INCOME TAX

Income-tax (9th Amendment) Rules, 2013:

Sub clause e was introduced in section 43 (5) of the Income Tax Act excluded transactions in commodity derivatives from the scope of speculative transactions. Consequently, rule 6DDC is notified prescribing conditions under which such a transaction will be treated as non-speculative transactions.

Extension of Due date for filing returns:

The due date under section 139(1) of the Income-tax Act, 1961 for filing the return has been extended for the State of Uttarakhand from 31st July, 2013 to 31st October, 2013.

The Central Board of Direct Taxes has also extended the due date under section 139(1) of the Income-tax Act, 1961, for filing Returns of Income for the rest of India from 31st July, 2013 to **5th August, 2013.**

Taxpayers to get unique number for complaints regarding I-T refund and Tax computations

The Central Board of Direct Taxes has instructed all the Chief Commissioners to ensure that the taxpayers having grievances regarding their I-T refunds and tax computations will now get a unique acknowledgement number with an assurance that their complaint will be resolved within two months time.

Whether the taxpayer files his rectification application by ordinary post, by hand or online, the receipt counter of the department will generate a special and unique acknowledgement number for the taxpayer by which he or she will be assured of solving the grievance within a stipulated time. The taxpayer can quote this number in any further communication with the department.

In cases of e-filing of tax returns that reach the Central Processing Centre of the department in Bangalore same procedures would be followed by them and in case the CPC is unable to do so, it will immediately inform the assessing officer of the taxpayer to take remedial action.

(Instruction No. 03/2013 dated 05.07.2013)

SEBI

Arbitration Mechanism in Stock Exchanges:

SEBI has issued a circular deciding to increase the number of investor service centers providing inter alia arbitration facility (arbitration as well as appellate arbitration) from 8 places to 16 places.

Hence, all Stock Exchanges with nation-wide terminals would have to set-up these facilities latest by June 30, 2014.

RBI

Migration of Post-dated cheques (PDC) to Electronic Clearing Service (Debit):

No fresh/additional Post Dated Cheques (PDC)/Equated Monthly Installment (EMI) cheques (either in old format or new CTS-2010 format) shall be accepted in locations where the facility of ECS/RECS (Debit) is available. The existing PDCs/EMI cheques in such locations may be converted into ECS/RECS (Debit) by obtaining fresh ECS (Debit) mandates. Cheques complying with CTS-2010 standard formats shall alone be obtained in locations, where the facility of ECS/RECS is not available.

Section 42(1) of the Reserve Bank of India Act, 1934 - Change in Daily Minimum Cash Reserve Maintenance Requirement:

Currently, banks are allowed to maintain a minimum of 70 per cent of the required Cash Reserve Ratio (CRR) during a fortnight, which is applicable on all days of the reporting fortnight. It has been decided to increase the requirement of minimum daily CRR balance maintenance to 99 per cent effective from the first day of the fortnight beginning July 27, 2013.

Simplifying norms for Periodical Updation of KYC:

Full KYC exercise will be required to be done

- at least every two years for high risk individuals and entities,
- at least every eight years for medium risk individuals and entities and
- at least every ten years for low risk

Positive confirmation (obtaining KYC related updates through email/letter/telephonic conversation/ forms/interviews/visits, etc.), will be required to be completed at least every two years for medium risk and at least every three years for low risk individuals and entities.

Fresh photographs will be required to be obtained from minor customer on becoming major.

Export of Goods and Software – Realisation and Repatriation of export proceeds – Liberalisation:

In terms of A.P. (DIR Series) Circular No. 105 dated May 20, 2013 it was decided, in consultation with the Government of India to bring down the above stated realization period from twelve months to nine months from the date of export valid till September 30, 2013.

