VERENDRA KALRA & CO
CHARTERED ACCOUNTANTS

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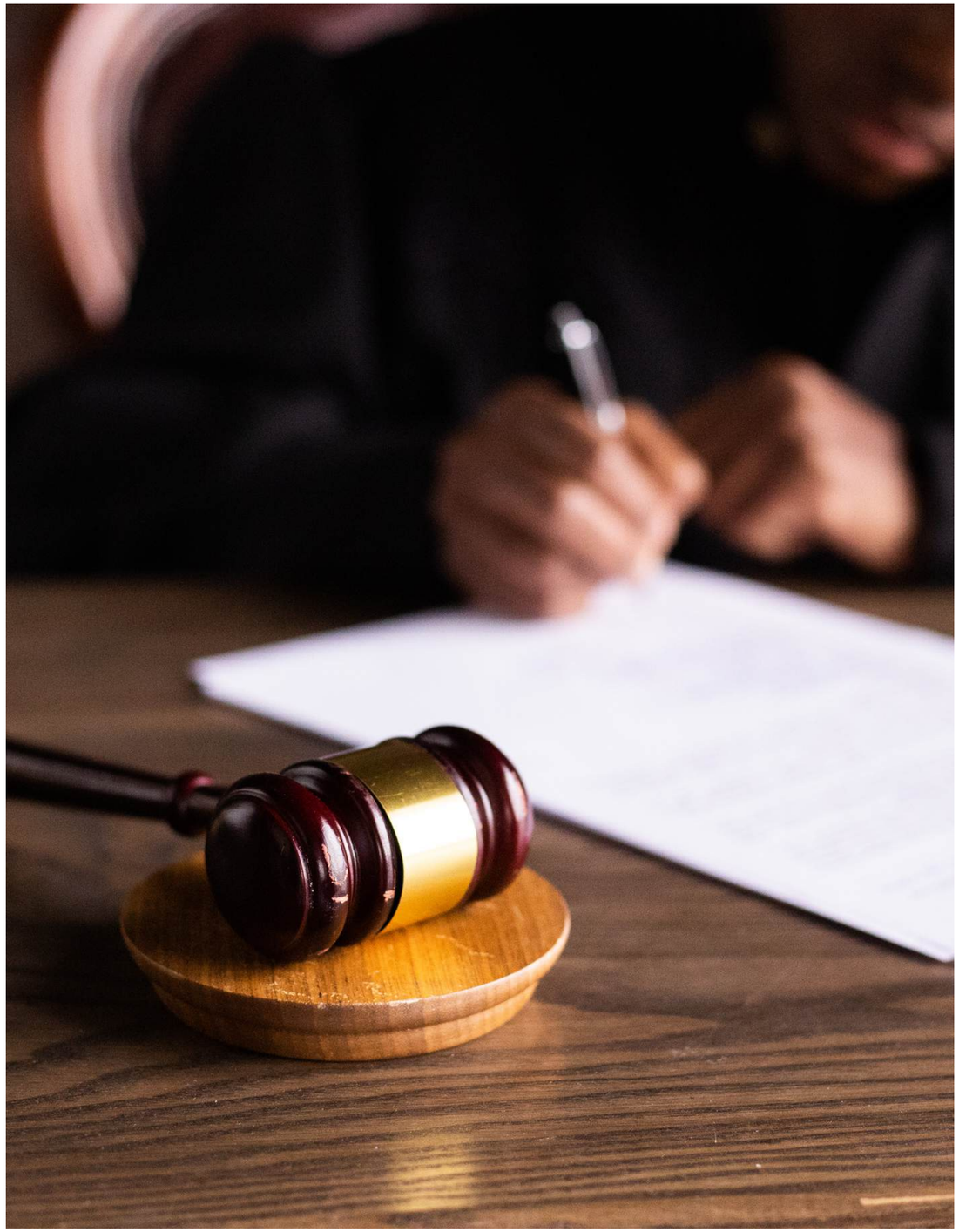


Gain arising on sale of vintage car taxed under the head ‘capital gains’ in case where assessee failed to provide evidence proving personal use of such car.

