset Reconstruction Companies (ARCs). These directives are in accordance with Section 3(6) of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, as well as circular No. DoR.SIG.FIN.REC.75/26.03.001/2022-23 dated October 11, 2022, which focuses on the review of the regulatory framework for ARCs.

Link:

<https://rbidocs.rbi.org.in/rdocs/notification/PDFs/NT127BFA1B1711E00447A8480F4C07DA8BCA0.PDF>

MINISTRY OF CORPORATE AFFAIRS

1. Deployment and usage of Change Request Form (CRF) on MCA-21

Ministry of Corporate Affairs ('MCA') has introduced 'Change Request Form ('CRF') via notification dated February 19, 2024.

MCA has notified this form citing difficulties faced by stakeholders in updating certain corporate information citing lack of processes or forms available for same. CRF has following features:

- It can be filed in exceptional circumstances only.
- It can be used to update data wherein no specific form is existing on the portal.
- It is not a substitute to any reporting, application, and registry requirements as per Companies Act, 2013.
- It cannot be filed for the purposes which can be catered through any existing form or services or functionality available either at Front Office level (users of MCA-21 services) or Back Office level (ROCs).
- It is a web-based form.

Legal & Regulatory

CRF form particularly mentions two purposes for which it can be filed:

- For correction in master data of the company.
- In pursuance to court/ tribunals directions.

Processing of CRF: The Form should be processed by ROCs within 03 days of its filing, after which it should be forwarded to Joint Director (e-governance cell), who shall process and decide the matter within a maximum time of 07 days.

Link: : <https://www.mca.gov.in/content/dam/mca/pdf/document-82-new-20240219.pdf>

2. ESTABLISHMENT OF NEW WING CALLED CENTRAL PROCESSING CENTER (“CPC”) AT MANESAR, GURGAON TO PROCESS SOME FORMS WHICH WERE EARLIER PROCESSED BY THE RESPECTIVE ROC OF THE STATE.

In exercise of the powers conferred by sections 396,398,399,403 and 404 read with sub sections (1) and (2) of section 469 of the Companies Act, 2013, the Central Government made the following rules: These rules may be called the Companies (Registration Offices and Fees) Amendment Rules, 2024, they shall come into force with effect from February 16, 2024.

For more information and to know the list of forms which were shifted to CPC wing click on the link below:

Link:

<https://www.mca.gov.in/bin/ebook/dms/getdocument?doc=NDE5MTIyNDU3&docCategory=Notifications&type=open>



Audit Trail Requirements - A Quick Overview

By – Puneet Sharma

IBA

Background :

With effect from 1 April 2023, the Ministry of Corporate Affairs (MCA) has made it mandatory for all companies to maintain an audit trail throughout the year for transactions impacting the books of account of the Company.

This requirement is applicable to:

- all Companies maintaining its books in electronic form.
- all classes of Companies including foreign, small, OPC and Section 8 companies.

Requirements for the Company :

Forensic accounting and audit are two important fields of accounting that are often confused with each other. While they share some similarities, they also have significant differences.

Rule 3(1) of the Companies (Accounts) Rules, 2014 mandates every company which uses an accounting software i.e. maintaining its books in electronic form to use such an accounting software which has at least the following features:

- Records audit trail of each and every transaction throughout the year
- Creates an edit log of every change along with other relevant details such as date of each such change
- Ensures that audit trail is not disabled.

Requirements for the auditors :

Rule 11(g) of the Companies (Audit and Auditors) Rules, 2014 states that an auditor is required to report that the Company has maintained such an accounting software for maintaining its books of accounts which has:

- An edit log feature- which records audit trail

- The Audit trail feature:
 - ✓ has been operating throughout the year for each and every transaction
 - ✓ has not been tampered with
- Audit trail has been preserved as per the regulatory/ statutory requirement

Additional considerations for the Company and the Auditors :

- The Company has to identify the 'books of accounts' as per the Companies Act, 2013 including identification of accounting software including peripheral software that should have an audit trail feature.
- Third party software or outsourced software supported by third party is also covered in the scope.
- The auditors would now need to obtain a specific management representation that the Audit trail requirements have been implemented and operating effectively.
- The auditors would also need to assess impact on their reporting on Internal Financial Control (IFC) under Rule 11(g).
- The management would also need to ensure additional storage requirements including infrastructure related requirements.
- Laying down the mechanism of maintaining logs, without editing or disabling it and analysing / maintaining regularly based on such logs.

