VERENDRA
KALRA & CO LLP
CHARTERED ACCOUNTANTS

Communiqué

Direct Tax

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info@vkalra.com I www.vkalra.com

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High Court Rulings

Where AO gave effect to CIT(A)'s order beyond statutory period as prescribed u/s 153 which was barred by limitation, rendered a nullity, and had to be quashed, with revenue required to refund principal sum along with interest u/s 244A from date immediately after expiry of limitation until actual payment.

Facts

The core issue in this writ petition is whether the order dated 09-12-25 passed by the ACIT, Circle 4(1) Kolkata giving effect to the order of the CIT(A) dated 16-08-22 for the AY 2017-18 is barred by limitation u/s 153(5) or not. It is mandated as per section 153(5) that the AO shall give effect to the order passed u/s 250 within 3 months from the end of the month in which such order is received by the Principal Commissioner or Commissioner.

In the present case, the order of the CIT(A) was received by the Principal Commissioner on 31-08-22 and therefore, the statutory period to pass giving effect order expired on 30-11-22. The petitioner contended that the impugned order dated 09-12-25 was passed after a delay of over 3 years and is, therefore, non-est in law without jurisdiction. It is well settled that the period prescribed u/s 153(5) is mandatory and an order passed beyond the said period is a nullity. Due to illegal retention of tax of the ITD, the petitioner is entitled to refund of INR 96.70 lakhs along with statutory interest u/s 244A. It is submitted by the respondents that delay occurred due to administrative restructuring of charges. However, no application seeking extension of time under the proviso to Section 153(5) has been filed before the expiry of the prescribed period.

Ruling

This Court finds that the facts are not in dispute. The order of the CIT(A) has been given effect to beyond the statutory period as prescribed under the statue. The failure to pass the giving effect order within the prescribed period, results in the appellate order attaining finality and the department cannot subsequently seek to give effect to. This Court stated that the impugned order is nullity and is liable to be quashed. Once the order is held to be a nullity, the natural consequence is that the petitioner is entitled to refund of taxes paid along with the statutory interest The department cannot be permitted to unjustly enrich itself by retaining the tax of the petitioner. In view of the above, the order dated 09-12-25 passed by the ACIT, Circle (1) is quashed.

Source : High Cout, Calcutta in Nomura Research Institute Financial Technologies India (P.) Ltd. vs Union of India vide [2026] 187 taxmann.com 702 (Calcutta) on June 12, 2026

Employer deducted TDS treating the sum paid as salary cannot be treated at fault for TDS. Employees must claim relief u/s 89 upon filing of Form 10E for non-taxable components where employees received VRS compensation and arrears under settlement.

Facts

The present Writ Petition is an industrial dispute for wage revision which was pending before the Industrial Tribunal, Chennai in O.P.No.62 of 2025. In view of the pendency of the aforesaid wage revision dispute between the Petitioner and the 3rd Respondent Company, a settlement was arrived at, and a Settlement Agreement dated 10-01-26 was signed u/s 57(1) Industrial Relations Code, 2020 read with Rule 25 of the Tamil Nadu Industrial Disputes Rules, 1958. As per the aforesaid Settlement, each of the 61 employees were entitled to receive a sum of INR 5,00,000 towards VRS and a sum of INR 40,50,000 towards loss of salary of each of the workers whose names were specified in Annexure-II series to the aforesaid Settlement dated 10-01-26. Apart from the above, the 3rd Respondent also undertook to make a one-time payment of a sum of INR 50,000 towards the arrears of wage revision for the period between 01-12-23 and 31-12-25. Under the settlement agreement, it has been stated that the aforesaid amount of INR 45,50,000 towards VRS and compensation for loss of salary for the remaining period of service up to 31-12-32 will be paid in two installments on 10-01-26 and 02-04-26 respectively.

Ruling

As per the provision of Section 192(2A), even in the case of an employee of a company who is an assessee entitled to relief u/s 89(1), the employee may furnish such particulars to the person responsible for making the payment. Thereupon, the person responsible shall compute the relief based on those particulars and take it into account in making the deduction under sub-section (1). Although the 3rd and 4th respondents would have been aware of the fact that the members of the petitioners union may be entitled to the relief u/s 89 r.w.s. 17(3), and that the amounts paid to them may not income to be included in computing the total income chargeable to income tax under Sections 4 and 5, it cannot be said that they are required to voluntarily grant such relief in the absence of an application in Form 10E, as is contemplated under Rule 21A. This is evident from the reading of Section 192(2A). Therefore, the 3rd and 4th respondents cannot be found at fault, as they acted strictly in accordance with the mandate of the law, although the amounts paid by them to the respective members of the Petitioner Union may not form part of their taxable income.

