SNR & COMPANY
CHARTERED ACCOUNTANTS

# INCOME TAX BULLETIN

## APRIL 2025

Delhi, Pune, Bangalore

# CONTENT

## - Judicial Updates



## - Circulars/ Notifications:

## 1. The term 'relative' construed expansively to cover step brother- sister relationship, thus exempting Gifts despite uncommon parent:

**Case of :** Rabin Arup Mukerjea vs ITO, Intl. Tax Ward
**Decision by :** ITAT, Mumbai
**In favour of :** Assessee
**Date of Judgement :** 31st March 2025

### Facts:

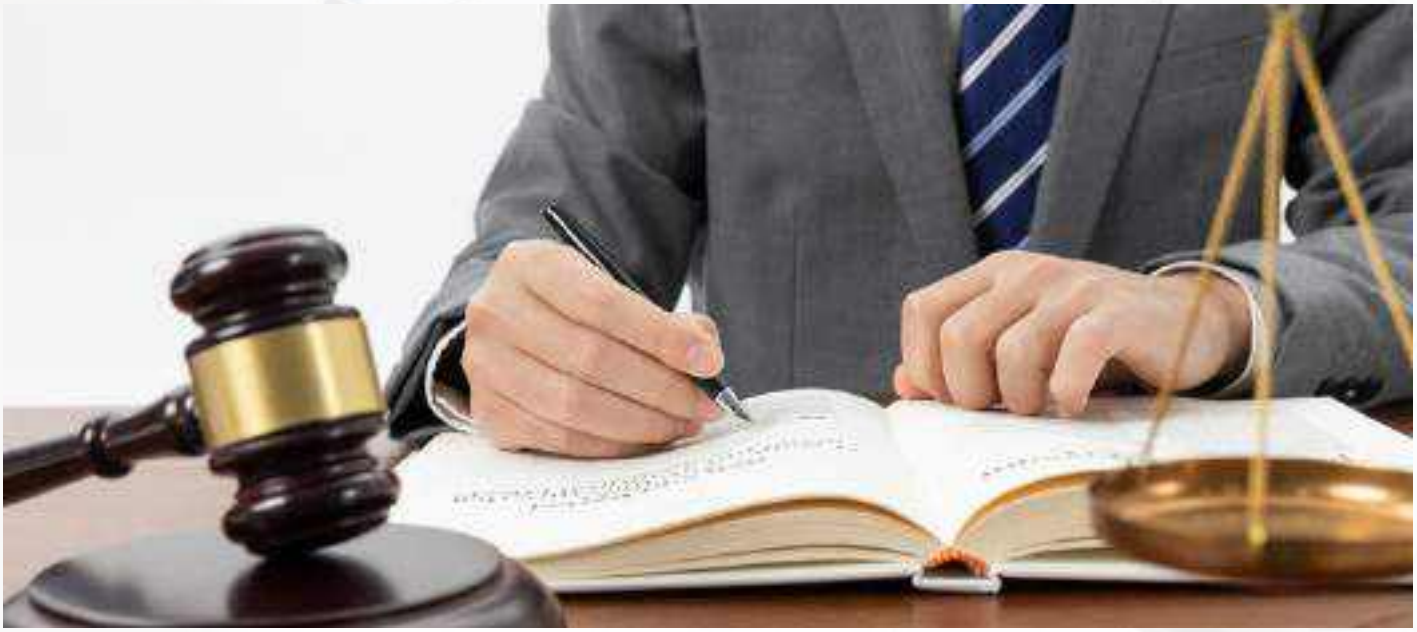
- The assessee, son of Peter Mukerjea (from his first marriage), had gifted an immovable property to the daughter of Indrani Mukerjea (from her first marriage).
- Both individuals (donor and donee) are step-siblings, with no biological parent in common.
- The Assessing Officer (AO) and Commissioner of Income Tax (Appeals) [CIT(A)] brought the value of the gifted property to tax in the hands of the recipient under Section 56(2) of the Income-tax Act, 1961, treating the gift as income from other sources, on the ground that the donor and donee are not "relatives" as defined under the Act.

### Issues Involved:

- Whether step-brother and step-sister, who do not share a common biological parent, can be considered as "relatives" under the definition provided in Explanation to Section 56(2) of the Income-tax Act, 1961.
- Whether the gift of immovable property in this context is exempt from tax under the proviso to Section 56(2)(x), which exempts gifts received from a "relative".

