

**Domestic Tax**

**INDEX**

<u>Particulars</u>	<u>Page No</u>
Judicial Decisions	2
Circulars and Notifications	4

## Judicial Decisions

**Capital gain arising on surrender of tenancy rights eligible for section 54F exemption; cannot be taxed as income from other sources**

**Vasant Nagorao Barabde v. DCIT – [2025] 174 taxmann.com 1015 (Mumbai - Trib.)**

***In Favour of Assessee***

### Facts

The assessee and his daughter, tenants in a building under redevelopment, were allotted a new residential flat (stamp duty value INR 2.89 crores) in lieu of surrender and relinquishment of tenancy rights by the Developer. The AO made an addition of INR 2.89 crores under section 56(2)(x)(b)(B) of the Act, being the stamp duty value of the new flat received, by stating that no consideration was paid for the flat.

### Held

The ITAT held that tenancy rights are a capital asset and the gains on surrender of such rights would be considered as capital gains. The ITAT further held that as the consideration (i.e. the stamp duty value of the property received) was fully reinvested in the allotted flat, section 54F exemption applies and the amount would not be taxable. The addition under section 56(2)(x) of the Act was deleted.

### CNK Comments

*This decision affirms the principle that tenancy rights are capital assets and any gains on transfer of such rights would be subject to capital gains and it is not a case of immovable property received without consideration. However, while the ITAT has granted relief under section 54F, one would also need to consider that the exemption under section 54F is subject to various conditions such as the time limit within which the new property has to be acquired or constructed, the condition relating to not owning more than 2 houses including the new house and the consideration reinvested to be restricted to INR 10 crore for the purpose of the calculation of the exemption.*

**Leasehold rights subject to section 50C; nature of holding immaterial for applicability**

**Vidarbha Veneere Industries Ltd. v. Income-tax Officer – [2025] 174 taxmann.com 223 (Bombay)**  
***In favour of Revenue***

### Facts

The assessee had acquired leasehold rights in a plot of land allotted by MIDC. These rights were transferred under the Deed of Assignment. The assessee argued that section 50C of the Act, which considers the higher of actual consideration or the stamp duty value of land and/ or building as the consideration for the purpose of capital gains, would not apply to leasehold rights.

### Held

The High Court held that section 50C applies to the transfer of leasehold rights in the land. It related the provision of section 50C with the definition of the term 'capital asset' in the Act which refers to an asset 'held' by the assessee as against 'owned'. It therefore held that holding an asset would also include holding it on lease and therefore, transfer of such an asset by way of assignment of the lease would be subject to section 50C.

### CNK Comments

*While the High Court referred to a capital asset which referred to 'held' as against 'owned', it did not provide any reasoning for not differentiating between a right in the asset (such as a leasehold right) and the right itself. This distinction is provided in various provisions in the Act and if one follows this ruling, it could result in absurd results in certain situations. However, this ruling, being of the Bombay High Court, would now need to be followed, at least in the State of jurisdiction. Interestingly, the Gujarat High Court, in a recent ruling under the GST law, held that transfer of leasehold rights would not be subject to GST as such a transfer would be akin to transfer of land itself.*

## Short-term capital loss on which securities transaction tax (STT) was paid could be set off against short-term capital gains (on which STT was not paid)

**iShares ESG Aware MSCI ETF v. DCIT– [2025] 175 taxmann.com 289 (Mumbai - Trib.)**

*In favour of the assessee*

### Facts

The assessee is a Mauritius-incorporated Foreign Portfolio Investor (FPI), registered under SEBI regulations, earning income from capital gains on sale of Indian securities. The assessee set off short-term capital losses (**STCL**) from STT-paid transactions (taxable @ 15% under section 111A) against short-term capital gains (**STCG**) from non-STT transactions (taxable at 30% under section 115AD).

### Held

The Tribunal held that as per the provisions of the Act, STCL can be set off against gain from any other capital asset and there is no distinction in the provisions for set-off of losses between the transactions where STT was paid and the transactions where STT was not paid. Accordingly, it allowed the set-off of STCL arising out of transactions where STT was paid with STCG on transactions where STT was not paid.

### CNK Comments

*There are various other decisions decided on this principle during this period such as Eastspring Investments India Equity Open Ltd <sup>1</sup>, Vanguard Emerging Markets Stock Index Fund a Series of VISPLC <sup>2</sup> and Teacher Retirement System of Texas<sup>3</sup>.*

## Interest on sale consideration lying in the escrow account to be treated capital receipt

**Grasim Industries Ltd vs. ACIT TS-657-ITAT-2025(Mum)**

*In favour of the assessee*

### Facts

The assessee entered into an agreement for the sale of shares on 4<sup>th</sup> December 2007. Pursuant to the terms of

the Share Purchase Agreement (SPA), funds equivalent to total sale consideration were placed in an offshore Escrow Account, pending completion of certain conditions precedent and formal transfer of shares. Subsequently, the actual transfer of shares took place on 18<sup>th</sup> March 2008 and sale consideration along with interest accrued on the escrowed funds during the interim period was received by the assessee.