Since the amounts paid by the 3rd and 4th respondents to their employees under the settlement may not be taxable income in their hands, and because tax has been deducted at source by the 3rd and 4th respondents and has been remitted to the Income Tax Department, I am inclined to pass the following orders:

(i)The petitioner employees shall file returns u/s 139(1), within a period of 30 days from the date of receipt of a copy of this order.

(ii)Upon filing such returns, the 2nd respondent shall process the same u/s 143(1) and refund the appropriate amount to the members of the petitioner, within a period of two months.

Source : High Cout, Madras in Hosur Bata Employees Union vs PCIT vide [2026] 187 taxmann.com 1071 (Madras) on June 24, 2026

Writ petition was maintainable despite availability of an alternative statutory appellate remedy. Assessment order, consequential demand notice and connected penalty proceedings were quashed, and matter was remanded for fresh assessment in a case where the opportunity of hearing was treated as a mere ritualistic formality.

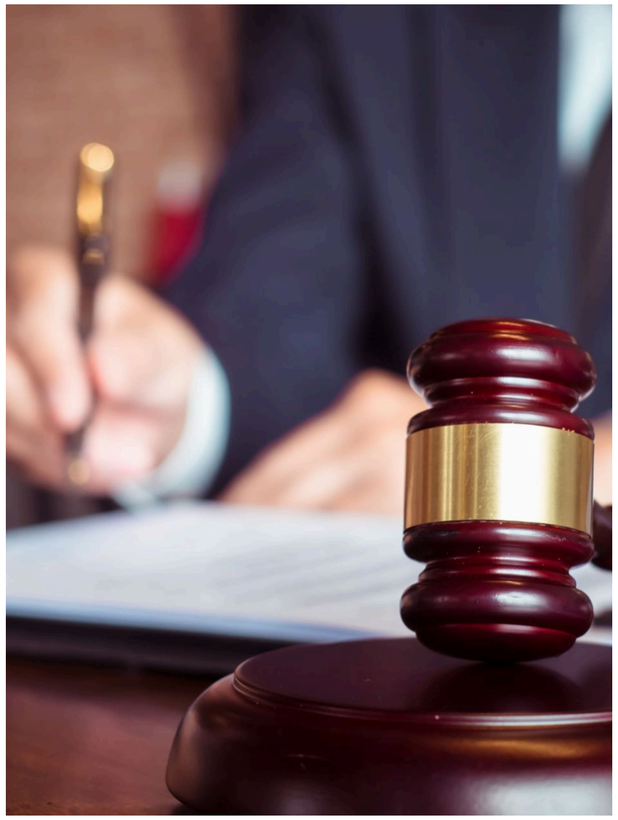
Facts

The Petitioner herein is a consultancy company and has filed its return of income electronically declaring a loss of Rs 52.28 crores. On 28-01-25 the return was processed u/s 143(1) by the CPC resulting in a refund of INR 134.29 crores. Subsequently, on 08-06-25, the petitioner further modified its return declaring a loss of RINR 42.51 crores. The case of the petitioner was selected for scrutiny assessment by the Assessment Unit of NFAC and all the queries raised were duly catered to. On 22-12-25, the case was transferred from respondent no 2 to respondent no 1 i.e. Jurisdictional AO who issued further notices u/s 142(1) calling for additional details and documents which were also replied to. The petitioner has been served with the SCN issued by respondent no 1, wherein it has been stated that information has been received from the office of the DCIT, Central Circle-3, Hyderabad, allegedly implicating the petitioner's involvement in acquisition of KSK Energy Ventures Ltd by Gland Celsus Bio Chemicals Pvt Ltd. The queries were raised as to whether the petitioner had rendered any consultancy, professional or advisory services in furtherance of the scheme of acquisition and whether any fees or remuneration had been received by it from the entities in lieu of the services. Later, Respondent no 1 proceeded to pass the assessment order raising a substantial demand of INR 87.21 crores without affording any reasonable time or opportunity to the petitioner for a proper hearing. Being aggrieved, the petitioner has filed this instant writ petition.