### Tribunal's Observations:

- The Tribunal noted that the term "relative" is not exhaustively defined in the Income-tax Act to include or exclude step-siblings without common parentage.
- In the absence of an express statutory exclusion, the Tribunal interpreted the term in its ordinary and popular sense, in line with judicial precedents and established principles of statutory interpretation.
- The ITAT placed significant reliance on:
    - **Black's Law Dictionary,** which defines "relative" to include persons connected by consanguinity (blood relation) and affinity (relationship by marriage).
    - **P. Ramanatha Aiyer's Law Lexicon,** which defines "affinity" as an artificial relationship between persons of different blood created by intermarriage.
    - Definitions of "relative" under other statutes, such as the Companies Act and RBI Act, which include step-brother and step-sister.
    - The Tribunal emphasized the relevance of common law and general social understanding of familial relationships, especially where the Income-tax Act does not explicitly provide for a narrower interpretation.



## ITAT's Decision:

- The ITAT held that step-brother and step-sister, though not related by blood and sharing no common biological parent, are connected through a valid marital tie between their respective parents and thus, are relatives by affinity.
- Accordingly, the Tribunal ruled that the gift of property is exempt under Section 56(2) as it was received from a "relative".
- The assessment was set aside.

## Full Judgement: Rabin Arup Mukerjea

### *SNR's Take*

*Even if step-siblings do not share a biological parent, they may still qualify as "relatives" for tax exemption purposes under Section 56(2) if connected through a legal marital tie (affinity). This ruling has potential implications for estate planning and intra-family transfers of property, particularly in complex family structures involving remarriages and step-relations.*

## 2. Proviso to section 2(15) not applicable if there is no intent to earn profit from activities, confirming eligibility for exemption u/s11:

**Case of :** Deputy Commissioner of Income Tax Vs Otters Club
**Decision by :** ITAT, Mumbai
**In favour of :** Assessee
**Date of Judgement :** 21st March 2025

### Facts:

- The assessee, Otters Club, is a members-only club operating in Mumbai.
- For Assessment Year (AY) 2013–14, the club filed a return of income declaring Nil income.
- The Assessing Officer (AO), during scrutiny, observed that the club had received substantial revenue from letting out its premises for non-members' events and other commercial activities (e.g., hall rentals, catering, sponsorship, guest fees, etc.).
- The AO held that the principle of mutuality was not applicable to such income and brought it to tax under the head "Income from Business or Profession."
- The CIT(A) upheld the AO's findings.

### Issues Involved:

- Whether income earned from renting club premises for events, sponsorships, and guest fees violates the principle of mutuality.
- Whether such income is taxable under the provisions of the Income-tax Act, 1961.

### Tribunal's Observations:

- The ITAT reiterated the principle of mutuality as laid down in various judgments, notably Chelmsford Club vs. CIT (2000) 243 ITR 89 (SC) and Bangalore Club vs. CIT (2013) 350 ITR 509 (SC).
- It was noted that the club earned income from both members (in line with mutuality) and non-members (clearly commercial).
- The Tribunal observed:
  - Income from members in the nature of subscriptions, member-specific services, and internal events qualifies under the principle of mutuality.
  - Income from non-members such as hall rentals for third-party events, guest charges, sponsorships for events attended by non-members, etc., cannot be shielded by the mutuality principle.
- The club was engaged in "dual activities"—one with members (mutual) and the other with non-members (commercial).
- The Tribunal rejected the assessee's plea to treat all receipts as mutual and non-taxable.

## Final Decision

- The ITAT held that:
  - Income earned from non-members and commercial exploitation of club facilities is not governed by the mutuality principle and is taxable.
  - Only income derived from members in the ordinary course of club operations qualifies for exemption under mutuality.
- The appeal of the assessee was partly allowed, confirming taxability of non-mutual income.

