

INCOME TAX BULLETIN

MAY 2025



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1. Subscription fee on e-magazines with standardized content doesn't partake character of 'FTS':

Case of : CIT (Int. Tax) vs Springer Nature Customer Service Centre GMBH

Decision by : High Court, Delhi

In favour of : Assessee

Date of Order : 16th April, 2025

Facts:

- The Assessee collected subscription fees from various third parties for access to electronic magazines (e-magazines) with standardized content. The Revenue contended that such subscription fees constituted Fee for Technical Services (FTS) under Explanation 2 to Section 9(1)(vii) of the Income-tax Act, 1961, and were thus taxable in India.

Issues Involved:

- Whether the subscription fee for accessing e-magazines with standardized content amounts to Fee for Technical Services under the provisions of the Income-tax Act.
- Whether such subscription fees involve any rendering of technical, managerial, or consultancy services to the subscribers.

High Court Observations:

- The Court analyzed Explanation 2 to Section 9(1)(vii) and emphasized the need for human intervention and customized service for a payment to qualify as FTS.
- Cited its own decision in Bharti Cellular Ltd., which followed Madras HC's ruling in Skycell Communications Ltd., both holding that mere access to technical facilities or services without human element does not qualify as rendering of technical services.
- Referred to Supreme Court's decision in Kotak Securities Ltd., where it was held that fees paid for standard, automated services accessible to all do not amount to FTS.
- Relied on additional precedents from Relx Inc. (Delhi HC) and India Capital Markets (P) Ltd. (Bombay HC) reinforcing the principle of narrow interpretation of the term "technical services."
- Examined Paragraph 3 of Article 12 of the UN Model Double Taxation Convention 2021 (UNMTDC), finding its language similar to Explanation 2 to Section 9(1)(vii), and emphasizing that "technical services" require a specialized, human-driven interaction.
- Clarified that mere sale or access to technical literature, databases, or pre-existing research material does not amount to technical services.



High Court Decision:

- The Delhi High Court upheld the Income Tax Appellate Tribunal (ITAT)'s decision and concluded:
- The subscription fee received by the Assessee for standardized e-magazine content does not amount to FTS under Explanation 2 to Section 9(1)(vii).
- As the subscription fee is not chargeable under the Act, there is no need to evaluate the applicability of the DTAA.

Full Judgement: [Springer Nature Customer Service Centre GMBH](#)

SNR's Take

Standardized and automated services, including access to e-magazines and databases, do not qualify as FTS unless they involve customized, human-intervention-based support. FTS must involve rendering of managerial, technical, or consultancy services that are specialized and tailored to the specific requirements of the service recipient..

2. Penalty for violation of Sec. 269T deleted if reasonable cause is provided by the assessee:

Case of : Kamaljeet Kaur Gill Vs The JCIT

Decision by : High Court, Chattisgarh

In favour of : Assessee

Date of Order : 24th April 2025

Facts:

- The Assessee repaid a loan amounting to ₹14.59 lakhs in cash to Tata Finance Corporation. The Revenue imposed a penalty under Section 271E of the Income-tax Act, 1961, citing violation of Section 269T, which prohibits repayment of loans above ₹20,000 in a manner other than through account payee cheque/draft or electronic modes.

Issues Involved:

- Whether the Assessee's cash repayment of the loan constituted a violation of Section 269T warranting a penalty under Section 271E.
- Whether the Assessee had demonstrated a reasonable cause under Section 273B for such repayment in cash, which would provide immunity from penalty.

High Court Observations:

- The Revenue and lower authorities ignored the applicability of Section 273B, which provides that no penalty shall be imposed under Section 271E if the Assessee shows reasonable cause for the failure.
- The Assessee contended that cash payment was made due to the financier's insistence (as per letter dated 05 November 2012), after failure to pay instalments in time.
- The Court found the Assessee's explanation credible, bona fide, and not motivated by tax avoidance.
- Referred to Supreme Court rulings in:
 - Hindustan Steel Ltd. – holding that penalty provisions are discretionary and require consideration of intent.
 - Kum. A.B. Shanthy – affirming that reasonable cause, if established, must preclude imposition of penalty.
- Noted that a bona fide belief combined with the genuineness of the transaction qualifies as "reasonable cause" under Section 273B.



High Court Decision:

- The High Court quashed the penalty order under Section 271E, holding that the Assessee had successfully demonstrated a reasonable cause for repayment of the loan in cash.
- Allowed the Assessee's appeal and emphasized that ignoring Section 273B renders it otiose, which is impermissible.