CENTRAL EXCISE

Exemption from Central Excise duty:

Central Government exempts the scheduled formulations as defined under the Drugs Price Control Order (DPCO), 2013 falling under Chapter 30 of the First Schedule to the Central Excise Tariff Act, 1985 (5 of 1986) and which are subjected to re-printing, re-labeling, re-packing or stickering, in a premises which is not registered under the Central Excise Act, 1944 (1 of 1944) or the rules made thereunder, in pursuance of the provisions contained in the said Drugs Price Control Order (DPCO), 2013, from whole of the duty of excise leviable thereon under the said Central Excise Act subject to the conditions specified in the said notification.

(Notification No.22 /2013-Central Excise)

SUMMARY OF IMPORTANT JUDGEMENTS:

Unless otherwise stated, the sections mentioned hereunder relate to the Income Tax Act, 1961.

Sr. No	Tribunal / Court	Area/ Section covered	Nature	Case Law
1	ITAT Lucknow	Sec. 68 of the Income Tax Act	Maintaining books of Accounts is a pre-requisite to tax unexplained cash credit; No addition for deposit in bank account in absence of books	ITO vs. Kamal Kumar Mishra
2	ITAT-Ahmedabad	Sec. 92C of the Income Tax Act (Transfer Pricing)	CUP Method in Transfer Pricing for determining "Arm's Length Price" (ALP), deals with the price of a product and not the profit margin earned thereon.	Sabic Innovative Plastic India (P) Ltd. vs. Dy. CIT
3	Madras High Court	Sec. 54EC and Sec. 70(3) of the Income Tax Act	Section 54EC benefit to be worked out before setting off long-term capital losses under section 70(3)	CIT vs. Vijay M. Mahtaney
4	Karnataka High Court	Concealment Penalty imposed u/s 271 of the Income Tax Act	Karnataka HC lays down law on imposition of concealment penalty	CIT vs. Manjunatha Cotton & Ginning Factory
5	ITAT- Jaipur	Method of Accounting under AS-7	Percentage Completion Method isn't mandatory for real estate developers, they can either follow Percentage Completion Method or Completed Contract Method	Krish Infrastructure (P) Ltd. vs. ACIT
6	ITAT-Agra	Rule 53-55 of Income Tax Rules	Certificate of registration as Income Tax Practitioner is mandatory to represent before revenue authority	Samagra Vikas Mahila Samiti vs. CIT

7	Uttarakhand High Court	Sec. 36 (1) (va) of Income Tax Act	Due date under sec. 36(1)(va) for payment of employee's contribution to PF is same as contemplated under section 43B	CIT vs. Kichha Sugar Co. Ltd.
8	Delhi High Court	Offence under Section 276CC of Income Tax Act	HC presumes existence of culpable mind in not filing return within time; confirms prosecution	ACIT vs. Nilofar Currimbhoy
9	Gujarat High Court	Section 142(2A) of Income Tax Act	Special audit can be directed without providing an opportunity of personal hearing to assessee	Neesa Leisure Ltd. vs. Dy. CIT
10	ITAT-Mumbai	Section 24(b) of Income Tax Act	Pre-payment charges for closure of housing loan are eligible for section 24 deduction	Windermere Properties (P.) Ltd. vs. Dy. CIT
11	ITAT-Delhi	Section 17 of Income Tax Act	ESOPs from foreign employer are taxable in India if these relate to services rendered by employee in India	ACIT vs. Robert Arthur Keltz

1) Books of Accounts is a pre-requisite to tax unexplained cash credit; No addition for deposit in bank account in absence of books

[ITO vs. Kamal Kumar Mishra (ITAT-Lucknow)]

The assessee had not maintained any books of account. During assessment, the AO invoked the provisions of section 68 and made additions of all the deposits made by assessee in his bank account. The assessee, however, contended that the provisions of section 68 could only be invoked where any sum was found credited in his books of account. On appeal, the CIT (A) deleted the additions. Aggrieved-revenue filed the instant appeal.

