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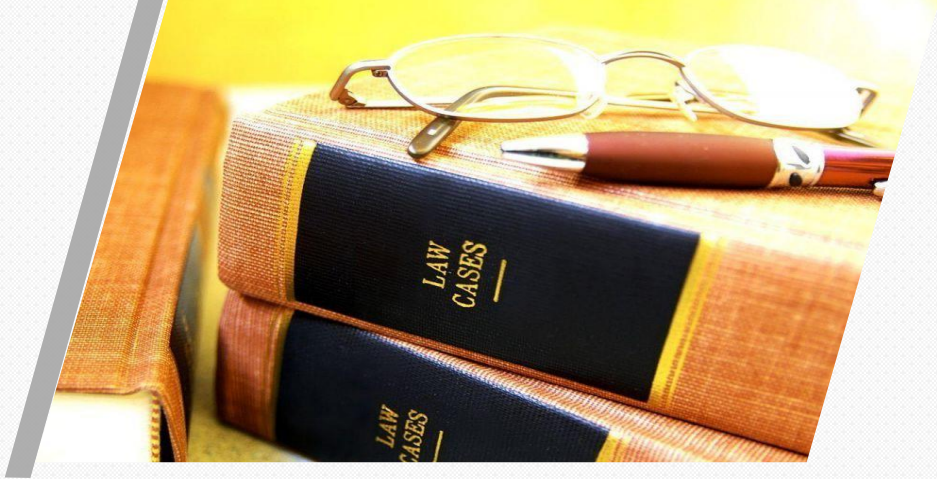
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May 2024

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Direct Tax Case Laws



Case Law 1:

Ninaben Tusharbhai Shah(HIGH COURT OF GUJARAT) Vs Income-tax Officer

FACTS :

- The Assessing Officer issued on the assessee a notice under section 148A(b) dated 24-3-2022, which was digitally signed on 26-3-2022, requiring the assessee to submit response on 24-3-2022.
- The Assessing Officer thereafter passed an order under section 148A on 26-3-2022 and consequently issued the notice under section 148 on 29-3-2022.
- On writ:

HELD :

Upon a thorough examination of Section 148A(b), it is evident that the Assessing Officer must allow the assessee a period of at least seven days to submit a reply to the notice issued under this provision. However, in the present scenario, the Assessing Officer failed to grant any time for the assessee to respond. Hence, the notice issued under Section 148A(b) does not comply with the provisions of the Act.

Furthermore, it is evident from the records that the Principal Commissioner approved the issuance of the notice under Section 148 before digitally signing the notice under Section 148A(b) and even before passing the order under Section 148A(d). Consequently, on both fronts, the notice under Section 148

is unquestionably issued without jurisdiction and in contravention of the provisions of the Act.

Based on the facts presented above, it is evident that the challenged order issued under Section 148A(d) and the notice issued under Section 148 are subject to being annulled and dismissed. Therefore, the petition is deemed successful and is consequently granted.

JUDGEMENT :

Having heard the arguments of Mr. Hardik V. Vora, representing the petitioner, and Mr. Varun K. Patel, Senior Standing Counsel, along with Mr. Dev Patel, representing the respondent, the court deems the matter fit for immediate resolution. Mr. Varun Patel, on behalf of the respondent, waives the need for formal notice. Considering the focused nature of the dispute, the court proceeds to the final hearing with the mutual agreement of the advocates.

The petitioner, under Article 226 of the Indian Constitution, contests the validity of the order dated March 26, 2022, issued under Section 148A(d) of the Income-tax Act, 1961, and the notice dated March 29, 2022, issued under Section 148 of the Act.

The essential facts are as follows: The petitioner, an individual, filed their income tax return for the Assessment Year 2018-19 on August 3, 2018, declaring a total income of Rs. 8,80,390/-. Subsequently, a notice dated March 24, 2022, under Section 148A(b) of the Act, digitally signed on March 26, 2022, was issued to the petitioner,

Direct Tax : Case Laws

stipulating a response by March 24, 2022. However, no time was allotted for the petitioner to reply. Despite this, the impugned order under Section 148A(d) was passed on March 26, 2022, followed by the notice under Section 148 issued on March 29, 2022.

Mr. Hardik Vora, representing the petitioner, argues that the notice under Section 148A(b) was invalid as it did not grant the petitioner the mandated seven-day period to respond. He highlights discrepancies in the dates and contends that the subsequent order under Section 148A(d) falsely claimed non-compliance from the petitioner. Additionally, he points out that the approval for the notice under Section 148 was granted before its digital signing, indicating a procedural lapse. In response, Mr. Varun Patel, the Senior Standing Counsel for the respondent, suggests remanding the matter to the Assessing Officer to allow the petitioner to respond and then proceed accordingly.

