SNR & COMPANY
CHARTERED ACCOUNTANTS

INCOME TAX BULLETIN

JULY 2025

Delhi, Pune, Bangalore

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1. Deduction for 'Downside on Sale of Flats' is a business loss. Addition cannot be made under section 69C

Case of: ACIT vs. Scal Services Limited
Decision by: ITAT, Mumbai
Order Date: June 19, 2025
Appeal No.: ITA No. 3773/MUM/2024
In favour of: Assessee

Facts:

- Scal Services Limited had entered into MoUs with Bombay Dyeing & Manufacturing Company Ltd ("BDMC") to subscribe to flats under a structure where the Assessee bore all the commercial risk and reward thereon. As per these agreements, any increase ("Upside") or decrease ("Downside") between the contracted price payable to BDMC and the final sale consideration received from the end purchaser was recognized by the Assessee as business income or loss respectively.
- During AY 2018-19, on aggregate sale of 23 flats, Scal Services incurred a net downside of INR 19.10 crores (including INR 2.09 crores paid as brokerage reimbursement to BDMC) and claimed the entire amount as deductible business expenditure.

Issues Involved:

- Whether the "Downside on Sale of Flats" constitutes a deductible business expenditure.
- Whether the disallowance under Section 69C (unexplained expenditure) was justified given alleged insufficiency in documentation.

Tribunal Observations:

- The Tribunal noted that in earlier years, the Assessee had recognized upside gains under similar arrangements, which were accepted by the department without dispute, thus establishing a consistent business pattern.
- Contrary to the Revenue's claim of insufficient documentation, ITAT observed that the Assessee had furnished detailed evidence—including statements of downside and upside, MoUs, price sheets, brokerage vouchers, and banking records both during assessment and remand proceedings.
- The MoUs explicitly placed all commercial risk with the Assessee, which was acknowledged and acted upon in prior years without objection from Revenue, reinforcing the legitimacy of the arrangement.

Tribunal Decision:

- The ITAT upheld CIT(A)'s deletion of the addition under Section 69C, ruling that:
  - The loss on sale of flats constituted allowable business expenditure.
  - The addition based on Section 69C was unsustainable since the expenditure was disclosed and substantiated with valid contractual backing.

Read Judgement: [Scal Services Limited]

SNR's Take

- *Risk-reward transfer by contractual terms, when appropriately documented and consistently applied, supports allowance of losses even if formal ownership is indirect. Past acceptance of upside income strengthens the credibility of related downside loss claims—Revenue should not challenge losses emerging from identical structures previously accepted.*

- *If expenditure is fully disclosed and supported, statutory additions under unexplained expenditures cannot be upheld. For this, providing a complete audit trail—including MoUs, price sheets, statements, correspondence, banking details and brokerage support—can decisively tilt the matter in favour of the Assessee.*

2. Prior-Period Expense Argument rejected and allowed Business Loss Claim Given No Loss to Exchequer

Case of: Sourya Towers Pvt. Ltd. vs DCIT
Decision by: ITAT, Delhi
Order Date: 27th June 2025
Appeal No.: ITA No.1827/Del/2017
In favour of: Assessee

Facts:

- Sourya Towers, a real estate developer, incurred a loss of ₹64.72 crore on an abandoned real estate project in Amritsar for AY 2012-13. The project was abandoned due to an internal dispute among directors, eventually resolved by a compromise deed dated 20 July 2012.
- The amount was shown under current assets, and accordingly recognized as revenue loss, not capital expenditure.

Issues Involved:

- Can the loss arising in AY 2012-13 be claimed as ordinary business revenue loss, given that the event crystallized after the end of the prior year?
- Is the loss disallowable as a prior-period expense (capital in nature) that should have been reflected in AY 2010-11 instead?

Tribunal Observations

- Both the AO and CIT(A) accepted the reality of the loss; issue was timing only. ITAT noted that the compromise deed (20 July 2012) finalized the loss event and fell within AY 2012-13, not earlier.
- The assessee adopted AS 4 (Events after the Balance Sheet Date) and the matching principle, and accounts for AY 2011-12 were not final when the deed occurred, justifying recognition in AY 2012-13.
- Since the tax rate remained unchanged from AY 2010-11 onwards, recognizing the loss in AY 2012-13 would not cause revenue loss to the exchequer. Delhi HC and Supreme Court precedents (e.g. Dinesh Kumar Goel, Excel Industries Ltd.) affirm that the Revenue has no prejudice when tax rates remain consistent across relevant years.