Full Judgement: [Kamaljeet Kaur Gill](#)

SNR's Take

Section 273B acts as a saving provision, protecting Assesseees from penalties under various sections, including 271E, if reasonable cause is established. Bona fide conduct and absence of tax evasion motive are critical in determining the existence of a reasonable cause.

3. Deduction of interest for funds given to subsidiary allowed u/s 36(1)(iii):

Case of : ACIT Vs Bangalore International Airport Ltd

Decision by : ITAT, Bangalore

In favour of : Assessee

Date of Order : 16th April 2025

Appeal: ITA Nos. 1108 & 1109/Bang/2024

Facts:

- Assessee: Bangalore International Airport Limited (BIAL)
- BIAL advanced interest-free loans and advances of ₹232 crore to its wholly-owned subsidiary for developing business hotels near the airport.
- It claimed interest expenditure of ₹146.87 crore as finance cost under Section 36(1)(iii) of the Income-tax Act, citing business expediency.
- The Revenue disallowed ₹19.67 crore, stating no justification was provided for an advance made as a security deposit for land lease from Karnataka State Industrial and Infrastructure Development Corporation (KSIIDC).
- CIT(A) allowed the Assessee's appeal against the disallowance.

Issues Involved:

- Whether the interest expenditure related to the interest-free advance made to a subsidiary is allowable under Section 36(1)(iii).
- Whether the security deposit paid to KSIIDC for land lease qualifies as a transaction made for business/commercial expediency.

ITAT's Observations:

- Relied on SC judgment in SA Builders Ltd., which held that if a holding company advances funds to its subsidiary out of commercial expediency, the interest on borrowed capital is allowable as a deduction.
- Recognized that the concession agreement with the Ministry of Civil Aviation mandated BIAL to provide premium airport amenities, including business hotels.
- Rejected Revenue's view that the land lease security deposit was not for business purposes, holding that it was integral to enabling hotel development, which was a requirement under the concession agreement.
- Noted that BIAL had formed a consortium to execute the hotel project, and upon its failure, BIAL took over the subsidiary to complete the project, showing that the advance was aligned with its business objectives.
- Referred to SC decision in Reliance Industries to hold that if interest-free advances are less than or equal to own funds, it can be presumed that such advances are from own funds and not borrowed capital.



ITAT Decision:

- Held that the interest expenditure related to the advance made to the subsidiary was allowable under Section 36(1)(iii), as it was made for commercial expediency.
- Upheld the CIT(A)'s order in favor of the Assessee.

Full Judgement: [Bangalore International Airport Ltd](#)

SNR's Take

Interest-free loans to subsidiaries are allowable as a deduction under Section 36(1)(iii) if made for commercial/business expediency. Concession agreements and contractual obligations are valid justifications for business necessity in evaluating such deductions

4. Computers installed for software development akin to production of article or things, thus, eligible for deduction u/s 32AC:

Case of : Bosch Global Software Technologies Pvt. Ltd Vs ACIT

Decision by : ITAT, Bangalore

In favor of : Assessee

Date of Order : 16th April 2025

Appeal : ITA No.1696/Bang/2024

Facts:

- The Assessee claimed investment allowance under Section 32AC of the Income-tax Act, 1961, for computers installed and used in software development activities.
- The Revenue disallowed the claim, stating:
- The Assessee was not engaged in manufacture or production of any article or thing, a precondition under Section 32AC.
- Computers/software were allegedly not covered within the definition of "new assets" under Section 32AC(4)(iii).

Issues Involved:

- Whether software development activity qualifies as manufacture or production of article or thing for the purpose of Section 32AC.
- Whether computers used in software development can be treated as "new assets" eligible for investment allowance under Section 32AC.

ITAT's Observations:

- The Tribunal observed that the conditions under Section 32AC are identical to those under Section 32(1)(iia) (additional depreciation), both requiring the Assessee to be engaged in the manufacture or production of article or thing.
- Cited precedents and interpretations to conclude that development of software constitutes production of article or thing.
- Clarified that:
 - o Computers used for software development are not excluded from the scope of "new asset" under Section 32AC(4)(iii).
 - o Only computers installed as office appliances for administrative purposes are excluded under Section 32AC(4)(ii).
- Held that computers used for the actual development of software are eligible for investment allowance.