The Tribunal held in favour of assessee as under:

The provisions of section 68 can only be invoked if any sum is found credited in the books of account maintained by assessee and the assessee offers no explanation about the nature and source thereof or the explanation offered by him isn't, in the opinion of the Income-tax Officer, satisfactory. In this eventuality, the said sum so credited may be charged to income-tax as the income of the assessee of that previous year;

The passbook issued by the bank can't be termed to be the books of account of the assessee as per the judgment of the Bombay High Court in *CIT v. Bhaichand N. Gandhi [1982] 11 Taxman 59.* Therefore, the provisions of section 68 can't be invoked on various deposits or credits found in the bank account of the assessee in the absence of any books of accounts maintained by assessee for the previous year;

Though provisions of section 68 couldn't be invoked on the deposits made in the bank account of the assessee, yet the veracity of the additions made by the AO on certain deposits by invoking the provisions of section 68 examined and the assessee had furnished reasonable and plausible explanations along with confirmation with regard to different deposits. Thus, there was no infirmity in the order of CIT(A).

Observation:- Provisions of Section 68 are deeming provisions and as such are to be construed strictly . Since section can be made applicable only when books are maintained by the assessee, AO cannot invoke Section 68 when Books of Account are not maintained. Moreover, this judgment reiterates the stand that Bank Pass book cannot be treated as Books of Account.

2) CUP method deals with price of a product and not the profit margin earned thereon

[Sabic Innovative Plastic India (P) Ltd. vs. Dy. CIT (ITAT- Ahmedabad)]

CIT (A) in his order upheld the internal CUP (Comparable Uncontrolled Price) Method but when dealt with profit margins instead of prices, it was an incorrect application of internal CUP Method. Application of any CUP method either internal or external involves dealing with prices of a product and not the profit margin earned thereon. Even in the case of 'internal CUP' Method, the arm's length price to be adopted is the price, subject to admissible adjustments at which the similar transactions are carried out between the assessee and an independent enterprise. Internal CUP has nothing to do with the margins earned by the same enterprise from other transactions.

Observations:- If the CUP Method under Section 92C of the Income Tax Act is adopted for determining the "Arm's Length Price" (ALP), only the internal or external prices must be taken into consideration and not the profit margin.

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3) Section 54EC benefit to be worked out before setting off long-term capital losses under section 70(3)

[CIT, Circle -XIV vs. Vijay M. Mahtaney (Madras High Court)]

If for working out the relief under Section 54, the Revenue does not insist upon the applicability of Section 70(3), then there is no acceptable reason as to how provisions of Section 70(3) would stand attracted in the case of Section 54EC?;

Revenue's argument that for the purpose of working out the relief under Section 54 EC, one has to take recourse first to Section 70(3) and then only look at Section 54 EC deserved to be rejected;

A reading of Section 70(3) shows that the loss that has to be looked at first isn't with reference to the loss arising in respect of any new capital asset, but in the totality of the loss suffered on the sale of capital asset chargeable to tax under Section 45;

On the other hand, Section 54EC is specific with reference to investment in specified bonds as regards the capital gain arising from and out of a long-term capital asset;

Thus, going by the scheme of the Act, for taking benefit under Section 54EC, it is not necessary that one should first apply Section 70(3) and thereafter, the assessee could invest the capital gain arising from the long-term capital asset to any specified bond under Section 54EC.

Therefore, revenue's appeal stood dismissed.

Observation:- For taking benefit under Section 54EC, it is not necessary that one should first apply Section 70(3) and thereafter, the assessee could invest the capital gain arising from the long-term capital asset to any specified bond under Section 54EC, ie. The loss under the head of Capital Gains can be carried forward if entire Capital Gains earned in the previous year are adjusted against the deduction u/s 54EC.