Upon reviewing Section 148A(b) of the Act, it is apparent that the Assessing Officer must provide the assessee with at least seven days to respond to the notice. In this case, the Assessing Officer failed to grant such time, rendering the notice non-compliant. Moreover, it is evident that the approval for the notice under Section 148 was granted prior to its digital signing and the subsequent order under Section 148A(d), indicating a procedural irregularity.

Considering the undisputed facts, the court finds the impugned order and notice liable for annulment. Therefore, both the order dated March 26, 2022, under Section 148A(d) and the notice dated March 29, 2022, under Section 148 are hereby annulled. The petition is granted accordingly. The rule is absolute, and no costs are imposed.

Case Law 2:

Anjuman E Nusratul Muslimin Tankaria Vs Commissioner of Income-tax

FACTS :

- The assessee trust filed application for registration under section 12AB in Form No. 10AB.
- The Commissioner (Exemptions) denied the same observing that various objects which were otherwise charitable in nature, were for the benefit of a particular religious community i.e. Muslims only.
- On the assessee's appeal to the Tribunal

HELD :

It is observed that the application of section 13 can only occur during the assessment phase and not during the registration process under section 12A. This interpretation finds support in the judgment of the High Court in the case of CIT (Exemptions) v. Bayath Kutchhi Dasha Oswal Jain Mahajan Trust [2016] 74taxmann.com 199/243 Taxman 60 (Guj.)/[2017] 8 ITR-OL 494 (Guj.).

In this case, concerning the denial of registration under section 12A by invoking section 13(1)(b), it was explicitly stated that the provisions of section 13 are applicable solely during assessment and not during the registration process. Consequently, the matter is to be remitted to the Commissioner (Exemptions) for fresh consideration, ensuring the opportunity for a fair hearing, and with a directive not to disqualify the assessee from registration solely based on the grounds mentioned in the prior order rejecting the application filed by the assessee-trust.

Direct Tax Circulars & Notifications



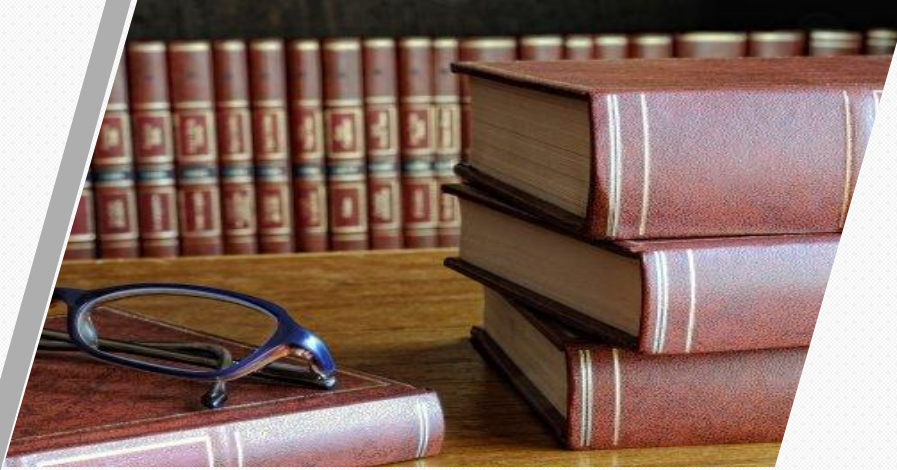
S. No Circulars

1. Circular No. 07/2024, F. No. 173/25/2024-ITA-I

Extension of due date for filing of Form No. 10A/10AB under the Income-tax Act, 1961 :

The Central Board of Direct Taxes (CBDT) has been extending the deadline for filing Form No. 10A and Form No. 10AB due to difficulties faced by taxpayers. Initially set for 31.08.2021 and then extended several times, most recently to 30.09.2023. Now, in response to continued challenges, the CBDT has further extended the deadline to 30.06.2024. This extension covers pending applications and allows entities to reapply if their previous application was rejected due to late submission or incorrect section code. Additionally, entities failing to file Form No. 10A for AY 2022-23 can opt for provisional registration as an existing entity by surrendering Form No. 10AC and applying within the extended deadline.

Indirect Tax : Case Laws



Case Law 1:

In the case of J. K. Jain Buildtech India Pvt. Ltd. Vs Assistant Commissioner (WPA 3415 of 2022 Calcutta High Court) dated 03-04-2024

Facts of the case :

The case revolved around whether a physical invoice must accompany a consignment of goods during transportation, despite the presence of an e-way bill. The petitioner argued that according to Rule 138A(1a), only electronic or digital forms of the invoice were required. However, the court interpreted the rule strictly, emphasizing that the provision explicitly stated that the invoice must be carried in physical form. It highlighted the importance of adhering strictly to tax statutes and ruled that the invoice must be physically carried and produced when required.