ITAT Decision:

- Allowed the Assessee's claim in part.
- Remanded the matter to the Assessing Officer for verification of:
 - o The number of computers installed, and
 - o Whether they were used in software development or for administrative purposes.
- Directed that investment allowance be allowed only on computers used for production purposes.

Full Judgement: [Bosch Global Software Technologies Pvt. Ltd.](#)

SNR's Take

Software development is recognized as production of article or thing, qualifying for benefits under Sections 32 and 32AC. Computers used for core production activities (like software development) qualify as "new assets" under Section 32AC. Office-use computers (admin/HR/etc.) do not qualify for the investment allowance.

5. Additions in respect of gifts unsustainable as valuation not done by the AO:

Case of : Rohit Gandhi Vs ITO

Decision by : High Court, Delhi

In favor of : Assessee

Date of Order : 28th March 2025

Appeal : ITA 957/2018

Facts:

- The Assessee, a partner in an art gallery business, was subjected to income tax additions based on the value of certain artworks found during a search operation. The Assessing Officer (AO) held that these artworks represented unexplained income. The Assessee contended that the artworks were received as gifts from known donors, and submitted letters of confirmation to support this claim.

Issues Involved:

- Whether the Assessee had discharged the burden of proof to establish that the artworks were genuine gifts.
- Whether the AO's additions were based on cogent evidence or mere assumptions.
- Whether the absence of an independent valuation invalidated the basis of the additions.

High Court Observations:

- The additions were made without any reference to a Valuation Officer or independent valuer and were not backed by any concrete evidence of market value.
- The AO and CIT(A) accepted the identity of the donors but doubted the genuineness of the gifts without substantiating those doubts.
- The confirmations provided by the Assessee were not effectively rebutted by the tax authorities.
- The Assessee, being part of an art gallery business, had plausible relationships with the donors/artists.
- The Court emphasized that additions to income must be based on material evidence and not on conjecture or suspicion.
- Reliance was placed on Supreme Court rulings in *Esthuri Aswathiah, Dhakeshwari Cotton Mills Ltd.*, and *Omar Salay Mohd. Sait*, reaffirming the requirement of credible evidence for income additions.



Final Decision:

- The Delhi High Court reversed the order of the Income Tax Appellate Tribunal (ITAT) and held that the Assessee had discharged the onus of proving that the artworks were genuine gifts. The additions made to the Assessee's income were found to be unsustainable in law and based on mere surmises and conjectures.

Full Judgement: [Rohit Gandhi](#)

SNR's Take

For non-taxability, gifts must satisfy the threefold test: identity, creditworthiness, and genuineness. Further, this ruling has stated that additions cannot be sustained without independent valuation or corroborative evidence.

Circulars/ Notifications:

1. No TDS u/s 194EE on withdrawal of amount under Sec. 80CCA(2)(a):

CBDT specified that no TDS to be deducted under section 194EE on payment of amount referred to in clause (a) of Section 80CCA(2) (relating to credit under National Savings Scheme), which is withdrawn by an individual assessee, on or after the date of publication of this notification in the Official Gazette.

Read Circular: [27/2025](#)

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

CBDT specified the list of goods of the value exceeding Rs. 10 lakh for collection of tax at source under Section 206C(1F) i.e. any seller receiving over Rs. 10 lakh for the following goods must collect 1% TCS from the buyer at the time of payment; List includes - any wrist watch, any art piece such as antiques, painting, sculpture, any collectibles such as coin, stamp, any yacht, rowing boat, canoe, helicopter, any pair of sunglasses, any bag such as handbag, purse, any pair of shoes, any sportswear and equipment such as golf kit, ski-wear, any home theatre system, any horse for horse racing in race clubs and horse for polo; CBDT vide Notification No. 35/2025 amends Form 27EQ, to include the list of the goods in the table after the row relating to "Collection at source on sale of motor vehicle"; The notifications apply effective from April 22, 2025.

Read Circular: [36/2025](#)

3. Expenditure for settling proceedings for defaults under specified laws not allowable u/s 37:

CBDT notified that any expenditure incurred to settle proceedings initiated in relation to contravention or defaults under the specified laws shall not be deemed to have been incurred for the purpose of business or profession and no deduction or allowance shall be made in respect of such expenditure under Section 37; Such specified laws are: (i) the Securities and Exchange Board of India Act, 1992, (ii) the Securities Contracts (Regulation) Act, 1956, (iii) the Depositories Act, 1996, and (d) the Competition Act, 2002; The notification shall come into force from April 23, 2025.

Read Circular: [38/2025](#)

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