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4) Karnataka HC lays down law on imposition of concealment penalty

[CIT vs. Manjunatha Cotton & Ginning Factory (Karnataka High Court)]

Appeals were filed before the Karnataka HC regarding imposition of penalty. The HC interpreted section 271 and laid down law as under:

i) Penalty under section 271(1)(c) is a civil liability;

ii) *Mens rea* (guilty mind) isn't an essential element for imposing penalty for breach of civil obligations or liabilities;

iii) Existence of conditions stipulated in section 271(1)(c) is a *sine qua non* (without which it wouldn't be possible) for initiation of penalty proceedings. Even if these conditions do not exist in the assessment order, at least a direction to initiate proceedings under section 271(1)(c) is a *sine qua non* for the AO to initiate the proceedings because of the deeming provision contained in section 271(1B);

iv) Imposition of penalty even if the tax liability is admitted is not automatic. Even if the assessee has not challenged the order of assessment levying tax and interest and has paid tax and interest, that by itself would not be sufficient for the authorities either to initiate penalty proceedings or to impose penalty, unless it is discernible from the assessment order that it is on account of such unearthing or enquiry concluded by authorities it has resulted in payment of such tax;

v) Even though explanation offered, has not been substantiated by the assessee, but is found to be bonafide and all facts relating to the same and material to the computation of his total income have been disclosed by him, no penalty can be imposed;

vi) The penalty proceedings are distinct from the assessment proceedings. The proceedings for imposition of penalty, though emanate from proceedings of assessment, yet are independent and separate aspect of the proceedings. The

findings recorded in the assessment proceedings, in so far as 'concealment of income' and 'furnishing of incorrect particulars' would not operate as *res judicata* (matter already judged) in the penalty proceedings;

vii) It is open to the assessee to contest the said proceedings on merits. However, the validity of the assessment or reassessment, in pursuance of which penalty is levied, cannot be the subject matter of penalty proceedings. The assessment or reassessment cannot be declared as invalid in the penalty proceedings;

Thus, in light of the above it was clear that merely because the assessee had agreed for certain addition and, accordingly, assessment order was passed and when the assessee had paid the tax and the interest thereon in the absence of any material on record to show the concealment of income, it couldn't be inferred that the said addition was on account of concealment.

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5) Percentage Completion Method isn't mandatory for real estate developers, they can follow either Percentage Completion Method or completed contract method

[Krish Infrastructure (P) Ltd. vs. ACIT (ITAT- Jaipur)]

The assessee was engaged in the business of developing and selling real estate projects. It filed *nil* return of income for both the assessment years 2008-09 and 2009-10, by adopting Project Completion Method. During assessment, the AO rejected the assessee's accounts on the ground that it hadn't followed AS-7 for recognition of revenue as per which income was to be deduced on the basis of Percentage Completion Method. The AO, accordingly, computed the profit on percentage completion method and completed the assessment. Further, CIT(A) upheld the action of action of AO.

On appeal, the Tribunal held in favour of assessee as under:

The assessee maintained complete books of account, which were duly audited by qualified Chartered Accountants. It had also maintained its account on mercantile basis by regularly applying Project Completion Method. The assessee had been consistently following the same method. The auditors had reported no change in method of accounting adopted by the assessee;

The real estate developers are not pure contractors but are sellers of flats or goods. It is not mandatory for all real

estate developers to follow Percentage Completion Method as per AS-7 prescribed by ICAI. The AS-7 recognizes the position that in the case of construction contracts the assessee could follow either the Project Completion Method or Percentage Completion Method.;

The Apex Court in the case of CIT v. Hyundai Heavy Industries Co. Ltd., [2007] 161 Taxman 191 (SC) also took the similar view and held that both the methods of accounting (i.e., Project Completion Method and Completed Contract method) were recognized methods of accounting. The assessee was at liberty to choose any of the above methods and if any one of the method of accounting was consistently followed by the assessee, the AO couldn't change such method of accounting;

The completed contract method followed by the assessee, in the instant case, therefore, could not be faulted with by the revenue authorities and on that basis it was not correct to say that the accounts of assessee did not present correct and complete picture of its profits;

Therefore, there was no justification in rejection of accounts by application of provisions of section 145(3) and changing the method from project completion to percentage completion method by the AO, which was upheld by the CIT(A). Therefore, the order of the Commissioner (Appeals) was to be set aside.