Ruling

HC stated that the principles of natural justice are not satisfied by a mere formality of issuing notices. The opportunity contemplated under law must be real, effective and reasonable. An assessee must be informed of the material proposed to be relied upon and must be granted adequate opportunity to controvert the same. Where an assessment order entails serious civil consequences, adherence to the rule of audi alteram partem becomes indispensable. Any order passed in breach thereof stands vitiated. In the present case, the challenge is not merely to the correctness of additions made by the AO on merits, the challenge strikes at the very decision-making process. The petitioner alleges a complete denial of effective opportunity of hearing before passing the assessment order. Such grievance goes to the root of the matter and falls squarely within the recognized exceptions to the rule of alternate remedy.

Once the assessment order is held to be vitiated for breach of natural justice, the consequential demand raised there under, and all the proceedings initiated on the basis thereof necessarily falls flat. The foundation having been removed, the superstructure erected thereupon cannot survive. HC is therefore satisfied that the impugned assessment order suffers from gross violation of the principles of natural justice and failure to provide an effective opportunity of hearing renders the assessment order legally unsustainable.



Source : High Cout, Calcutta in Pricewaterhouse Coopers (P.) Ltd. vs ACIT vide [2026] 187 taxmann.com 981 (Calcutta) on June 25, 2026.

ITAT Rulings

Where capital gains on account of slump sale has already been taxed u/s 50B in one year, revenue could not again separately tax capital gain in a later year merely because conveyance deed for the land was registered later.

Facts

The petitioner is a firm which had not filed the return u/s 139(1). The ld. AO found that during the impugned year the petitioner sold the immovable property amounting to INR 58.21 lakhs and proceeded for reassessment u/s 147. On verification of the documents the ld. AO found that the petitioner transferred their business undertaking as a going concern on 14-07-12 in slump sale to a new firm named M/s. Crescent Steels for a total consideration amounting to INR 4.15 crore. But due to unavoidable technical reasons the agreement of slump sale was not accepted by Joint Sub-Registrar of Bhiwandi. On 20-10-15 the petitioner made the sale of non-agricultural land at Bhiwandi by taking market value prevailing at that time against the stamp duty value of this land which was the part of the slump sale made and also taken to account while filing of income tax return for AY 2013-14. The petitioner contended that the non-agricultural land at Bhiwandi was also part of the slum sale by petitioner to buyer New Crescent which was already offered to tax. For avoidance of double taxation, the petitioner had not offered the capital gain tax in impugned assessment year. But the Ld. AO rejected the petitioner's plea and calculated long term capital gain amount to INR 58.21 lakhs which was added back to the total income of the petitioner. The aggrieved assessee filed an appeal before ld. CIT(A) who also uphold the impugned assessment order against which the aggrieved petitioner filed an appeal before the ld. ITAT.

Ruling

ITAT finds that the Bhiwandi property formed an integral part of the undertaking transferred under the slump sale agreement dated 14-07-12. Consequently, the gain arising from the transfer of the said property stood subsumed in the computation made under Section 50B and offered to tax in AY 2013-14. Merely because a conveyance deed was subsequently registered in AY 2016-17 to perfect and formalize the title in favour of the purchaser, the same cannot give rise to a fresh or separate charge of capital gains tax in the impugned assessment year. Once the entire undertaking, including the subject land, was transferred under a slump sale and the resultant gains were duly subjected to tax u/s 50B in AY 2013-14, the revenue cannot seek to tax the very same transfer again by isolating one immovable asset forming part of the undertaking. Such an approach would amount to taxing the same transaction twice, which is impermissible in law. Accordingly, ITAT hold that no separate capital gain is chargeable to tax in the impugned assessment year in respect of the registration of the conveyance deed relating to the Bhiwandi property. The addition made by the ld. AO was therefore directed to be deleted.

Source : ITAT, Mumbai in Crescent Steels vs Assessment Unit of Income-tax Department vide [2026] 187 taxmann.com 664 (Mumbai - Trib.) on June 10, 2026.

Entire alleged bogus purchases could not be added where purchases were made from alleged accommodation entry providers and corresponding sales were undisputed with no adverse stock findings. Only profit element embedded therein is liable to be taxed.

