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## Supreme Court Rulings

### SC Declares Natural Consequences to Follow When Sales Tax Subsidy is Held as Capital Receipt; Upholds Gujarat HC's Munjal Auto

In a recent case, the Hon'ble Apex Court held that when a sales tax subsidy receipt has been treated as capital receipt, then the natural consequences of this declaration must follow. The Apex Court while concluding its finding referred to Dy. Commissioner of Income Tax vs. M/s Munjal Auto Industries Limited C.A. No.6226/2013 wherein the Hon'ble Gujarat High Court had relied upon the judgement of the Hon'ble Supreme Court itself in Commissioner of Income Tax vs. M/s Chaphalkar Brothers C.A. No.6513-6514/2012.

**Source: Supreme Court in PCIT vs. M/s Sunbeam Auto Pvt. Ltd. C.A. No. 8500/2018 dated January 30, 2024.**





## High Court Rulings

### Gujarat HC Holds Trust Eligible for Section 11 Exemption when Delayed Form 10B furnished to AO Before Assessment.

#### Facts

The assessee was a charitable trust registered under section 12A of the Income Tax Act, 1961 (the Act) engaged in charitable activities for over 40 years. During the assessment year (AY) 2018-19, the assessee declared business income at INR 13.5 crores, additionally, the assessee had also shown voluntary contribution amounting to INR 152 crores. The Central Processing Centre (CPC) during the processing of return under section 143(1) disallowed the claim of exemption under section 11 of the Act on the grounds that the audit report in Form No. 10B had not been e-filed along with the return of income

The assessee received an intimation declaring its total income at INR 165 crores due to the addition of voluntary contribution to the declared income.

Subsequently, the assessee challenged the intimation before Commissioner of Income Tax (Appeals) [CIT(A)] who, after considering the fact that filing of audit report in Form 10B was a procedural requirement and in light of various judicial pronouncements on the issue of delayed submission of Form 10B, allowed the claim of the assessee by observing that the audit report was e-filed to Assessing Officer (AO) in regular assessment proceeding on 06.12.18 and was made available before the AO when he passed the assessment order under Section 143(3) on 06.04.21.

The revenue, hence aggrieved preferred an appeal before the

Tribunal which upheld the order of the CIT. Consequently, the matter reached the Hon'ble High Court for adjudication.





## High Court Rulings

### Ruling

The Hon'ble High Court ruled in favor of the assessee by holding that the Tribunal had rightly followed the decision of this Court in the case of ***Sarvodaya Charitable Trust v. Income Tax Officer (Exemption) in Special Civil Application No.6097 of 2020*** as well as the decision in case of ***Social Security Scheme of GICEA v. Commissioner of Income Tax (Exemptions), Ahmedabad in Special Civil Application No.17612 of 2022*** to uphold the decision of the CIT (Appeals). These cases had opined that the approach of the authority in such type of cases should be equitable, balancing and judicious.

Accordingly, the Hon'ble High Court opined that it when in the facts of the case, the assessee had already uploaded the audit report in Form 10B as required under Section 10(23)C read with Section 12A(1)(b) of the Act before the AO prior to the original assessment order under Section 143(3) then denial of such exemption was unwarranted.

**Source: High Court, Gujarat in CIT (Exemptions) Ahmedabad vs. Gujarat Energy Development Agency vide R/TAX APPEAL No. 35 of 2024 dated January 15, 2024.**



## ITAT Rulings

### **ITAT Holds Assessee Eligible to Claim Deduction under section 80-IA (4); AAI is a statutory body incorporated by the Central Government**

#### **Facts**

The assessee was a Joint Venture Undertaking constituted by two companies, M/s. Nagarjuna Construction Company Ltd. and M/s. M.S. Khurana Engineering Ltd., under the name of NCC-KSKEL.

The assessee had submitted a bid for works relating to construction of New Domestic Arrival Block at Ahmedabad to the Airports Authority of India (AAI), New Delhi. The contract for construction of the new Domestic Arrival Block at Sardar Vallabhbhai Patel International Airport, Ahmedabad was awarded to the assessee vide working order dated 08.05.2006.