The court granted the petitioner an opportunity to present the physical invoice to the authorities for consideration. It directed the authorities to adjudicate the matter after reviewing the physical invoice. This judgment unequivocally establishes the necessity of physically accompanying a consignment with an invoice.

Nevertheless, it's worth noting that in the case of e-invoices, presenting a QR code containing the invoice reference number electronically is acceptable for verification by the proper officer.

Findings by the Judge:

The Hon'ble Court held as under;-

Observed that the expression used in the heading of Rule 138A is clear that “documents and devices to be carried by a person in charge of the conveyance”, included under sub-Rule(1)(a), the invoice. It also observed that “It is trite that the provision in a taxing statute has to be construed strictly and no benevolent interpretation is available while construing the taxing statute. When the said provision specifically provided for that documents and devices to be carried by the person-in-charge of a conveyance including the invoice, this clearly means that the invoice has to be carried in physical form and if required shall be produced in its physical form.”

Rule 138(2) clarifies that if an invoice is issued in the prescribed manner under sub-rule(4) of rule 48, the QR code with an embedded Invoice Reference Number (IRN) may be electronically produced instead of a physical copy for verification.

Since affidavits are not called for, the allegations made in this are deemed not to have been admitted by the respondents. On the above terms this writ petition, WPA 3415 of 2022 stands disposed of, without any order as to costs.

Indirect Tax

Notifications & Circulars



S. No Notifications

1. CBIC extend the timeline for New Special Procedure for Registration and Special Monthly Returns by Manufacturers of Tobacco, Pan Masala, and Similar Items

In Notification No. 08/2024-Central Tax, dated April 10, 2024, the timeline mentioned in Notification 04/2024-Central Tax, dated January 5, 2024, para 4, has been amended. Instead of "1st day of April 2024," it now reads "15th day of May 2024." This amendment comes into effect from April 1, 2024.

Legal & Regulatory Notifications



S. No Notifications

1. Foreign Exchange Management (Mode of Payment and Reporting of Non-Debt Instruments) (Amendment) Regulations, 2024

The Reserve Bank of India has made amendments to the above-mentioned regulations.

Title and Start Date: These rules are called the Foreign Exchange Management (Mode of Payment and Reporting of Non-Debt Instruments) (Amendment) Regulations, 2024. They shall come into force from 19th April 2024.

- "Schedule XI" has been inserted with respect to Purchase or Subscription of Equity Shares of Companies Incorporated in India on International Exchanges Scheme by Permissible Holder
- Substitution of existing Regulation 4:

Link: [https://rbidocs.rbi.org.in/rdocs/Content/PDFs/FEMA395\(2\)_25042024.PDF](https://rbidocs.rbi.org.in/rdocs/Content/PDFs/FEMA395(2)_25042024.PDF)

2. Fair Practices Code for Lenders – Charging of Interest

During the course of the onsite examination by Reserve Bank of India of Reporting Entities for the period ended March 31, 2023, the Reserve Bank came across instances of lenders resorting to certain unfair practices in charging of interest.

In the interest of fairness and transparency, all Reporting Entities are directed to review their practices regarding mode of disbursement of loans, application of interest and other charges and take corrective action, including system level changes, as may be necessary, to address the issues highlighted above.

Link:

<https://rbidocs.rbi.org.in/rdocs/notification/PDFs/NT304DC5E9FCD1ED493490460FA4A57D092B.PDF>

Column



EXCELLING BEYOND – EVOLUTION OF ACCOUNTING AND FINANCE DOMAIN

By –Nirav Maniar

IBA

I used to hear stories from senior colleagues of how Xerox changed the way paperwork was managed and how accountants used to be sceptical of the accuracy of a copied document coming out with a funny sound from a machine. Accountants were not ready to believe that the copier can give the same output as has been fed in. The result was often put to manual check.

Guess the same was true when our fathers or fore fathers were introduced to calculator. The result was surely checked and cross checked to develop trust over the machines which could simplify task and help spend the saved time to more productive use. Typewriter, carbon paper, dot matrix printers all sound so ancient and have no relevance in today's dynamic work world.

True for all successful innovations, people struggle before accepting and imbibing change and the ones who cant, just lag behind, sadly succumb to the rigidity, while others, transform.

With the onset of AI, blockchain and other innovations, we currently face the same challenge of being flexible and float or succumb to rigidity and denial. The accounting and compliances have moved and are still transcending mundane data processing to more exciting meaningful ones. A common question is - What would shape up how the accounting and finance may look like in the near future. This piece focuses on areas that accountants must keep themselves abreast with. Top on my list would be:

Agile Accounting :

Agile practices in software development are for implementing changes in software during development. Likewise, Agile Accounting is the process of adapting agile practices in accounting software to make changes in accounting at a rapid pace. Adapting to the changes on time and delivering effective accounting becomes the key focus. The data flow between the stakeholders will be continuous through effective communication, which reduces flaws in accounting and thus increases productivity.