Observations: If a particular method is consistently followed, it shall be acceptable by Income Tax Authorities.

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6) Certificate of registration as Income Tax Practitioner is mandatory to represent before revenue authority

[Samagra Vikas Mahila Samiti vs. CIT (ITAT-Agra)]

Mr. Y (representative of assessee) was not advocate registered with the State Bar Council. Therefore, he should not have claimed that since he was retired departmental Officer, therefore, without any certificate of registration as ITP he could appear before the Income-tax Authorities and the Tribunal;

He had also admitted that though he was practicing in Gwalior, but he was not registered with the CIT, Gwalior. His claim was totally wrong and his conduct was liable to be impeached. Section 288(2)(v) & (vi) provides the meaning of 'authorized representative' who have passed any accountancy examination recognized by the Board or any person who has acquired such educational qualifications prescribed by the Board in this behalf;

Mere possession of educational qualification without undergoing departmental examination by the Board isn't sufficient to have any right to practice as ITP. According to Rule 53, 54

and 55 of the IT Rules, the Chief CIT or the CIT shall have to maintain prescribed form to register ITP to whom certificate is issued;

The person, who claims to be registered as ITP shall have to file proper application supported by documents to prove his accountancy examination recognized and educational qualifications achieved by him as per Rules;

The above provisions of the IT Act and IT Rules clearly prove that Mr. Y is not ITP as provided in the Income-tax Act and Rules. Therefore, without any certificate of registration in his favour under the above provisions, he couldn't practice before the IT authorities and the Tribunal.

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7) Due date under sec. 36(1)(va) for payment of employee's contribution to PF is same as contemplated under section 43B

[CIT vs. Kichha Sugar Co. Ltd. (Uttarakhand High Court)]

The AO had disallowed the payment made by the assessee to the Provident Fund Authority on account of employee's contribution towards Provident Fund since there was delay in payment. On appeal, the CIT (A) held that since the money had already been paid by the assessee and was no longer in the hands of assessee it could not be taken as income. Further, the Tribunal confirmed the decision of CIT (A). Aggrieved revenue filed the instant appeal.

The HC held in favour of assessee as under:

Any sum received by the assessee from his employees towards contributions to the Provident Fund is the income of the assessee, however, section 36(1)(va) allows deduction if contribution thus received is deposited on or before the due date;

The due date referred to in section 36(1)(va) is to be read in conjunction with section 43B(b) and a reading of the same would make it amply clear that the due date as mentioned in section 36(1)(va), is the due date as mentioned in section 43B(b), i.e., payment or contribution made to the Provident Fund Authority before the filing the return for the year in which the liability to pay has accrued;

The AO proceeded on the basis that 'due date', as mentioned in section 36(1)(va) was the due date fixed by the Provident Fund Authority, whereas he was required to take note of section 43B(b). By not taking note of the provisions contained therein, he committed gross error, which had been rectified by the appellate authority and confirmed by the Tribunal. So, there was no scope of interference in the order of the Tribunal.

Observation: Considering the diversity of opinions/ views by different High Courts, it is advisable to have a consensus on this matter by the Supreme Court.

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8) HC presumes existence of culpable mind in not filing return within time; confirms prosecution

[ACIT vs. Nilofar Currimbhoy (Delhi High Court)]

The assessee had filed the return of income on 1-5-1995 for assessment year 1994-95. The revenue's case was that inspite of several notices issued to assessee, she had filed the return of income beyond the statutory period. Therefore, delay in filing return was willful and deliberate and, thus, she was liable to be prosecuted and punished under section 276CC. However, the trial Court and the Sessions Court discharged the assessee. The revenue then filed the petition seeking reversal of orders of both the Courts.

