



INCOME TAX BAR ASSOCIATION

Raipur (Chhattisgarh) 492001



BULLETIN

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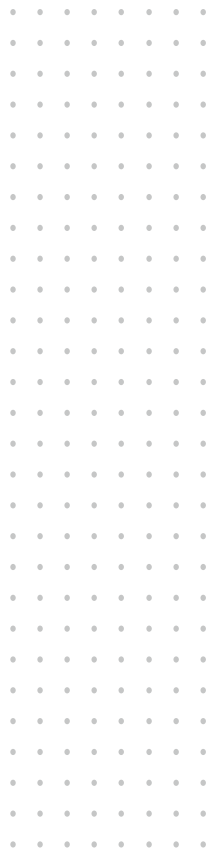
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Editor
NIKHIL KUMAR AGRAWAL

FROM PRESIDENT'S DESK



ADV. HARISH CHANDRA BAJAJ
President
Income Tax Bar Association, Raipur



RESPECTED SENIOR MEMBERS AND MY DEAR PROFESSIONAL COLLEAGUES,

First of all I would like to express my sincere and heartiest gratitude to all the members of the income tax bar association for showing their confidence on me to lead this esteemed organisation. It is a matter of great pride and pleasure to be a part of such an organisation having very rich and glorious history.

Now with my new team we all are committed to put in best of effort and commitment to serve our profession with the same spirit.

Our main focus will be to organise effective education program by way of seminars, lecture meetings and study circle meetings to keep updated and sharpen the subject knowledge of our members to solve grievance of members/ tax payers as soon as a possible.

Regular publication of e-news Bulletin and to felicitate members who have completed 50 years and 25 years of membership.

For interaction of members we are starting monthly birthday celebrations so that members will come and share there views. I also request all the members to suggest the topic of common interest of the members so that we may plan accordingly.

Last but not the least I assure you all on the behalf of my team members that we as a team will give our best for fulfillment of the object of income tax Bar Association.

Thanks and Regards

NIKHIL KUMAR AGRAWAL, Editor

Dear Esteemed Members,

In the ever-evolving landscape of taxation, our unity as professionals is the cornerstone of our strength. As we gather here in the pages of our Bulletin, we are reminded of the significant role the Income-Tax Bar Association, Raipur plays in shaping not just our own professional journeys, but also the tax ecosystem of our region. It is my pleasure to address you in this editorial, reflecting on the strides we've made and the path that lies ahead.

Navigating Complexity :

The world of taxation is a complex labyrinth, subject to constant changes in regulations, policies, and practices. As tax practitioners, we shoulder the responsibility of guiding our clients through this intricate web while ensuring compliance and optimizing their financial positions. Our association serves as the lighthouse, guiding us through these stormy seas.

Knowledge as Empowerment :

In an era where information is at our fingertips, staying updated and well-informed is more crucial than ever. Our Bulletin serves as a repository of knowledge, a platform where our members can access insights, analyses, and interpretations of the latest developments in taxation. Let us continue to leverage this valuable resource to enhance our understanding and expertise.

Advocacy for Change :

As advocates for our clients and the broader tax community, we have a duty to engage in discussions that shape policy and promote fairness in taxation. Our Association's collective voice can influence positive change, ensuring that the interests of taxpayers are upheld and the tax administration is transparent and equitable.

Collaboration for Progress :

Collaboration is at the heart of our Association's ethos. Our members come from diverse backgrounds, bringing a rich tapestry of experiences and perspectives. By engaging in dialogue, sharing insights, and collaborating on complex cases, we elevate our collective capabilities and contribute to a stronger and more robust tax ecosystem.

A Glimpse Ahead :

As we forge ahead, we must remain attuned to the evolving landscape of technology, international taxation, and environmental considerations. Our profession, like others, is experiencing transformation brought about by digitization and globalization. Let us seize these opportunities to enhance efficiency and deliver superior value to our clients.

Dear members, our journey as tax professionals is one of continuous learning, collaboration, and advocacy. Let us remain committed to the values that bind us as the Income-Tax Bar Association, Raipur. Together, we can chart a course toward a more transparent, equitable, and prosperous taxation environment.

Editorial Board Members CA Prakhar Jain & CA Parimal Jain have made great effort in publication of the bulletin. I Thank every members for their unwavering support and dedication.

Warm Regards



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SUMMARY OF IMPORTANT JUDGEMENTS OF JUNE AND JULY, 2023

-By CA Prakhar Jain and Ruchika Burad (Articled Assistant)



Anjaneer Vijetha Kasturi Vs ACIT (ITAT Hyderabad)

ITAT Hyderabad held that once additional income offered during survey was simply accepted and assessment order was passed u/s 143(3) of the Income Tax Act without invoking provisions of section 115BBE. Then, provisions of section 115BBE cannot be invoked via rectification as per section 154.