Automation and Artificial Intelligence :

Automation continues to revolutionize accounting processes. AI-powered software handles routine tasks like data entry, reconciliation, and report generation, freeing up accountants to focus on higher-value activities such as analysis, strategy, and decision-making

Blockchain Technology :

Blockchain is increasingly being adopted in accounting for its ability to create transparent, tamper-proof records of transactions. It enhances the security and accuracy of financial data, streamlines auditing processes, and reduces the risk of fraud.

Data Analytics and Business Intelligence :

The abundance of data available to businesses has made analytics a crucial tool for accountants. Advanced analytics tools help uncover insights, trends, and patterns in financial data, enabling better decision-making and strategic planning

Environment, Social and Governance (ESG) Reporting :

With sustainability being the buzzword, stakeholders are increasingly interested in companies' ESG performance. Accountants are playing a key role in measuring, analyzing, and reporting on ESG metrics, helping businesses demonstrate their commitment to social and environmental responsibility

Regulatory Environment and Compliances :

The regulatory landscape is constantly evolving, with new accounting standards, tax laws, and reporting requirements being introduced regularly. Accountants need to stay abreast of these changes to ensure compliance and avoid penalties.

Cyber Security Focus :

As accounting processes become more digitized, cybersecurity becomes top priority. Like any other division, accounting and finance must also implement robust cybersecurity measures to protect sensitive financial data from cyber threats such as phishing attacks, malware, and data breaches

Need of the hour is to accept what technology can do for us and look for areas to align with. The knowledge and experience cant be taken away by the technological advancements and key is to keep evolving. Tech fluency in human led businesses is no more an option. Evolving technology, the changing business landscape, and the environment are all shaping the future of the accounting profession. They're impacting why and how things are done.

AI, automation, and even technology that doesn't exist yet will mean that repetitive tasks need not be performed. But the reality is that machines can't build human relationships like humans can, and they can't combine intuition with experience to deliver the desired output. So instead of just keeping the businesses compliant, technology will afford time and insight to focus on making business more profitable.

In a time of exponential growth, predicting where the world will be in few years from now is almost impossible. Many fear the increased prevalence of artificial intelligence, but in reality, the humanity may be needed now more than ever—in a different capacity though.

POSH Training



It was highly informative and engaging session on POSH training. It was an essential step in ensuring a safe and respectful work environment for all of us.

Led by Shreya & Surbhi, the training covered crucial topics such as understanding what constitutes sexual harassment, recognizing various forms, and the legal frameworks surrounding it.

Hi-Tea Engagement



Our senior team members came together for a delightful get-together, accompanied by their wonderful spouses. It was heartwarming to engage in meaningful conversations, exchange stories, and forge new connections. Each spouse brought their own unique perspective, adding a new dimension to our interactions and deepening our appreciation for one another.

Upcoming Compliances

Date	Compliance
May 11, 2024	Due Date of filing GSTR-1 for the taxpayers having turnover exceeding 5 crore rupees or who have opted for monthly filing of GST Returns.
May 13, 2024	Due date of filing GSTR-5 Return for Non-resident taxable person for the month of April 2024.
	Due date of filing IFF for taxpayers who have opted for QRMP scheme for the month of April 2024 to declare outward supplies to a registered person (optional to file).
	Due Date for filing of Form GSTR-6 for the month of April 2024 for the registered taxpayers who have obtained Input Service Distributor (ISD) registration.
May 15, 2024	Due date for issue of TDS Certificate for tax deducted under section 194-IA, section 194-IB, section 194M , section 194S in the month of March 2024
May 20, 2024	Due Date for filing of Form GSTR-3B for the registered taxpayers having turnover exceeding 5 crore rupees or who have opted for monthly filing of GST Returns.
May 25, 2024	The due date for a monthly payment of Tax by the registered taxpayers under QRMP in form GST PMT-06.
May 30, 2024	Submission of a statement (in Form No. 49C) by non-resident having a liaison office in India for the financial year 2023-24.
May 30, 2024	Due date for furnishing of challan-cum-statement in respect of tax deducted under section 194-IA, section 194M, section 194-IB, section 194S in the month of April 2024.
May 31, 2024	Quarterly statement of TDS deposited for the quarter ending March 31, 2024.
June 10, 2024	Due Date for filing of Form GSTR-7 by the individuals who deduct TDS for the month of May 2024.
	Due Date for filing of Form GSTR-8 by every registered e-commerce Operator who is required to collect TCS for the month of May 2024.

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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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