Tribunal Decision

- ITAT allowed the entire ₹ 64.72 crore loss as a deductible business loss in AY 2012-13.
- It overturned the CIT(A) and AO disallowance, ruling that the loss was revenue in nature, arose in the ordinary course of the assessee's business, and was properly recognized using AS 4.

Full Judgement: [Sourya Towers Pvt. Ltd]

SNR's Take

Loss crystallization date determines the year of deduction—not when the underlying cause originated. \Post-balance-sheet events such as compromise deeds can support business loss recognition in the subsequent AY, even if the event relates to operations of prior year.

3. Addition under section 68 cannot be made for credit towards share capital & reserves to LLP partners' account on conversion

Case of: NICAF LLP vs ITO
Decision by: ITAT Mumbai
Order Date: 18 June 2025
Appeal No.: ITA No.1880/Mum/2025
In favour of: Assessee

Facts:

- NICAF Private Limited converted into **NICAF LLP** on 2 December 2016.
- At conversion, pre-conversion share capital (₹11.95 lakh) and reserves & surplus (₹2.72 crore) were credited to partners' capital accounts in the LLP.
- AO held this to violate **Section 47(xiiib)(f)**—which prohibits distribution of accumulated profits within 3 years of conversion—and consequently made addition under **Section 68** as unexplained credit in the hands of the LLP (KPMG, Indian Kanoon).
- CIT(A) deleted the addition, and Revenue appealed to ITAT.

Issues Involved:

- Whether Section 68 can be invoked in respect of credits of share capital and reserves transferred to partners on conversion.
- Whether violation of Section 47(xiiib)(f) automatically translates into unexplained credit under Section 68.

Tribunal Observations:

- Section 68 applies only when there is a credit in the assessee's books which the nature/source is unexplained. In this case, the credit was in partners' accounts, not in the LLP's books—hence Section 68 is wrongly invoked.
- Violation of Section 47(xiiib)(f) concerns eligibility for capital gains exemption. Even if violated, it does not generate an unexplained credit under Section 68.
- The transfer was purely an accounting entry, with no cash/benefits flowing to partners, and thus cannot be construed as distribution of accumulated profits.
- AO failed to demonstrate any unexplained credit in assessee's books; burden thus remained unfulfilled.

Tribunal Decision:

- The ITAT dismissed Revenue's appeal, confirming the deletion of the Section 68 addition by the CIT(A).
- The Tribunal also upheld the Assessee's cross-objection in full, holding that the ingredients of Section 68 were not attracted and the addition was unjustified.

Full Judgement: NICAF LLP

SNR's Take

- *Section 68 is Restricted to unexplained credits in the books of the assessee. It does not cover credits in partners' accounts. Further section 47(xiiib)(f) breach does not ripple to Section 68.*
- *Accounting entries without economic benefit do not constitute distribution of accumulated profits.*

4. Section 54F benefit to be allowed to a tenant in respect of Developer-Paid Flat Purchase

Case of: Allauddin Noormohamed Kadiwala vs ITO
Decision by: ITAT, Mumbai
Order Date: 19 June 2025
Appeal No.: ITA No. 6991/Mum/2024
In favour of: Assessee

Facts:

- The Assessee surrendered tenancy/possessory rights under a joint development agreement with M/s Delta Venture, receiving ₹50.59 lakhs as consideration for surrender.
- He used this amount to purchase a residential flat from Mr. Jaferali Jalal Momin on 6 March 2012.
- While ₹25 lakhs was paid via cheque within one year, the balance (~₹25.59 lakhs) was paid directly by the developer to the seller.
- The AO allowed deduction under Section 54F only up to ₹25 lakhs (paid via cheque) and disallowed balance, treating the later developer payment as beyond the statutory one-year window.
- The Assessee submitted a letter dated 1 June 2012, countersigned by the seller confirming full receipt and no outstanding dues from the Assessee regarding the flat purchase.