The High Court held as under:

It was not in dispute that the assessee had not filed the return for the assessment year 1994-95 within prescribed period and not even within the period within which the revenue had required her to do so. The assessee had not even responded to the communications sent by the revenue requiring her to file return of income or to show the proof of filing. So, the offence under Section 276CC stood committed by that time and for that offence, the department could file a criminal complaint against her after obtaining requisite sanction from the competent authority which it did obtain and complaint was filed in Court;

It was for the respondent to establish during the trial that her failure to file return was not willful. The Courts went wrong in going into the question as to whether the explanation offered by the assessee before the filing of the complaint in Court was rightly rejected or not;

Once the complaint stood filed, the trial Court was only required to examine whether cognizance was to be taken or not and if it was decided to take cognizance, thereafter, trail Court was required to examine whether in the pre-charge evidence the complainant had been able to show that the assessee had not filed her return for the relevant assessment year within the prescribed period, which fact in the present case was not even disputed by the assessee;

So, after raising the presumption under section 278E, the trial Court should have framed the charge against the assessee leaving it to her to show thereafter that there was no willful default on her part. Just because the assessee had applied for the compounding of the offence before the filing of the complaint against her in Court, and the same had not been

decided before the filing of the complaint, it could not be said that the complaint was not maintainable;

The trial Court was not required to examine at the stage of charge as to why the department was not compounding the offence in the case of the respondent herein. If she was aggrieved by any action or inaction on the part of the authority for compounding, she would have had recourse to legal remedies instead of waiting for the prosecution to be launched by the department;

The revisional Court also did not go into the aforesaid aspects and simply affixed its seal of approval to the order of the trail Court and, therefore, its order also couldn't be sustained. This petition, accordingly, was allowed. The impugned orders of the trial Court and the revisional Court were set aside.

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9) Special audit can be directed without providing an opportunity of personal hearing to assessee

[Neesa Leisure Ltd. vs. Dy. CIT (Gujarat High Court)]

The assessee-company was opposed to the proposal of special audit on the ground that there were no complexities in the accounts and contented that proviso to section 142(2A) provides an opportunity of personal hearing to assessee.

The HC held as under:

The requirement of personal hearing is normally not seen as necessary concomitant to a reasonable opportunity of being heard. The same depends on the statutory provisions from which such right flows, the nature of the proceedings and the consequences likely to follow from such proceedings;

The proviso to section 142(2A) does not envisage any personal hearing before an order under sub-section (2A) can be passed. The said proviso only requires giving a reasonable opportunity of being heard to the assessee. Such reasonable opportunity ordinarily would not include right of personal hearing;

It was strongly argued by assessee that the very fact that the AO believed that the accounts were complex, it meant that the issues were complex and the personal hearing was required. This contention was misconceived. Complexity of accounts and complexity of the question whether accounts were complex or not were two totally different things;

Thus, a clear distinction had to be drawn between the two. Whether the accounts were complex so as to call for special audit was one aspect. Another aspect was whether the question to ascertain if the accounts were complex was itself a complex question. This would have a bearing on whether personal hearing was

necessary. Thus, assessee's contention of personal hearing was rejected;

Coming to the question of validity of the order on the premise of complexity and the requirement of interest of revenue, it was noticed that the assessee had been given previous notice under section 142(1) with respect to its accounts. For a long time the assessee did not comply with such notices;

The authorities had highlighted several aspects of the matter to indicate that the accounts were complex and that interest of revenue would be served if the special audit report was obtained. The various points on which the AO desired that the auditor should make a report itself would demonstrate that the accounts were complex;

The AO had sufficient material at his command to form an opinion that the accounts were complex and that it was in the interest of the revenue to get them audited by the special auditor. Thus, there was no merit in instant petition and the same was to be dismissed.