Facts

The assessee was an employee of M/s. Indu Nishan Oxo-Chemical Indusries Ltd. and had income from house property and other sources. The case of the assessee was selected from scrutiny and during the course of assessment proceedings, the assessee appeared personally where his statement was recorded. The AO noticed that the assessee has purchased a vintage car namely "Ford Tourer" 1931 Model from one Mr. Jesraj Singh of Delhi sometime in the year 1983 for a consideration of INR 20,000 which later on was sold for a consideration of INR 21,00,000 to Mrs. Kamalaben Babubhai Patel. On a query made by the AO, the assessee stated that the car was shown as a personal asset in Wealth-tax and same was an exempt asset. The AO added the sum of INR 20,80,000 as income to the assessee on account of sale of motor car as business income. The assessee filed an Appeal before the CIT(A) who interalia held that vintage cars are not generally used frequently as maintenance costs of such cars is very high. The ld. CIT(A) also held that the assessee never claimed any depreciation in respect of the car and no parts have been purchased from abroad and further, set aside the appeal. Being aggrieved by the order, the Revenue preferred an Appeal before the ITAT who reversed the finding of CIT(A) and held that the vintage car was not used by the assessee as personal effect. Thereafter, the assessee is in appeal before this court.

Ruling

ITAT held that what needed to be proved in the present case is that the car was used as a personal asset by the assessee. It was therefore incumbent upon the assessee to lead evidence to show that he actually used the car personally which the assessee failed to adduce evidence to prove that the car was used for his personal use. ITAT further stated that even apart, there are several indicators showing that the car was never used by the assessee for personal use, viz.

-assessee using company's car for commute

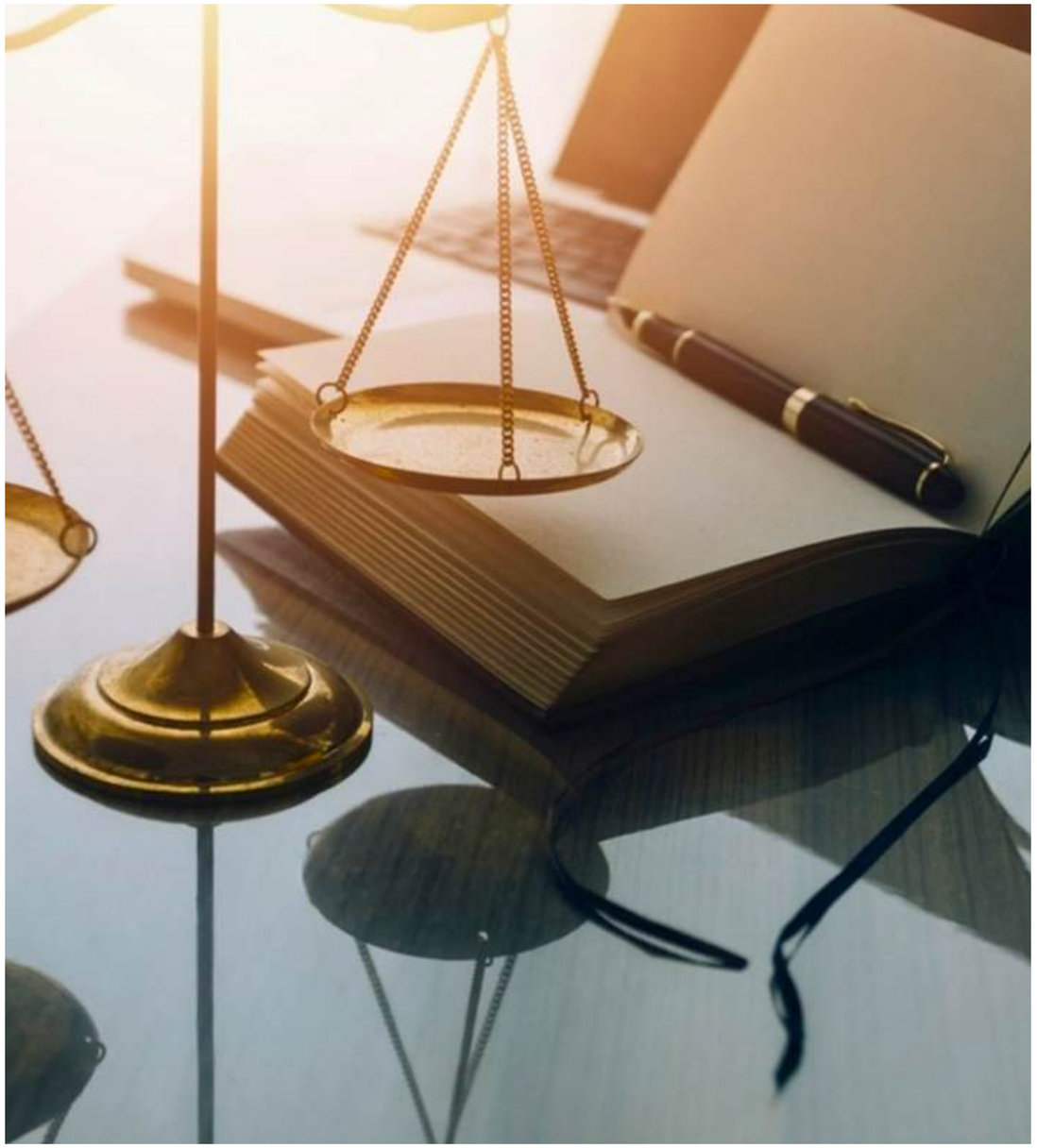
-car not being used even occasionally by the assessee