## Full Judgement: Otters Club

### *SNR's Take*

*The mutuality doctrine applies only to activities exclusively involving members with no commercial exploitation involving outsiders. Clubs must maintain separate accounting for income arising from members and non-members to avoid litigation.*

## 3. Director's Remuneration cannot be disallowed if it is compliant with Companies Act and no adverse action taken by MCA:

**Case of :** ACIT Vs Piramal Fund Management Private Limited
**Decision by :** ITAT, Mumbai
**In favour of :** Assessee
**Date of Judgement :** 19th March 2025

### Facts:

- The Assessee company claimed deduction for remuneration paid to its Managing Director.
- The Assessing Officer (AO) disallowed the claim, alleging that the remuneration violated the provisions of the Companies Act, 1956/2013 and invoked Section 40A(2)(b), asserting that the payment was excessive and unreasonable.
- The CIT(A) allowed the Assessee's appeal, holding the payment to be in compliance with the Companies Act and not excessive.
- The Revenue filed an appeal before the ITAT against this decision.

### Issues Involved:

- Whether the remuneration paid to the Managing Director violated the provisions of the Companies Act, 1956/2013?
- Whether the remuneration was excessive or unreasonable so as to attract disallowance under **Section 40A(2)(b)?**
- Whether the claim of remuneration is allowable under **Section 37(1)** of the Income-tax Act?

### ITAT's Observations:

- The ITAT noted that:
  - No proceedings had been initiated by the Ministry of Corporate Affairs (MCA) for any alleged violation of the Companies Act.
  - Statutory auditors had made no adverse observations regarding the remuneration in the audit report.
  - The remuneration was duly approved by a special resolution passed by the shareholders in accordance with the provisions of the Companies Act.
- The Tribunal examined:
  - Section 198(1)/(4) read with Section I and II of Part II of Schedule XIII of the Companies Act, 1956.
  - Part C of Section II of Part II of Schedule XIII, which governed remuneration in cases where the company had inadequate profits.
  - Notification G.S.R. 534(E) dated July 14, 2011 and Circular No. 07/2015 dated April 10, 2015, which extended the applicability of earlier Companies Act provisions.
- The ITAT held that as the **conditions of the proviso to Part C** of Section II were satisfied, **no approval from the Central Government** was required.

- On the application of Section 40A(2)(b), ITAT rejected Revenue's claim, stating that there was no material evidence to demonstrate that the remuneration was excessive or unreasonable.
- The Tribunal clarified that Explanation 1 to Section 37(1) was not attracted, as there was no violation of law.

### Final Decision:

- The ITAT dismissed the Revenue's appeal, confirming the CIT(A)'s decision.
- Held that the remuneration paid to the Managing Director:
  - Did not violate the provisions of the Companies Act, 1956/2013.
  - Was reasonable and duly authorized.
  - Was allowable as a deduction under Section 37(1).
  - Did not attract disallowance under Section 40A(2)(b).

## Full Judgement: Piramal Fund Management Private Limited

### *SNR's Take*

*Board-approved remuneration to a Managing Director, when in accordance with shareholder resolutions and Companies Act provisions, is allowable under Section 37(1). Invocation of Section 40A(2)(b) requires substantiated evidence of excessiveness or unreasonableness of expenditure by the Revenue.*

## 4. Excise-duty exemption for setting up of new unit cannot be taxed as revenue receipt:

**Case of :** PCIT Vs Greenply Industries Ltd
**Decision by :** High Court, Gauhati
**In favour of :** Assessee
**Date of Judgement :** 04th March 2025

### Facts:

- For AY 2014–15, the Assessee filed a return declaring income of ₹49.12 Cr, which was assessed at ₹54.42 Cr under Section 143(3).
- During the pendency of appeal before the CIT(A), the Assessee filed an additional ground, claiming that the excise duty exemption received under the Industrial Policy was a non-taxable capital receipt.
- CIT(A) partly allowed the appeal. The ITAT fully allowed the Assessee's claim.
- Revenue appealed to the Gauhati High Court.

### Issues Involved:

- Whether excise duty exemption granted under the New Industrial Policy is a capital receipt or revenue receipt taxable under the Income-tax Act?
- Whether such capital receipt can be added back while computing book profit under Section 115JB (MAT)?