Facts - There was a survey in the business premises of the assessee on 19/02/2015. At that time, a statement was recorded u/s. 131 of the Act. In such statement, he offered an additional income of Rs. 20 lakhs. Subsequently, he filed return of income on 30/12/2015 admitting an income of Rs. 23,62,650/- incorporating Rs. 20 lakhs additional income that was offered during the survey. Having issued notice u/s 143(2) of the Act and considering the impounded material, books impounded and other documents produced during scrutiny, AO by order dated 07/09/2017 accepted the return of income and concluded the proceedings u/s. 143(3) of the Act.

Subsequently, learned Assessing Officer proposed rectification that the additional income of Rs. 20 lakhs was to be taxed at flat rate at 30% u/s. 115BBE instead of slab rates and passed order dated 09/04/2019.

Assessee aggrieved, preferred appeal before the learned CIT(A), however, the same was dismissed. Being aggrieved, the present appeal was filed.

HT Mobile Solutions Limited Vs JCIT (OSD) (ITAT Delhi)

Facts - The case of the Revenue is that the assessee had made year-end provisions for expenses amounting to Rs.86,12,471/- on which TDS was not deducted. The assessee was treated as 'assessee in default' in the sum of Rs.8,61,247/- u/s 201(1) of the Act and interest of Rs.8,00,548/- u/s 201(1A) of the



Act. The AO observed that the provision had been made on ad hoc basis in respect of various expenditures.

On the contrary, the assessee's case is that payees of these expenses are not identifiable and, hence, TDS could not be deducted. The assessee also submitted that invoices for these expenses were received by the assessee company in the next financial year. Hence, these year-end provisions made by the assessee were reversed by the assessee in the next financial year and expenses were booked on receipt of invoices and then TDS had been duly deducted and remitted to the account of the Central Government.

In respect of this year-end provision, the assessee had suo moto disallowed the expenses in the computation of its income. It was pleaded that the assessee could not be treated as 'assessee in default' u/s 201(1) of the Act and consequentially no interest could be levied u/s 201(1A) of the Act.

The assessee had also stated that it had been regularly following the practice of making provisions for expenses for which parties are not identifiable or amounts payable were not identifiable or bills have not been received or the same have not been processed for payment/credit to the accounts of the payees, based on AS-29 "Provisions, Contingent Liabilities & Contingent Assets" issued by ICAI while finalizing books of account. It is a fact on record that such provisions were made in view of accrual method of accounting followed by the assessee and the same were reversed in the books of account on the first day of the immediately succeeding year.

In view of the aforesaid observations it was held that the assessee cannot be treated as an 'assessee in default' for mere book entries passed within the meaning of section 201(1) of the Act and consequentially interest u/s 201(1A) is also directed to be deleted.

Shivamm Industries Vs. The Dy. Commissioner of Income Tax

Facts - Disallowance of Rs.13,04,591/- on account of Employees Contribution to PF/ESIC which was paid beyond the due dates mentioned in the relevant statute.

It is an admitted fact in the Audit Report that it is mentioned that amount of Rs.13,04,591/- was paid beyond the due date mentioned in the respective statute.

ITAT upheld suo motu rectification u/s 154 to disallow delayed ESI and PF payments for giving effect to SC ruling Checkmate Services; Regular assessment was completed with certain other disallowances and Revenue thereafter initiated rectification proceedings u/s 154 seeking to disallow the expenditure of Rs.13.04 Lac towards delay in PF/ESIC payments; Relies on coordinate bench ruling in Cemtile Industries wherein it was held that the disallowance arising from indication in the audit report about delayed remittance of employees' contribution to PF squarely falls under clause (iv) of Section 143(1) for prima facie adjustment; Subsequent interpretation of law by the Supreme Court would constitute as mistake apparent from record.

Shahlon Silk Industries (P.) Ltd. V Assistant Commissioner of Income-tax

Facts - The Assessing officer was not justified in reopening of the Assessment u/s 148 that too after



completion of the earlier Scrutiny Assessment & time period of 4 years has been elapsed. The Assessee is a Private Limited Company. The Assessee claimed deduction against the Insurance Premium of Keyman Policy in the Return of Income. The matter was later selected for scrutiny assessment & the details of the policy along with the receipts of the premium were produced before the Assessing Officer during the proceedings. The AO was satisfied with the evidences & was of the view not to make any disallowances against such expenses. Hence, reopening of the case after completion of the four years will be tantamount to change of opinion & accordingly the HC disposed of the matter in favour of the assessee.

Adani Power Rajasthan Limited Vs. The Asst. Commissioner Income Tax

As per audit objections by IT Audit party, it is clear that the assessee has only disallowed Rs. 1,38,72,567 (Rs. 50,00,000 + Rs. 88,72,567) out of CRS expenses instead of disallowing the whole amount of Rs. 2,21,68,297. Thus, the disallowance is less by Rs. 82,95,730 in computation of total income for asst. yr. 2016-17.