Facts

The petitioner is an individual involved in the business of trading in ferrous and non-ferrous metals. The ld. AO got the information through the Insight portal that the petitioner had made certain purchase transactions with bogus/paper entities who were involved in providing accommodation entries. Based on such information, the assessment of the petitioner was reopened during which the AO found that the petitioner had made total purchases of INR 50.34 lakhs from the alleged entities involved in providing bogus billings and added the entire purchases. The Ld. CIT(A) confirmed the addition so made by the AO, aggrieved with which, the petitioner filed an appeal before your goodself.

Ruling

The petitioner has shown corresponding sales against the alleged purchases which have not been doubted by the AO. There is also no allegation that any stock verification was carried out and that the stock of the petitioner was found less. Once the sales have been made in case of a trader, it is obvious that he has also made purchases that have been further sold to other parties. Therefore, as held time and again, the entire purchases in the case of a trader cannot be added. So far as the allegation that the petitioner had shown purchases from certain suspected entities, who were allegedly involved in providing bogus billing etc., the probability at the most can be that the petitioner might have made purchases from the grey market at a lower rate and would have obtained bogus bills at a higher rate from the alleged entities to suppress his profits. Under the circumstances, as held time and again by various courts of law, only the profit element embedded in such purchase/sales transactions can be added and not the entire purchase amount. It is also not the case of the Revenue that the petitioner had made the alleged purchases from any undisclosed sources of income. The purchases have been made through banking channels and duly recorded in the books of account. Hence, considering the overall facts and circumstances, only the profit element (fairly agreed at 8%) embedded in such purchases should have been added by the Ld. AO.

Source : ITAT, Ahmedabad in Pruthvi Singh Solanki vs ITO vide [2026] 187 taxmann.com 982 (Ahmedabad - Trib.) on June 23, 2026.

Renewal of a valid registration inadvertently sought under a wrong statutory clause while filing Form No. 10AB electronically. Applications cannot be rejected solely on account of such procedural defects, without affording an opportunity to explain or rectify mistakes, and matter was to be restored to CIT(E) to treat application under correct provision or permit its rectification before deciding it afresh.

Facts

The petitioner had filed an application in Form No. 10AB on 24-09-25 seeking registration u/s 12AB. During examination of the application, the learned CIT(E) noticed that the petitioner had been granted regular registration u/s 12AB in Form No. 10AC dated 28-05-21, which was valid for the period from AY 2022-23 to AY 2026-27. According to the ld. CIT(E), since the petitioner was already enjoying regular registration, the renewal application ought to have been filed under section 12A(1)(ac)(ii). However, in Form No. 10AB, the petitioner had selected section 12A(1)(ac)(iii), which applies to cases of conversion of provisional registration into regular registration. The ld. CIT(E), therefore, held that the application had been filed under the wrong statutory provision and rejected the same on that ground. While doing so, the learned CIT(E) observed that the regular registration already granted to the petitioner vide Form No. 10AC dt. 28-05-21 would continue to remain valid from AY 2022-23 to AY 2026-27 and further observed that the petitioner would be at liberty to pursue the remedies available under the statute.

Source : ITAT, Mumbai in Alloy Steel Producers Association of India vs CIT (Exemptions) vide [2026] 188 taxmann.com 29 (Mumbai - Trib.) on June 30, 2026.

Ruling

ITAT bench is in respectful agreement with the principle that procedural provisions are intended to facilitate adjudication of substantive rights and not to defeat them. Once the materials available before the ld. CIT(E) clearly disclosed that the petitioner was seeking renewal of its existing registration, the application ought not to have been rejected merely because of an inadvertent selection of an incorrect statutory clause in the electronic form. At the very least, the petitioner ought to have been confronted with the proposed defect and afforded an effective opportunity to explain or rectify the mistake before an adverse order was passed. Such an approach alone would be consistent with the principles of natural justice and the object underlying the provisions governing registration of charitable institutions.

In view of the foregoing discussion, and respectfully following the aforesaid decisions of the co-ordinate Benches, ITAT set aside the impugned order dated 26-03-26 passed by the ld. CIT(E) and restored the matter to his file with a direction to treat the petitioner's application as one filed under the appropriate provision, namely section 12A(1)(ac)(ii), or alternatively permit the petitioner to rectify the application, and thereafter adjudicate the application afresh in accordance with law after affording adequate opportunity of being heard.

Let's Connect

+91.135.2743283, +91.135.2747084

3rd Floor, MJ Tower, 55, Rajpur Road, Dehradun - 248001

E: info@vkalra.com | W: vkalra.com

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For any further assistance contact our team at kmt@vkalra.com