

Communiqué

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Supreme Court Rulings

CIT(A) rightly exercised revisionary powers u/s 263 treating quota sale premium as 'other receipts' in a case where assessee, exporting readymade garments, claimed deduction u/s 80HHC and AO failed to exclude 90% of export quota premium from business profits as required under Explanation (baa).

Facts

The Assessee filed a Return on 31-10-01 for AY 2001-02, declaring income of Rs. 3.97 crores after claiming deduction u/s 80HHC amounting to INR 13.86 crores. As per audit report u/s 80HHC(4), the assessee received INR 73.49 lacs as premium on the sale of export quota which the assessee claims are included in the total turnover shown as local turnover and treated as "profits of business" computed under the head "PGBP". The AO completed the assessment u/s 143(3) after examining the claim for deduction u/s 80HHC accepted the same. The assessee relies on the CBDT Office Memorandum/Circular dated 23-02-98 which states that technically, export quota premium can be equated with the items mentioned in Section 28(iia) and (iic), and therefore the premium on the sale of export quota statutorily receives the same treatment as profit on the sale of import license, cash assistance and duty drawback. The CIT issued a Notice u/s 263 calling upon the assessee to show cause as to why the assessment should not be reopened and reassessed. Since the AO had failed to exclude 90% of the quota premium from business profits under Explanation (baa) to Section 80HHC, resulting in an excess deduction of INR 51.23 lacs. The Revenue contends that the export quota premium receipt must be reduced by 90% under Explanation (baa) to Section 80HHC, as other receipts are not eligible, and that the assessee is not entitled to a proportionate adjustment under the proviso to Section 80HHC(iii). According to the Revenue, the reason in law appears to be that export quota is not explicitly enumerated in Section 28(iia) to 28(iic). The Assessee replies to this objection by relying on the CBDT Office Memorandum which is binding on the Officers of the Department. On receipt of the reply, the CIT(A) set aside the assessment order and directed the AO to undertake a fresh assessment, treating the premium on quota sale proceeds as "other receipts".

The AO passed a fresh Assessment Order, redetermining the taxable income at INR 4.56 crores with ancillary and incidental levies. The assessee carried the matter in Appeal before the CIT(A) who set aside the original assessment Order. The Assessee also challenged the revisionary order passed u/s 263 before the ITAT. While matters stood thus, the Revenue filed appeal before the ITAT, Delhi, challenging the CIT(A) order against the original assessment who allowed the appeals. The Revenue further carried the matters on appeal u/s 260A before the High Court of Delhi who set aside the Orders of ITAT.

Ruling

SC have examined the CIT's Order and the ITAT's Order and is of the view that, in considering the scope and ambit of Section 263, the High Court noted the fact in issue between the Assessee and the Revenue and then recorded a finding that the CIT had rightly exercised the revisional jurisdiction u/s 263. We are not inclined to interfere with the impugned Judgment and are not keen to remand the matter to the High Court for reconsideration, particularly after appreciating the nature of the disputes between the Assessee and the Revenue. The Appeals fail and are dismissed.

Source : Supreme Court in Orient Crafts Ltd. vs CIT vide [2026] 190 taxmann.com 629 (SC) on September 18, 2026.





ITAT Rulings

Assessee's explanation treated as bona fide and income declared could not be treated as under-reported income u/s 270A(6)(a) where a government company filed return in response to section 148 notice, with assessment completed at returned income without additions.

Facts

The assessee could not file its return of income u/s 139(1). Subsequently, on the basis of the information available with the Revenue that the assessee has made time deposit of INR 1 crore in the SBI and also earned interest other than interest on securities u/s 194A of INR 81.40 lacs in the same bank and INR 3.67 lacs in IDBI Bank Ltd., proceedings u/s 148A were completed and notice u/s 148 was issued, in response to which, the assessee filed its return of income on declaring total income of INR 1.11 crores. During the assessment proceedings, the assessee filed its response along with documentary evidence. The assessee, along with the bank statement, submitted that the grants received from the Government of Karnataka were deposited as time deposits in the bank account which was further invested as a time deposit. Accordingly, the AO vide order passed u/s 147 r.w.s. 144B accepted the submissions of the assessee and drew no adverse inference.

As regards the interest income earned during the year, the assessee submitted that it earned total interest income the assessee has shown net interest income of INR 38.13 lacs. The assessee had claimed a deduction of INR 46.94 lacs as the amount was remitted to the Government of Karnataka as per the instructions. In support of the claim, the assessee provided a copy of the bank interest repayment letter, a copy of the challan, a copy of the bank statement reflecting the interest amount repaid to the Government, Computation of Income, and a circular from the Government of Karnataka dated 27-08-19 with regard to remitting back interest on FD. After perusing the assessee's response, the AO concluded that the issue without any addition. Accordingly, assessment was completed at the returned income.

Since the assessee did not file its original return of income for the year under consideration and the income remains undisclosed on the part of the assessee till filing of return of income pursuant to the notice issued u/s 148, the AO recorded the satisfaction for initiation of penalty proceedings u/s 270A for under-reporting of income, which was disclosed only after issuance of notice. Accordingly, the AO passed an order u/s 270A, levying a penalty of INR 18,53,214 for under-reporting of income u/s 270A which was upheld by CIT(A) against which the assessee is in appeal before ITAT.