Issues Involved:

- Whether the Assessee is eligible for full deduction under Section 54F against LTCG arising from surrender of tenancy rights.
- Whether the timing and manner of payment (developer paying directly) restricts the exemption to only that portion paid via cheque within one year.

ITAT's Observations:

- The Tribunal noted that although the developer made the later payment, the purchase agreement was executed within one year of the LTCG event (surrender of rights), and possession was delivered—thus satisfying Section 54F conditions.
- The countersigned letter from the seller unequivocally states that the Assessee had no outstanding liability—even for the portion paid on his behalf, undercutting the AO's characterization of an informal journal entry.
- The Tribunal emphasized that the financial obligation was discharged (albeit by the developer), and no material suggests that possession or title shifted later than prescribed within the statutory period.

Tribunal Decision:

- The ITAT allowed the Assessee's appeal in full, holding that:
  - The Assessee validly discharged his contractual obligation within the statutory time; and
  - He is entitled to the full exemption under Section 54F on the full capital gain of ₹50.59 lakhs—not limited to ₹25 lakhs.

Full Judgement: Allauddin Noormohamed Kadiwala

SNR's Take

- *Even if a third party (developer) discharges payment obligations on behalf of the assessee, Section 54F deduction may still be fully available if the transaction occurs within prescribed timelines and is well-documented.*
- *Execution of the agreement and transfer of possession within the statutory period are more important than mode of payment.*

5. Waiver of sales tax liability constitutes business benefit, thus taxable u/s 28(iv):

Case of: Oricon Enterprises Ltd vs DCIT
Decision by: ITAT Mumbai
Appeal No.: ITA No. 2810/Mum/2024
In Favour of: Assessee
Date of Order: 16 June 2025

Facts:

- The Assessee had collected sales tax from customers but opted for a deferment scheme by the State Government, under which the tax liability was to be paid over a 10-year period.
- The State Government waived a portion of this deferred liability, resulting in a benefit of ₹90.22 lakhs to the Assessee.
- The Revenue added this benefit as income u/s 28(iv) read with Section 2(24)(xviii), classifying it as a perquisite or benefit arising from business.
- The Assessee contended that such waiver:
  - Was not "income" under existing provisions;
  - Is not taxable under ICDS-VII, which excludes government assistance whose value cannot be reasonably determined.

Tribunal Observations:

- The ITAT highlighted the amendment brought by Finance Act 2015 to Section 2(24)(xviii), which widened the scope of income to include "assistance in the form of subsidy, grant, cash incentive, duty drawback, waiver, concession, reimbursement, or otherwise…".
- Noted that 'assistance' includes waiver or concession by the government and need not necessarily be in cash; it includes "benefit or perquisite" whether convertible into money or not under Section 28(iv).
- Rejected the Assessee's reliance on ICDS-VII and ruled that Section 2(24)(xviii) overrides ICDS to the extent of inconsistency, affirming that ICDS cannot override statutory definitions introduced through legislative amendment.
- The ITAT concluded that the waiver conferred a direct business benefit, as the Assessee collected tax from customers but paid a reduced amount to the State—a clear monetary gain, even if not received in cash.

ITAT Ruling:

- "The waiver of deferred sales tax liability is a benefit accrued to the assessee arising out of its business… the waiver amount of ₹90,22,491 comes within the ambit of section 28(iv) and is to be brought under the head 'profits and gains of business or profession.'"
- The Tribunal dismissed the Assessee's appeal, upholding the Revenue's addition.

Full Judgement: [Oricon Enterprises Ltd]

SNR's Take

- *Waiver of deferred tax liability, even when non-cash in nature, is taxable under Section 28(iv). Following the Finance Act, 2015 amendment to Section 2(24), the scope of "income" now explicitly includes government waivers, concessions, and assistance.*
- *Further, the ruling reiterates that statutory provisions (Section 2/28) override ICDS if inconsistent, especially post-2015 changes.*

6. Trade Discount is not commission. So, no TDS Deduction is Required

Case of: Bajaj Auto Limited vs The DCIT
Decision by: ITAT, Mumbai
In Favour of: Revenue
Date of Order: 13 June 2025
Appeal No.: ITA No. 2786/MUM/2025

Facts:

- Bajaj Auto Limited, a leading Indian automobile manufacturer, offered various forms of discounts (target-based, consistency, and cash discounts) to its spare parts dealers.
- The Revenue treated these discounts as "commission", alleging that TDS was required to be deducted under Section 194H.
- Due to non-deduction of TDS, the Assessing Officer invoked Section 40(a)(ia) and disallowed the corresponding expenditure.