### ITAT's Observations:

- High Court emphasized that the "purpose test" is the decisive factor in determining the nature of subsidy or incentive:
  - If the incentive/subsidy is for setting up or expansion of the industrial unit → Capital Receipt
  - If it is for day-to-day operations or enhancing profitability → Revenue Receipt
- In this case, the excise duty exemption was:
  - Granted before commencement of production,
  - Incentivized new investments in backward states for employment generation and utilization of local resources.
  - Thus, it fulfilled the purpose of setting up new industry, not for operational benefits.
- The HC relied on the Supreme Court's landmark rulings:
  - **Sahney Steel & Press Works Ltd. v. CIT (228 ITR 253)**
  - **CIT v. Ponni Sugars & Chemicals Ltd. (306 ITR 392)**
  - **Chaphalkar Brothers v. CIT (400 ITR 279)**

- On MAT Computation under Section 115JB, the Court addressed the Revenue's contention that excise duty exemption, even if not taxable as income, should be added to book profit under Section 115JB.
- Relying on Bombay HC decision in Harinagar Sugar Mills (387 ITR 521), the Court held that:
  - Capital receipts not forming part of the P&L account prepared under Schedule VI to the Companies Act cannot be added back under MAT computation.
  - Since the excise duty exemption is a capital receipt, it cannot be adjusted under Section 115JB either.

### High Court Decision:

- The HC dismissed the Revenue's appeal, upholding the ITAT's order and held that:
  - The excise duty exemption received under the Industrial Policy is a non-taxable capital receipt.
  - The same cannot be included in book profits under Section 115JB for MAT computation.

## Full Judgement: Greenply Industries Limited

### *SNR's Take*

*Subsidies/incentives granted for setting up new industrial units or expanding existing units in backward areas are capital receipts, not liable to tax. The "purpose test" remains the guiding principle in characterizing subsidies under tax law. Further, Capital receipts that are not routed through P&L are not liable to MAT under Section 115JB.*

## 5. Assessment cannot be re-opened merely because AO failed to disallow some expenses:

**Case of :** GlaxoSmithKline Pharmaceuticals Ltd. Vs ACIT
**Decision by :** High Court, Bombay
**In favour of :** Assessee
**Date of Judgement :** 10th March 2025

### Facts:

- GlaxoSmithKline Pharmaceuticals Ltd. (the Assessee) was served with a reassessment notice under Section 148 after the expiry of four years from the end of AY 2013–14. In compliance, the Assessee filed its return and sought reasons for reopening, which were furnished by the Revenue. The Assessee filed detailed objections, which were rejected. Aggrieved, the Assessee filed a writ petition before the Bombay High Court challenging the validity of the reassessment proceedings.

### Issues Involved:

- Whether the reassessment proceedings initiated under Section 148 were valid, especially in light of the first proviso to Section 147, which bars reopening beyond four years unless there was a failure on the part of the Assessee to fully and truly disclose material facts.
- Whether the Revenue could justify reopening the case based on disallowances that were not made in the original assessment, despite the necessary information being disclosed in the financial statements and return.

### High Court Observations:

- The Court noted that the impugned notice was issued beyond four years from the end of the relevant assessment year; therefore, the first proviso to Section 147 applied.
- The Court observed that the Assessee had disclosed all relevant material facts, including audited financial statements, in the return of income.
- The Revenue's own recorded reasons acknowledged that sales promotion expenses were disallowed, but other expenditures (export incentives, security deposit, and rationalisation initiative expenses) were not disallowed during assessment proceedings.
- The High Court emphasized that non-disallowance by the Assessing Officer does not indicate failure by the Assessee to disclose facts.
- In response to the Court's query, the Revenue could not identify any specific material fact that the Assessee failed to disclose. Instead, they relied solely on the reasons recorded for reopening.
- The Court concluded that the Revenue failed to rebut the Assessee's specific objection that all material facts were disclosed fully and truly.

## Final Decision:

- The Bombay High Court allowed the writ petition & quashed the reassessment notice issued under Section 148 and the order rejecting the Assessee's objections by holding that there was no failure on the part of the Assessee to disclose fully and truly all material facts necessary for the assessment, as required under the first proviso to Section 147.

## Full Judgement: GlaxoSmithKline Pharmaceuticals Ltd.

### *SNR's Take*

*This judgment reiterates that if the Assessee has disclosed relevant facts in the return and supporting documents, then an Assessing Officer's omission cannot be a ground to reopen completed assessments after four years.*

## 6. Deletes Sec. 69 addition given Assessee opted for presumptive taxation u/s 44AD:

**Case of :** Prakash Praveen Kumar vs ITO
**Decision by :** ITAT, Bangalore
**In favour of :** Assessee
**Date of Judgement :** 24th February 2025