-vintage car not being parked at the assessee's residence

-assessee's inability to prove that he spent any amount on its maintenance for keeping the same in running condition and

-a salaried employee purchasing a vintage car as pride of possession.

ITAT further stated that no attempt has been made by the assessee to prove the finding of ITAT contrary to his view which appears to be an admitted fact. The substantial question of law framed by HC was therefore in favour of the revenue.



Source: High Court, Bombay in Narendra I. Bhuva vs ACIT vide [2025] 177 taxmann.com 540 (Bombay) on August 14, 2025.

Setting off STCL against LTCG cannot be treated as 'impermissible avoidance arrangement' under GAAR. Genuine transactions, routed through stock exchange and DMAT account, with no connection to related parties; timing of such transactions could not be questioned under GAAR and, in absence of material to establish an impermissible avoidance arrangement under section 96(1), order passed under section 144BA(6) was set aside.

Facts

The assessee is involved in making investment in shares and securities for many years. As on 31-03-20, she holds shares of value equivalent to INR 31.89 crores and also had mutual funds worth INR 47.59 crores. From the investment that was available with her, she had sold shares of one Company as an investment prior to the sale thereby earning LTCG of INR 44.14 crores. With so much of funds available with the assessee, the assessee decided to purchase shares of M/s. HCL Technologies Pvt. Ltd. with an intention of earning STCG and thereafter to make LTCG from subsequent disposal of investments. Further, the assessee also invested in units of mutual funds worth INR 32.92 crores during the same year which later on, were sold in the same year and eventually leaving her with the net investment of INR 17.66 crores. The cumulative effect of purchase of shares of M/s. HCL Technologies Pvt. Ltd. in the open market and sale of shares thereafter resulted in loss of INR 17.65 crores to the assessee. However, the respondent-authorities found that the transaction of purchase and sale of shares of M/s. HCL Technologies Pvt. Ltd. undertaken by the assessee during the year 2019-20 amounted to Impermissible Avoidance Arrangement and therefore the provisions of Chapter X-A, General Anti-Avoidance Rule would become applicable. Accordingly, the matter, by way of a reference, was made to the approving panel for GAAR which finally passed the impugned order holding that the transactions undertaken so far as purchase and sale of shares, particularly taking into consideration the period of time during which the sale and purchase was made amounts to "impermissible avoidance arrangement". Notices were issued to which the assessee duly submitted her objections thereto so far as applicability of GAAR provisions to the transactions under consideration. However, the respondent took a contrary view and passed the order u/s 144BA(6) holding that sale and purchase transactions resulted in STCG which was set off with LTCG which is nothing but impermissible under the GAAR provisions. Aggrieved, the instant writ petition has been filed by the assessee.

Rulings

HC held that so far as the timing part is concerned, which perhaps was the strong point on which the authority concerned has passed the order, HC took note of the report prepared by the expert committee with regard to general anti-avoidance rules are concerned. HC stated that this report itself has categorically held that sale and purchase through stock market transactions would not come under the GAAR provisions.