While addressing the communication to the Principal CIT, the AO, had in clear terms stated that the objections raised by the audit party have been examined carefully and found to be not acceptable. AO replied that - Verification of case records reveal that the real nature of such expenses incurred is connected with business expediency. Besides, as per s. 37(1), Expln. (2) any expenditure incurred by an assessee on the activities relating to corporate social responsibility referred to in s. 135 of the Companies Act, 2013 should not be deemed to be an expenditure incurred by the assessee for the purpose of business or profession. In this regard the attention is drawn to Note No. 46 of notes forming part of financial statements (encl.) in which it has been stated that : as per s. 135 of the Companies Act, 2013, a Corporate Social Responsibility (CSR) committee has been formed by the company. The company is not required to incur any CSR expenses as per requirement of s. 135 of the Companies Act, 2013. Even for the assessment year under consideration (asst. yr. 2016-17), provisions for CSR are not applicable to assessee. In view of the above it is crystal clear that the provisions of s. 135 of the Companies Act is not applicable to the assessee-company. It has incurred the CSR expenses voluntarily. The expenses incurred are wholly and exclusively for business purposes and is not in nature of capital expenses or personal nature and hence the same is allowable item of expenses under s. 37 of the Act.

Section 147 of the Act permits initiation of reassessment proceedings only when the AO has a reason to believe that income has escaped the assessment. Whenever the audit party raises objections, it may provide information, however, eventually it is the AO who should be satisfied himself and form a belief of his own that taxable income escaped the assessment. He cannot abdicate his decision making power by choosing to solely rely on the audit objection or follow such direction without his subjective satisfaction.

In the instant case, there are glaring facts which have been pointed out that the AO had no subjective satisfaction while issuing the notice of reopening. Therefore also, in this background, it is a settled law that any notice of reopening issued by the AO without any independent application of mind would lay down the validity. Accordingly, this petition is allowed.



ESTAGE PLANNIG - WILL OR TRUST

-By Adv. Deepak Chandak

It's fair to say that we are living in a new age of uncertainty with the COVID-19 pandemic. Concerns over the pandemic have 'led to a skyrocketing demand for wills, even among those who aren't senior citizens,' according to an ABC News report.

None of us wants to imagine the worse future but now in current scenario it's preferable to consider both positive and negative aspect and do proper estate planning. Normally when we mention estate planning it is considered as written will or getting will register but there are other option as well for estate planning. Let's look into the two main methods of ESTATE PLANNING.

Before proceeding, let's make estate planning clear to you all.

"Estate planning in simple terms refers to the passing assets / investments down from one generation to another. You decide how much of your estate – be it property(s), car(s), personal accolades, financial investments, etc. – you want to pass on to whom and how, after your demise."

There are two methods of Estate Planning :-

1. Will

2. Trust

1. WILL - As the name suggest Will meaning Wish. In legal terminology, will means a document that expresses the last wishes of a person. The person who created the will is known as a testator. A will contain a declaration of the testator, regarding the management and distribution of his personal estate. A will in Indian terminology is "VASIYAT" prepared generally by us, mentioning the ways of transfer of assets to the next generation, family members, spouse etc. The will comes to effect after the death of the proprietor.

2. TRUST - A trust is defined as a legal arrangement, in which the trust owner authorizes a person called a trustee, to hold the asset, for the benefit of a third party called the beneficiary. It allows a person to nominate beneficiaries of his assets, before or after he passes away. There is no requirement of court interference in trust case and also it is created with intention of reduce tax liability.

Which estate planning method to choose ?

It depends on certain criteria. Let's get into it-

- Regardless of your net worth, if you foresee the need to plan in case of mental incapacity even if your asset is in sole name then a person should choose trust. Since one of the requirements of will is that it should be created with sound mind.
- The largest asset young parents have is life insurance policy or retirement amount. If any of the parent died or separated, and they want to name their property to the child then they should go for the trust. In trust the trustee will hold the asset instead of the guardian and mention clause to receive inheritance to children when they attend legal age.

- In case of single person having property in sole name should go for revocable trust. The two benefit of such would be- it will keep your asset out of court-supervised guardian and to allow your beneficiaries to avoid the costs and hassles of probate. But if cost of creation of trust surpasses the asset value then it better to choose will.
- A last will and testament that is filed with the probate court becomes a public court record that anyone can read. Contrast this with a revocable living trust, which is a private contract between you as the trust maker and you as the trustee. If a person have privacy concern then go for trust.
- The cost of creating trust is more than the will, thus if want to go for relatively simple and cost cutting approach then will is the way to go. Also the trust have to keep funded thus person holding large assets should go for it. Rest should choose will as the option.