Training Session



Kunal recently led a impactful training session on taxation of ESOPs, enlightening us about its significance and benefits. We are grateful for his efforts in enhancing our understanding...

Holi Celebration 2024



We celebrated Holi with boundless joy! From colorful festivities to eco-conscious fun, our team embraced the spirit of unity and laughter. Thanks to everyone for making it unforgettable!!

Upcoming Compliances

Date	Compliance
April 11, 2024	Due Date for filing of Form GSTR-1 for the period March 2024 for the registered taxpayers who have opted for monthly filing of GST Returns
April 13, 2024	Due Date of filing GSTR-1 For the persons who opted for quarterly (January to March 2024) filing as per QRMP scheme.
	Due Date for filing of Form GSTR-6 for the period March 2024 for the registered taxpayers who have obtained Input Service Distributor (ISD) registration
	Due date of filing GSTR-5 Return for Non-resident taxable person for the month of March 2024
April 14, 2024	Due date for issue of TDS Certificate for tax deducted under section 194-IA, 194IB, 194M, 194S in the month of February, 2024
April 15, 2024	Quarterly statement in respect of foreign remittances (to be furnished by authorized dealers) in Form No. 15CC for quarter ending March 2024.
April 18, 2024	Due Date of filing CMP-08 Statement for payment of self-assessed tax for quarter ending January to March 2024 to be filed by composition taxpayer.
April 20, 2024	Due Date of filing CMP-08 Statement for payment of self-assessed tax for quarter ending January to March 2024 to be filed by composition taxpayer.
	Due Date for filing of Form GSTR-3B for the period March 2024 for the registered taxpayers who have opted for monthly filing of GST Returns
April 22, 2024	Due date for filing GSTR-3B For the quarter January to March 2024 to be filed by taxpayers who have opted for QRMP scheme States of Chhattisgarh, Madhya Pradesh, Gujarat, Maharashtra, Karnataka, Goa, Kerala, Tamil Nadu, Telangana and Andhra Pradesh, the Union territories of Daman and Diu, Dadra and Nagar Haveli, Puducherry, Andaman and Nicobar Islands, and Lakshadweep.

Upcoming Compliances

April 24, 2024	Date for filing of GSTR-3B For the quarter January to March 2023 to be filed by taxpayers who have opted for QRMP scheme States of Himachal Pradesh, Punjab, Uttarakhand, Haryana, Rajasthan, Uttar Pradesh, Bihar, Sikkim, Arunachal Pradesh, Nagaland, Manipur, Mizoram, Tripura, Meghalaya, Assam, West Bengal, Jharkhand and Odisha, the Union territories of Jammu and Kashmir, Ladakh, Chandigarh and Delhi.
April 28, 2024	Due Date for filing of Form GSTR-3B for the period March 2024 for the registered taxpayers who have opted for monthly filing of GST Returns
April 30, 2024	Due date for furnishing of challan-cum-statement in respect of tax deducted under section 194-IA, 194IB, 194M, 194S in the month of March 2024
	Due date for filing GSTR-4 Return for financial year 2023-24 of registered person who has opted for composition levy (Composition Dealer).
	Due date for deposit of Tax deducted for the month of March 2024.

Editorial Team



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About us:

IBA is a leading financial and legal advisory company with specialization in Assurance, Risk Consulting, Legal, Direct Tax, Indirect Tax (GST) and Corporate Advisory for midsize, SMEs and start-up firms. IBA constitute a young team of path breaking professionals, who believe in creating value through innovation and creativity to provide ultimate client satisfaction. Clients benefit from our fresh thinking, constructive challenge and practical understanding of the issues they face. We aim to alloy a perfect blend of professionalism with high standards of service, in our pursuit of excellence.

Founded in the Year 2003, the company witnessed immense growth from 2 members to currently a 100 members team, with its offices in Delhi, Mumbai and Bengaluru and its clients from across states. IBA continues to offer wholesome service experience to boost highly valued client relationships by combining the technical and industry expertise at par with well-placed firms together with a personal commitment to optimize client service.

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We have our branch offices in Gurgaon, Mumbai, Bangalore and New York and associate arrangements in other major cities of USA and India.



Queries/Feedback/Suggestions on this newsletter may be addressed to: info@ibadvisors.co

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