For the relevant Assessment Year (A.Y.) 2007-08, the Commissioner of Income Tax Appeals, [CIT(A)] dismissed the appeal of the assessee on the ground that the assessee was not eligible for deduction under Section 80-IA (4) due to the Explanation inserted in the Act by Finance Act 2009 with retrospective effect from 01.04.2000 and therefore, he confirmed the disallowance of INR. 1.28 crores made by the Assessing Officer. Aggrieved the assessee preferred an appeal before the tribunal for relief.

For the A.Y. 2008-09, the CIT(A) allowed the appeal of the assessee on the same set of facts and held that the assessee qualified as a "developer" and eligible for claim of deduction under Section 80- IA (4) of

the Act. Consequently, the revenue also preferred an appeal before the Tribunal.







### Ruling

The tribunal ruled in favor of the assessee while disposing of both appeals together. The issue before the tribunal stood as ***whether contracts with AAI would be eligible for grant of deduction under Section 80-IA (4) of the Act?***

The tribunal answered the same by holding that the AAI is a statutory body and in terms of the plain language of Section 80-IA (4) of the Act, and if other conditions of eligibility had been satisfied by the assessee, it would be eligible for claim of deduction under Section 80-IA(4) of the Act. Therefore, the tribunal held that the claim of deduction under Section 80-IA(4) of the Act could not be denied to the assessee only on the ground that since the assessee had entered into a contract with AAI, which did not constitute as a Central / State Government, the assessee was not entitled to claim the deduction under Section 80-IA (4) of the Act.

Additionally, the tribunal observed the factual matrix of the case and held that the assessee clearly identified as a developer engaged in developmental work for the purpose of section 80-IA (4) of the Act. The tribunal referenced the judgement of the Hon'ble Gujarat High Court in ***PCIT vs. Montecarlo Construction Ltd. in Revenue Tax Appeal No. 786 of 2023*** to support its conclusions.

**Source: Tribunal, Ahmedabad in M/s N.C.C.- M.S.K.E.L. vs. ITO vide I.T.A. No. 231/Ahd/2012 dated January 29, 2024.**



## ITAT Rulings

### ITAT Holds Invocation of Deeming Provisions Not an Automatic Consequence of Income Surrendered During Survey under section 133A.

#### Facts

The assessee was a partnership firm and engaged in the business of manufacturing hosiery. A survey under section 133A of the Act had been conducted at the business premises of the assessee on 10.10.2018 and various documents were impounded during these proceedings.

During the survey the assessee had surrendered INR 40 lakhs, including INR 21 lakhs on account of excess stock found, INR 9 lakhs being excess cash found and INR 10 lakhs on account of uncounted debtors (based on impounded slips). In view of the same, the assessee was asked to justify as to why the amount surrendered should not be taxed under section 115BBE of the Act. The AO did not find the submission of the assessee satisfactory proceeded to hold the stock and receivables as unexplained investment under section 69B and the cash as unexplained money under section 69A of the Act, chargeable to tax under section 115BBE of the Act.

The same were confirmed by the CIT(A) as well.

#### Ruling

The tribunal ruled in favor of the assessee. It opined that merely because a search was conducted, the invocation of the deeming provisions of the Act is not an automatic consequence. It was opined by the tribunal that the essential criteria for invocation these provisions is "whether the Assessee has made the investment/has been found to be owner of cash and the explanation offered by the Assessee explaining the nature and source of such undisclosed income and the reasonability of the

explanation". Detection and surrender of undisclosed income is not the foundation for such invocation.

It was further observed that when the partner of the assessee in his statement had clearly mentioned that the excess advances, stock and cash were part of the business and were not recorded in the books, hence were offered to tax, then such amounts could not be deemed to be unexplained anymore. Additionally, the the excess stock, cash and advances surrendered were not separate and independent but were part and parcel of Assessee business and had emerged therefrom. As such the tribunal concluded that the Revenue had failed to consider the statement recorded during the survey and set aside the order.

**Source: Tribunal, Chandigarh in M/s Veer Enterprises vs. DCIT vide ITA No. 225/CHD/2023 dated January 23, 2024.**



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