In view of the factual matrix of the case, HC is of the considered opinion

that the Department has not been able to show any arrangement to have been made by the assessee in the course of selling its shares, and it was a pure trading done with no knowledge of purchase and sale carried out by the assessee. In the absence of any strong material made available by the Department meeting the requirements and ingredients that are reflected u/s 96(1), HC stated that the writ petition filed by the assessee is allowed.

Source : High Court, Telangana in Smt. Anvida Bandi vs DCIT vide [2025] 177 taxmann.com 726 (Telangana) on August 22, 2025.

Assessment proceedings under section 144 stood quashed where the Principal Commissioner set aside assessment order passed by Assessing Officer under section 144, without giving any instruction to initiate fresh assessment proceedings.

Facts

The original assessment was completed u/s 144 with an addition of INR 20,78,000 made on account of cash deposits in the bank. The assessee filed a revision application u/s 264. The ld. PCIT set aside the assessment order observing that the assessee should periodically check the e-filing portal of the Income Tax Department to ensure timely response to any communication from the Department. Following the directions of the ld. PCIT u/s 264, the AO again initiated proceedings and confirmed the same cash deposit addition made in the earlier assessment order and thereafter passed the fresh assessment order upholding the additions. The ld. CIT(A) also upheld the assessment order vide his order dated 22-01-2025. Being aggrieved by the order of the ld. CIT(A), the assessee has filed the present appeal before the ld. Tribunal.

Rulings

ITAT stated that the assessment was set aside by the ld. PCIT u/s 264 without giving any direction to the revenue authorities. Therefore, it is clear that the assessment proceedings u/s 144 stood quashed. ITAT, therefore, hold that no fresh assessment proceedings were legally permitted in these circumstances. The revenue authorities exceeded their jurisdiction by initiating proceedings based on the directions of the ld. PCIT u/s 264 despite the fact that the order u/s 144 stood quashed.

ITAT also stated that it is also important to note that the ld. DR has not shown any record to suggest that the direction u/s 264 was either modified or withdrawn by the ld. PCIT. Thus, we hold that the assessment order under section 144 was quashed by the learned PCIT u/s 264. Therefore, the proceedings initiated by the AO after this direction are not sustainable in law. Accordingly, the ground raised by the assessee is allowed.

Source : ITAT, Bangalore in Changappa Pemmaiah Biddamada vs ITO vide [2025] 177 taxmann.com 609 (Bangalore - Trib.) on August 13, 2025.

Commissioner (Exemption) rejected application for conversion of provisional registration into final registration under section 12AB solely on ground that assessee had originally selected an incorrect section code. Since mistake of selecting wrong section code was purely technical in nature, matter was remanded to allow assessee an opportunity to file fresh application in correct section code under section 12A.

Facts

The assessee is a charitable trust which had been granted approval under section 12AB w.e.f. 14-05-2019. Consequent to the amendments introduced by the Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020, effective from 01-04-2021, the assessee was required to re-apply for approval u/s 12AB in Form No. 10A. In accordance with the requirement, the assessee filed Form No. 10A, but inadvertently selected the wrong section code i.e. section 12A(1)(ac)(vi) instead of the correct section code i.e. section 12A(1)(ac)(i). Based on the said form, the assessee was granted provisional registration vide Form No. 10AC dated 03-08-2023. Subsequently, the assessee filed Form No. 10AB for conversion of provisional registration into final registration u/s 12AB . However, the Ld. CIT(E) rejected the said application solely on the ground that the assessee had originally selected an incorrect section code while filing Form No. 10A. Aggrieved by the rejection order of Ld. CIT(E), the assessee is now in appeal before the Tribunal.

Ruling

IITAT stated that it is not in dispute that the assessee was holding a valid registration u/s 12AB w.e.f. 14-05-2019. Due to statutory changes brought into effect from 01-04-2021, the assessee was required to re-apply using Form No. 10A. It is also admitted that Form No. 10A was newly introduced and many assessee's had encountered difficulties and confusion in selecting appropriate section codes during the transition period. The assessee inadvertently selected section code pertaining to section 12A(1)(ac)(vi) instead of the correct section code i.e. section 12A(1)(ac)(i). This mistake was purely technical in nature. Further, it is evident that the Revenue itself granted provisional registration vide Form No. 10AC dated 03-08-2023 based on the application containing the wrong code, despite having full knowledge that the assessee was already registered u/s 12AB w.e.f. 14-05-2019. ITAT, therefore, in agreement with the ld. AR that technical or procedural defects should not come in the way of granting substantive relief, especially where the assessee is a charitable trust engaged in social welfare activities. Accordingly, in the interest of justice and fair play, ITAT set aside the impugned order of the ld. CIT(E) and restore the matter to his file with a direction to allow the assessee an opportunity to file a fresh application in the correct section code u/s 12A and adjudicate the same on merits after granting due opportunity of being heard.