MEETINGS OF GOVERNING BOARD WITH VARIOUS INCOME-TAX OFFICIALS



CCIT, Shri Bir Birsa Ekka



JCIT, Range-I, Shri Virendra Kumar



Pr. CCIT, Shri Pradeep S. Hedao



DCIT (TDS), Shri D.S. Meena



TREATMENT OF SHARE TRANSACTIONS IN INCOME TAX RETURN

-By Adv. Santosh Sahu

The COVID 19 saw the rise in COVID cases as well as Demat account. Many people while sitting idle at their home developed the interest in the shares dealing. Though it's a good income generating tool, but people are unaware of the tax effect on the share transactions.

This unawareness among the investors are the major reason of difficulty for the ITR preparer. The Income Tax consultant when asked the client about their share information, many of them don't disclose it.

The government of India has launched the AIS/TIS form in Income Tax portal which clearly depicts any share transaction incurred by the assessee in the current year. Any purchase or sales of equity shares/ listed shares/ debentures/ mutual funds etc is shown under the form. Thus, hiding the information from the Income Tax Consultant will be unfair.

There is confusion among the place to shown income for the transaction in share, Mutual fund transaction. Below mention table show under which head to show the income.

| PARTICULARS | ITR HEAD | NARRATION |
|-----------------------------|---|--|
| Income from Intra Day | to be shown under business income (speculative) | Amount would be net of profit and loss |
| Loss from intra day | to be shown under business income (speculative) | Amount would be net of profit and loss |
| Income from Long term gain | To be shown under capital gain | scrip wise detail need to be mention |
| Income from short term gain | To be shown under capital gain | Scrip wise Detail NOT required |
| Income from F & O | To be shown under business head (non speculative) | Net turnover to be shown |
| Loss from F & O | To be shown under business head (non speculative) | Audit required for claiming such loss |

Thus, the selection of income under the below mentioned head respectively put the assessee to file in ITR form no ITR 4, ITR 3, ITR 2.

Hiding the material information about transaction related to dealing in shares would lead to the notices from the department since such are easily accessed from the AIS form.

It is advisable to be aware of the tax effect on the income / loss generating from the share transactions and provide information to the ITR preparer as when required.



MEMBERS OF ITBA IN LEADERSHIP SERVICES IN OTHER COMMUNITIES



Congratulations CA Rupesh Jain
for being elected President of
Rotary Club of Raipur West



Congratulations CA Gulab Kedia for being
nominated as spokesperson of C.G.
State Unit of Aam Aadmi Party

CHARGE HAND-OVER OF GOVERNING BOARD





GLIMPSES OF RECENT ACTIVITIES

NATIONAL SEMINAR

30th JUNE, 2023

National Seminar under the banner of All India Federation of Tax Practitioners was organised By ITBA, Raipur on 30th June, 2023 in association with Federation of CG Income Tax Bar Association and Raipur Branch of CIRC of ICAI.

The Seminar was inaugurated through the hands of President of AIFTP Adv. Pankaj Ghiya, Secretary general of AIFTP CA Rajesh Mehta, National Vice-President of AIFTP CA Anil Mathur and many more distinguished professional across India.

CA Prashanth GS from Bengaluru discussed the provisions of assessments and reassessments u/s 147 and procedures u/s 148, 148A and 151. Adv. Mukul Gupta discussed Search, seizure and arrest provisions under GST law.

The whole Seminar was well coordinated in the leadership of Past President of ITBA, Raipur CA Rajesh B. Doshi.





GLIMPSES OF RECENT ACTIVITIES

51st ANNUAL GENERAL MEETING

30th JUNE, 2023

The Annual General Meeting of the Income Tax Bar Association, Raipur, convened on 30th June was a significant milestone in our continued journey of professional excellence and collaboration. Esteemed members gathered to deliberate on pivotal matters that shape our association's direction and fortify our contributions to the taxation community.

Retiring Past President CA Sakshi Gopal Agrawal and governing board felicitated the members who contributed with their expertise, suggestions and leadership.

Election-officer, Past President CA Gulab Kedia declared the final list of members of governing board for the session 2023-24.

Adv. Harish Bajaj took charge of the Association as President.





GLIMPSES OF RECENT ACTIVITIES

LECTURE MEETING

8th JULY, 2023

CA Prakhar Jain delivered an enlightening deliberation that covered various crucial aspects of Problems in filing of Income-tax returns. He shed light on the recent changes in ITR forms, exploring the nuances and intricacies associated with them. From highlighting the complexities in reporting foreign assets to discussing the impact of crypto currencies on taxation, his session left us with a deeper understanding of these pressing matters. Members whose birthday falls in July were also being greeted by esteemed dignitaries.





INCOME TAX BAR ASSOCIATION

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