### Facts:

- The Assessee, an individual engaged in the business of electrical contract work, filed the return of income for AY under **Section 44AD**, declaring **total income of ₹3.58 lakh** on a presumptive basis.
- The **total turnover** declared was **₹56.55 lakh,** comprising both **cash and bank receipts,** which was also reflected in the **GST and VAT returns.**
- Based on **information received from the Regional Economic Intelligence Committee (REIC)** alleging **fictitious purchases from Supreme International** without actual movement of goods, the Revenue initiated proceedings.
- A **show cause notice** was issued, and the Revenue made an addition of **₹96.34 lakh under Section 69,** comprising:
  - ₹60.56 lakh – Undisclosed bank credits
  - ₹20.09 lakh – Undisclosed investment
  - ₹12.10 lakh – Undisclosed time deposits
- The **CIT(A)** upheld the addition and dismissed the Assessee's appeal

### Issues Involved:

- Whether the addition of ₹96.34 lakh under Section 69 towards unexplained investments and deposits was justified.
- Whether the Revenue could disregard the presumptive taxation regime under Section 44AD in the absence of corroborative evidence.

### ITAT Observations:

- The REIC allegations regarding bogus purchases were adequately rebutted by the Assessee by furnishing bank statements and supporting documents.
- The Assessee's declared turnover in the return of income matched with the figures disclosed in the GST and VAT records.
- The Revenue failed to bring any contrary or adverse material to establish that the Assessee had made turnover beyond what was declared under Section 44AD.
- Noted that under Section 44AD, the Assessee is not required to maintain detailed books of accounts or provide balance sheets in the return, except for limited details such as turnover, gross profit, expenses, net profit, stock-in-trade, and sundry creditors.

## Final Decision:

- The Tribunal allowed the Assessee's appeal and deleted the entire addition of ₹96.34 lakh under Section 69.
- Held that bank credits or fixed deposits made through banking channels cannot be treated as unexplained investments in the absence of corroborative evidence and when the Assessee has opted for presumptive taxation.
- Concluded that the Revenue's action was based merely on misinformation from REIC and lacked independent verification.

## Full Judgement: Prakash Praveen Kumar

### *SNR's Take*

*The case reinforces that mere suspicion or third-party allegations are insufficient grounds for additions under the Income-tax Act. Section 44AD offers presumptive taxation relief, and Revenue cannot reject such returns without substantive evidence of suppression of turnover or undisclosed income.*

# Circulars/ Notifications:

## 1. CBDT issued restrictive clarification on PPT guidance:

The Central Board of Direct Taxes (CBDT) has issued a clarification regarding the Principal Purpose Test (PPT) guidance released earlier this year. The clarification reiterates that the earlier circular does not introduce any new legal interpretation and is applicable only to those Double Taxation Avoidance Agreements (DTAAs) that specifically contain a PPT clause.

Furthermore, the CBDT has clarified that the guidance is not intended to interact with or impact the application of any other DTAA provisions that govern treaty entitlement or denial of treaty benefits, apart from the PPT. It is also emphasized that the guidance does not seek to interfere with or override the domestic anti-abuse provisions, such as the General Anti-Avoidance Rule (GAAR), Specific Anti-Avoidance Rules (SAAR), or Judicial Anti-Avoidance Rules (JAAR).

**Read Circular:** 01/2025 Clarification

## 2. CBDT amends Form No. 26Q & 27Q for submitting details u/s 194T:

The Central Board of Direct Taxes (CBDT), vide Notification No. 22/2025 dated March 27, 2025, has amended the Income-tax Rules, 1962 to incorporate changes in Form No. 26Q and Form No. 27Q for reporting requirements under the newly introduced Section 194T.

Key highlights of the amendments are as follows:

- Form No. 26Q:
  - The figures and letters '194T' shall be inserted after 194S in the heading of the form.
  - In the table appearing at the end of Note No. 16 in the Annexure, a new row shall be inserted for Section 194T, covering payment of salary, remuneration, commission, bonus or interest to a partner of a firm.
- Form No. 27Q:
  - The figures and letters '194T' shall be inserted after 194N in the heading of the form.
  - In the table under Note No. 13 in the Annexure, a new row shall be added for Section 194T, pertaining to payment of salary, remuneration, commission, bonus or interest to a partner of a firm, and this row shall be placed above the existing row for Section 195, which deals with other sums payable to non-residents.

These amendments are aimed at enabling accurate reporting and compliance with the provisions of Section 194T of the Income-tax Act, 1961.

**Read Circular:** 22/2025

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