Issues Involved:

- Whether the discounts provided by the Assessee to its dealers qualify as "commission" within the meaning of Section 194H, thereby attracting TDS?
- Whether disallowance under Section 40(a)(ia) is warranted for non-deduction of TDS on such discounts?

Tribunal Observations:

- The ITAT analysed the dealer agreements and held that the relationship between the Assessee and dealers was on a principal-to-principal basis, with no agency element involved.
- The Tribunal found that the Revenue:
  - Did not carry out any factual inquiry with dealers.
  - Did not conduct any survey or investigation to establish that discounts were disguised commission payments.
- The Tribunal observed that:
  - The Assessee has been consistently offering such discounts for several decades as a business practice.
  - There is no material evidence to suggest that dealers acted on behalf of Bajaj Auto or were entitled to the discounts for services rendered.
- ITAT placed reliance on key judicial precedents:
  - SC in Ahmadabad Stamp Vendors Association – Bulk discount is not commission.
  - Bombay HC in CIT v. Intervet India Pvt. Ltd. – Trade discounts not subject to Section 194H.
  - Delhi HC in CIT v. Jai Drinks Pvt. Ltd. – Commission requires an agency relationship.

- The Tribunal reiterated that to invoke Section 194H, the payment must be made to a person acting on behalf of another for services rendered or facilitation of a sale, which was not the case here.

Tribunal Decision:

- The ITAT ruled that:
- The discounts were not in the nature of "commission", and therefore, Section 194H was not applicable.
- As a result, there was no obligation to deduct TDS, and the disallowance under Section 40(a)(ia) was deleted.

Full Judgement: Bajaj Auto Ltd

SNR's Take

Principal-to-principal transactions involving trade discounts are not liable to TDS under Section 194H. Mere classification of a payment as a "discount" by the Assessee does not attract Section 194H unless an agency relationship is clearly established.

Circulars/ Notifications:

1.CBDT Extends Timeline for Processing ITRs for AY 2023-24 under Section 143(1):

The Central Board of Direct Taxes (CBDT), vide its Order dated June 9, 2025, has extended the time limit prescribed under the second proviso to Section 143(1) of the Income-tax Act, 1961. The Order directs that valid income-tax returns electronically filed under Section 139 for Assessment Year 2023-24, which could not be processed within the statutory time frame, may now be processed and intimations under Section 143(1) may be issued up to November 30, 2025.

However, the extended timeline shall not apply to the following categories of returns:
(i) Returns that have been selected for scrutiny assessment; and
(ii) Returns that remain unprocessed due to reasons attributable to the assessee.

This move aims to facilitate timely disposal and issuance of refunds, wherever due, for pending returns of AY 2023-24.

Read Circular: F.No. 225/205/2024/ITA-II

2. CBDT Relaxes Time Limit for Processing Delayed Returns Filed Pursuant to Condonation under Section 119(2)(b):

The Central Board of Direct Taxes (CBDT), vide Circular No. 7/2025 dated June 25, 2025, has relaxed the time frame for processing valid income-tax returns filed electronically pursuant to condonation of delay under Section 119(2)(b) of the Income-tax Act, 1961.
As per the Circular, valid returns of income filed electronically on or before March 31, 2024, following condonation of delay under Section 119(2)(b), shall now be processed, and intimations under Section 143(1) may be issued up to March 31, 2026, even if the original statutory time limit for processing has expired.
However, this relaxation shall not apply in cases where any of the following actions have already been completed for the relevant assessment year subsequent to the filing of such return:

- Assessment under Section 143(3), 144 or 144B;
- Search or requisition-based assessments under Section 153A or 153C;
- Reassessment proceedings under Section 147 or 148;
- Re-computation or revision of income under other provisions of the Act.

This relief measure aims to facilitate timely resolution and refund issuance in cases where the return filing delay was condoned, but the processing window had otherwise closed.

Read Circular: 07/2025

SNR & COMPANY
CHARTERED ACCOUNTANTS

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