The assessee claimed that the Interest on sale consideration is capital in nature and should not be made taxable which was not accepted by the tax authorities.

### Held

The ITAT held that the assessee was deprived of the use of the sale consideration which remained deposited in the Escrow Account from the date of receipt of funds in the account until the completion of the transaction and transfer of shares on 18<sup>th</sup> March 2008. Accordingly, the interest on the escrow account was directly linked to the transfer of shares. Therefore, the interest received was treated as part of sale consideration and taxed as capital gains in the hands of the assessee.

### CNK Comments

*This ruling is significant for structuring deals involving deferred consideration or escrow arrangements, as it provides clarity on the tax treatment of interest income received on deferment of sale consideration due to non-fulfilment of conditions precedent.*

<sup>1</sup> 174 taxmann.com 445

<sup>2</sup> 174 taxmann.com 1066

<sup>3</sup> 174 taxmann.com 932

## Circulars/Notifications

### CBDT Notifies the list of other goods for levy of TCS under section 206C(1F) of the Act

[Notification No. 36/2025/F.No. 370142/11/2025-TPL dated 22<sup>nd</sup> April 2025](#)

The Finance (No. 2) Act, 2024 amended section 206C(1F) of the IT Act to provide that tax collected at source (**TCS**) will also be levied on other goods as may be notified.

The CBDT has now notified the following goods for the levy of TCS if the value exceeds INR 10 lakh w.e.f. the date of its publication i.e., 22<sup>nd</sup> April 2025

1. Any wristwatch
2. Any art pieces such as antiques, paintings, sculptures
3. Any collectibles such as coin, stamp
4. Any yacht, rowing boat, canoe, helicopter
5. Any pair of sunglasses
6. Any bag such as handbag, purse
7. Any pair of shoes
8. Any sportswear and equipment such as golf kit, skiwear
9. Any home theatre system
10. Any horse for horse racing in race clubs and horse for polo.

Accordingly, if the value of the goods listed above exceeds INR 10 lakh, the seller would need to collect TCS from the buyer at the rate of 1% on the sales consideration amount.

### CBDT extends the due date of filing of ITRs which were due for filing by 31<sup>st</sup> July 2025 to 15<sup>th</sup> September 2025

[Circular no. 06/2025 dated 27<sup>th</sup> May 2025](#)

CBDT has extended the due date of filing return of income for individuals, HUF, partnership firms (not covered by tax audit requirements) from 31<sup>st</sup> July 2025 to 15<sup>th</sup> September 2025.

### CBDT Notifies TDS exemption for specified payments made to certain International Financial Services Centre (IFSC) units under section 197A(1F) of the Act read with section 80LA of the Act

[Notification No. 67 /2025/ F. No. 275/38/2025-IT\(B\) dated 20<sup>th</sup> June 2025](#)

The CBDT has specified that no withholding of tax is required while making the following payments to a unit in the IFSC subject to certain conditions:

Sr. no	Recipient of the amount	Nature of payment made to IFSC unit	TDS section
1.	BATF Service Provider	Professional or Consulting or Advisory fees	194J
2.	Broker Dealers	Payment made by Recognised Stock Exchanges	194J
		Commission Incentives	194H/194C
3.	Finance Company	Interest on account of lease	194A
		Freight or Hire Charges	194C
4.	Fund Management Entity	Portfolio Management Fees/ Investment Advisory Fees/ Management Fees/ Performance Fees	194J
5.	Recognised Clearing Corporation	Professional /Technical Services fees/ Penalty levied on clearing members	194J
		Interest Income	194A

Sr. no	Recipient of the amount	Nature of payment made to IFSC unit	TDS section
6.	Recognised Depository	Professional / Technical / Contractual Fees	194J/194C
7.	Recognised Stock Exchange	Professional / Technical Fees/ Penalty levied on Members by Stock Exchanges	194J
		Rent for Data Centres	194I
		Interest Income	194A

## CBDT Notifies Cost Inflation Index for FY 2025-26

[Notification No. 70/2025/F. No. 370142/24/2025-TPL dated 1<sup>st</sup> July 2025](#)

CBDT has notified Cost Inflation Index for FY 25-26 at 376





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