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10) Pre-payment charges for closure of housing loan are eligible for section 24 deduction

[Windermere Properties (P.) Ltd. vs. Dy. CIT (ITAT-Mumbai)]

During the assessment, the AO disallowed the assessee's claim for deduction of prepayment charges on closure of housing loan. Further, the CIT (A) upheld the disallowance. Aggrieved assessee filed the instant appeal.

The Tribunal held in favour of assessee as under:

The definition of interest under section 2(28A) makes it clear that it has basically two components, firstly, the amount of interest for moneys borrowed and secondly, the amount paid by whatever name called in respect of the money borrowed or debt incurred;

The second category might also encompass any charges paid for not utilizing the credit facility. By incorporating the definition of 'interest' in section 24(b), the position that emerges is that not only the amount paid as interest but also any other amount paid, by whatever name, called, in relation to such debt incurred also qualifies for deduction;

By early repayment, the assessee managed to wipe out its interest liability in respect of the loan, which would have otherwise qualified for deduction under section 24(b) during the continuation of loan;

It was obvious that these prepayments had live and direct link with the

obtaining of loan which was availed for acquisition of property. It was beyond comprehension as to how the amount paid as interest on the loan taken was allowable as deduction but the amount paid as prepayment charges of the very same loan was not deductible;

The payment of such 'prepayment charges' couldn't be considered as de hors the loan obtained for acquisition or construction or repair, etc., of the property on which interest was deductible under section 24(b). Both, the direct interest and prepayment charges, were species of the term 'interest'. Therefore, the impugned order of CIT(A) was to be set aside and deduction claimed by the assessee was to be granted.

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11) ESOPs from foreign employer are taxable in India if these relate to services rendered by employee in India

[ACIT vs. Robert Arthur Keltz (ITAT-Delhi)]

In the instant case the assessee, an employee of foreign company, had exercised ESOPs while on his assignment in India. He, therefore, offered to tax the amount of proportionate ESOP earned in India, i.e., proportionate to the number of days of his assignment in India. However, the AO while framing the assessment brought to tax the entire amount of perquisite on account of stock options. On appeal, the CIT (A) allowed assessee's appeal. Aggrieved revenue filed the instant appeal.

The Tribunal held in favour of assessee as under:

The principle laid down by the Delhi 'I' Bench in the case of Asstt. CIT v. Ellin 'D' Rozario [IT Appeal No. 2918 (Delhi) of 2005, dated 5-12-2008] was that only proportionate salary would be taxable in India, if a part of activity done by the assessee had no relation to any India-specific job or activity;

In the instant case, it was not in dispute that the assessee was in India only for a short period and prior to it, he had not done any service connected with any activity in India;

As the assessee had not rendered service in India for the whole grant period, applying the proposition laid down, only such proportion of the ESOP would be taxable in India as related to the service rendered by the assessee in India.

DUE DATES CHART FOR THE MONTH OF AUGUST (Various Acts):

Date	Particulars
5th	Service Tax payment for the previous month (6th if paid electronically)
5th	Return of Income and Wealth of Non- corporate assessees.
6th	Payment of Excise Duty for all assesses for the previous month (except SSI Units)
7th	TDS remittance for the previous month
10th	Monthly Excise return by all assesses (except SSI Units) coming under CEA in Form ER1
10th	Quarterly Excise return by 100% EOU assesses coming under CEA in Form ER 2
10th	Monthly Excise return by specified class of assesses regarding principal inputs coming under CEA in Form ER 6
20th	Payment of contribution under Employee EPF & MP Act, 1952 (including 5 days of grace)
21st	Payment of contribution under Employees State Insurance Act, 1948
20th	Payment of Monthly MVAT under MVAT Act, 2002*
31st	Payment of Profession Tax for the employees
31st	Filing of Annual Information return

*If payment of MVAT is made as per time prescribed, additional 10 days are given for uploading e-return.

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This communication is intended to provide general information, guidance on various professional subject matter and should not be regarded as a basis for taking decisions on specific matters. In such instances, separate advice should be taken.