

Income Tax Bi-Weekly

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- ☐ TDS u/s 195: Not Applicable when the Commission is paid for 'services rendered outside India'
- ☐ Forex Loss on Loan should be booked every year
- ☐ GCCs: ITeS or KPO
- ☐ IT Exemption of Trusts cannot be denied merely because there is a surplus



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Is a SIR (Special Intensive Review) of Income Tax Databases required to be done by CBDT as the New Income Tax Act 2025 is implemented... Due to Notices not being received by taxpayers? Sec 282 of ITA'61 & Sec 501 of ITA'25_Reg

- ❑ CBDT suggests massive outreach programs for Intensive review of the database of the 'e-mail Ids' and 'mobile number' of the taxpayers available with the Department.
- ❑ M/s GENERAL TRADERS Vs PRINCIPAL CHIEF COMMISSIONER OF INCOME TAX, RANCHI [2025-VIL-310-JHR-DT] where a Notice under Section 148 issued for Reassessment Proceedings was challenged on the basis of Principles of Natural Justice.
- ❑ The error happened as the Income Tax Department uses the e-mail id on the ITR. However, the assessee had changed the Id on the E-Portal of Income Tax Dept.
- ❑ the words 'or' are removed after clause 'a' and 'b' which means that under ITA'25 notices, etc will be served by all ways so that the service is an 'effective service'. The Hon'ble Madras High Court, in the case of Tvl. Jai Infotech v. Deputy State Tax Officer has held that for a notice to be valid, it had to be an 'effective service' in addition to a 'legal service'

TDS u/s 195 of ITA' [Section 393 of ITA'25] is not applicable when the Commission is paid for 'services rendered outside India'

Incase no part of income is accrued or arising in India, it was not chargeable to tax in India and hence there is no need to deduct TDS.

The Hon'ble Madras High Court in CIT v. Faizan Shoes (P) Ltd. (supra) and CIT v. Kikani Exports (P) Ltd. [(2014) 369 ITR 96 (Mad.)] has categorically held that where services are rendered OUTSIDE India, section 195 is not attracted. However, assessee should duly comply with the procedural requirement under section 195(6) of ITA'61 by filing Form-15CA and Form-15CB.

Foreign Exchange Loss on Loan should be booked every year under Income Tax [Section 43AA of ITA'61 (Section 43 of ITA'25)]

The treatment of Income Tax in case of Forex loss for monetary asset i.e. Payable/ Loan is covered under Section 43AA of ITA'61 (Section 43 of ITA'25). Assessors are required to report Foreign currency loans as per ICDS VI (Rule 5i)

Now consider a case when due to the error in reporting as well as computation, the forex loss was not recognised year-on-year but once only in the year of repayment. It was held in the case of HYDERABAD YADGIRI TOLLWAY PRIVATE LIMITED Vs PRINCIPAL COMMISSIONER OF INCOME TAX [2025-VIL-1561-ITAT-AHM] that the assessee was not entitled to claim the entire foreign exchange loss on repayment of foreign currency loan in one year.

Global Capability Centres (GCCs) services for Transfer Pricing: ITeS (Information Technology Enabled Services) or KPO(Knowledge Process Outsourcing)

Construction/ Engineering GCCs have the following characteristics by and large -

- a. It renders backend support services to the construction/ Steel/ EPC industry
- b. It generally provide structural detailing services, as per the drawings/designs supplied by its A.E. It may provide other similar engineering services
- c. It employs a software generally with the help of which it provides the services.
- d. The services rendered to generally the foreign AEs are low-end services
- e. The GCCs generally engage diploma holders or not very highly qualified people for rendering services.

Rule 10TA(e) of IT Rules 1962 defines "information technology enabled services" [ITeS] and provides that -

Hence ITeS and KPO Services is that KPO service are similar in the sense that -

- a. Both are business process outsourcing services
- b. Both are provided mainly with the assistance or use of information technology

However, the key difference between ITeS and KPO Services is that -

- a. KPO service requires application of knowledge and advanced analytical and technical skills
- b. The services enumerated in Rule 10TA(e) would specifically be ITeS and Rule 10TA(e) would specifically be ITeS and the services enumerated in Rule 10TA(g) would specifically be KPO services

DGS TECHNICAL SERVICES PRIVATE LIMITED Vs THE DEPUTY COMMISSIONER OF INCOME TAX [2025-VIL-1568-ITAT-HYD]

Income Tax Exemption of Trusts cannot be denied merely because there is a surplus as long as the surplus is used for objects u/s 2(15) of ITA'61 [Section 2(23)/ 346 and 355(e) of ITA'25] ...Rule of consistency should be followed while assessing trusts

For many associations Income Tax Registration u/s 12A and exemption u/s 11 is denied since these associations collect hefty sponsorship and advertisement charges from Corporate and substantial Delegate fees. The AOs allege that the gross receipts are in the nature of trade, business and commerce and deny the exemption.

Here, it is now trite as follows -

1. The mere generation of surplus does not imply profit motive, so long as the surplus is applied solely towards the objects of the trust. Hon'ble Supreme Court in Queen's Educational Society v. CIT (372 ITR 699),
2. Rule of Consistency - Revenue has accepted the assessee's claim of exemption u/s.11 of the Act on identical facts. No change in law or factual matrix. The principle of consistency, as laid down by the Hon'ble Supreme Court in Radhasoami Satsang v. CIT (193 ITR 321)

NEURO UPDATE CHENNAI Vs ITO, EXEMPTION WARD -1, CHENNAI [2025-VIL-1571-ITAT-CHE]

THANK YOU



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