Source : ITAT, Hyderabad in Divyavani Trust vs CIT (Exemptions) vide [2025] 177 taxmann.com 594 (Hyderabad - Trib.) on August 20, 2025.

CPC, while processing return under section 143(1), was not justified in making an adjustment to assessee's claim of exemption under section 10(10AA)(ii) without issuing any prior intimation as contemplated under first proviso to section 143(1)(a). Intimation issued by CPC under section 143(1) was invalid in law.

Facts

The assessee had filed his original return for AY 2022-23 declaring total income at INR 1,09,84,741. Thereafter, a revised return was filed declaring total income of INR 1,09,81,920 wherein the assessee claimed refund of INR 69,250, primarily on account of claim of relief u/s 89(1). Subsequently, the ADIT rectified the order suo motu u/s 154 and thereafter, the assessee filed a re-revised return declaring total income of INR 95,10,910, claiming exemption of INR 17,71,010 u/s 10(10AA)(ii) on account of leave encashment received at the time of retirement from LIC. It was the case of the assessee that the exemption was allowable in full as the receipt was at the time of superannuation and that LIC being a statutory corporation, the limit of Rs. 3,00,000 was not applicable. The return so filed was processed by the CPC, u/s section 143(1) vide intimation dated 06.03.2023. In the said intimation, CPC restricted the assessee's claim of exemption u/s 10(10AA)(ii) to INR 3,00,000 as against INR 17,71,010 claimed. Consequently, the income under the head 'Salaries' was enhanced from INR 72,98,447 to INR 87,69,457. After allowing deductions under Chapter VI-A of INR 3,62,975, the total income was determined at INR 1,09,81,920 as against the returned income of INR 95,10,910. On the above computation, CPC determined tax liability at INR 37,06,276 as against INR 30,40,284 declared in the return. Interest under sections 234B and 234C aggregating to INR 47,585 was also levied as against INR 2,490 shown by the assessee. Against total taxes paid of INR 37,55,014, CPC determined net refund of INR 1,153 as against refund of INR 7,12,240 claimed. After adjustment of INR 71,880 towards earlier refund, net demand of INR 70,730 was raised. The assessee preferred appeal before the CIT(A), challenging the action of CPC, Bengaluru. The grounds of appeal raised before the CIT(A) broadly challenged:-

- adjustment without issuance of mandatory notice under section 143(1)(a) thereby violating natural justice,
- lack of jurisdiction of CPC to decide debatable issues,
- the intimation being non-speaking,
- wrongful restriction of exemption under section 10(10AA)(ii) to INR 3,00,000 relying on CBDT Notification dated 31-05-2002, and
- alternatively, claim for relief u/s 89(1) on the taxed portion of leave encashment exceeding INR 3,00,000.

On merits, the CIT(A) held that exemption u/s 10(10AA)(i) is applicable only to employees of Central or State Government, and LIC not being such an employer, the assessee's case was governed by clause (ii), which restricts exemption to INR 3,00,000 as per CBDT Notification S.O. 588(E) dated 31.05.2002. As regards the alternative claim for relief under section 89(1), no directions were issued, and the ground was dismissed.

ITAT Rulings

The ld. ITAT placed reliance on Khilav Rajendrakumar Joshi v. DCIT [IT Appeal No. 33(SRT) of 2024, and quashed the intimation issued u/s 143(1), holding that any adjustment without issuing prior intimation is contrary to the statutory mandate and violative of natural justice. He further held that the intimation issued by CPC u/s 143(1) is invalid in law. Consequently, the order of the CIT(A) upholding such intimation cannot be sustained.

Source : ITAT, Ahmedabad in Kailash Narayan Shridhar vs DCIT vide [2025] 177 taxmann.com 755 (Ahmedabad - Trib.) on August 26, 2025.

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