Ruling

In this regard, it is relevant to note the provisions of section 139(5) of the Companies Act, 2013, which specifically mandates that the appointment of the statutory auditor be made by the C&AG of India. Further, as per the provisions of section 143(6)(a) of the Companies Act, 2013, the supplementary audit must be carried out independently by the C&AG. From the documents placed on record, ITAT find that the final clearance with Nil comments from the C&AG was issued on 20-01-23. As per the assessee, the annual accounts were only thereafter finally adopted at the AGM held on 07-02-23, a copy of which has been placed on record by the assessee. Thus, ITAT agreed with the submissions of the assessee that due to delay in completing the audit, which was beyond its control, the original return of income u/s 139(1) could not be filed by the assessee.

Further, ITAT is of the considered view that the instant case squarely falls within the purview of the provisions of section 270(6)(a), as the assessee has duly explained the circumstances which resulted in the delay in filing its original return of income. ITAT find that a similar explanation was made by the assessee before the learned CIT(A). However, the same was rejected on the basis that the same is general in nature and unsupported by any provision of law permitting postponement of filing of return merely because audit is pending. As noted in the foregoing paragraph, the assessee, being a Government Company, can only file its return of income after finalization of its accounts pursuant to the audit by the C&AG. Therefore, even though there is no provision of law which permits postponement of the filing of return, the fact that in the present case the C&AG audit was delayed supports the contention of the assessee in not filing the original return. Further, in the present case, it is evident that by the time the entire statutory procedure was completed, the notice under section 148 of the Act was issued, pursuant to which the assessee filed its return of income, which was accepted by the AO and the assessment was concluded without making any addition. Therefore, ITAT is of the considered view that the instant case falls within the ambit of the provisions of section 270(6)(a) and the income declared by the assessee in its return pursuant to notice u/s 148 cannot be considered as under-reported income. Thus, the impugned penalty levied u/s 270A is quashed and the grounds raised by the assessee were allowed.

Source : ITAT, Bangalore in Karnataka Sheep and Wool Development Corporation Ltd. vs ACIT vide [2026] 190 taxmann.com 221 (Bangalore - Trib.) on September 03, 2026.

Where assessee, a charitable trust running a school, was first subjected to scrutiny by issuance of notice u/s 143(2), and intimation u/s 143(1) thereafter disallowed its claim of exemption u/s 10(23C), such intimation issued after commencement of scrutiny was legally void, and consequently, assessment order u/s 143(3) merely adopting invalid intimation was also unsustainable.

Facts

The brief facts of the case are that the assessee was running a School and Library along with a dispensary for the poor since the year 1960 and had filed its return of income claiming exemption u/s 10(23C)(vi) declaring turnover of INR 12.58 lacs and accordingly after claiming the exemption, the return was filed at Nil income. Subsequently, assessment proceedings were initiated by issuance of notice u/s 143(2). Further intimation u/s 143(1) (after processing the return) was passed. Subsequently, the assessee realized that there was an apparent mistake committed while filing return of income by claiming exemption u/s 10(23C)(vi) instead of 10(23C)(iiia). However, the rectification application moved by the assessee came to be rejected and a demand of INR 3.89 lacs was raised. Thereafter, the assessment order was passed u/s 143(3) wherein the income as per the intimation was accepted without making any further addition. Aggrieved, the assessee carried the matter to the NFAC challenging the assessment order by mechanically retaining the adjustment made by the CPC, Bangalore and by passing a non-speaking order. The assessee also submitted before the learned NFAC that the AO had failed to appreciate the replies and supporting documents submitted during hearings before the AO which entitled the assessee to exemption u/s 10(23C)(iiia). However, the Id. AO dismissed the assessee's appeal by holding that the assessee could not have claimed exemption without having a valid registration u/s 12A and that the failure to produce the registration certificate u/s 12A would not entitle the assessee to claim any kind of exemption u/s 10(23C)(iiia). Against the order of the learned FAA the assessee is now before this Tribunal.

Ruling

ITAT placing reliance on Hon'ble Supreme Court in case of Vodafone Idea Limited v. ACIT vide 424 ITR 664, Hon'ble Calcutta High Court in case of CESC Ltd. v. DCIT, Hon'ble Gujarat High Court in case of Gujarat Poli-Aux Electronics Ltd. v. DCIT wherein it has been held that the intimation u/s 143(1) issued subsequently to the issuance of notice u/s 143(2) is not legally permissible. Placing reliance on these citations, Id. ITAT held that the intimation u/s 143(1) in the present appeal is devoid of legality and is hereby quashed. ITAT further added that once, the intimation u/s 143(1) is quashed, the subsequent assessment u/s 143(3), which has proceeded to assess income on the basis of intimation u/s 143(1), also becomes bad-in-law and is accordingly set-aside.

Source :ITAT, Lucknow in Nagarji Navyuvak Sanstha vs ITO, Exemption vide [2026] 190 taxmann.com 1015 (Lucknow - Trib.) on September 18, 2026.



Where reassessment was initiated solely on an anonymous, unverified Tax Evasion Petition alleging benami property transactions in assessee's name, and lacked specific details or supporting evidence, since AO did not possess tangible, credible material after independent application of mind, initiation of reassessment failed to meet statutory jurisdictional threshold and was not sustainable in law.

Facts

The return of assessee was filed u/s 139 declaring total income of INR 8.89 lacs and prior to the proceedings AO had issued notice u/s 133(6) by which information was sought with regard to investment in immovable property by the assessee, which was responded along with documents including COI, bank statements, memorandum of association, sales deed and the ledger of vendor parties. Thereafter, re-assessment proceedings were initiated in which again aforesaid documentary evidence were filed but Id. AO was not satisfied and made an addition of INR 42.62 lacs as unexplained investment u/s 69B which has been sustained by Id. CIT(A) for which assessee is in appeal and before the Id. Tribunal. The foremost contention of Id. Counsel was that the assumption of jurisdiction u/s 148 is itself vitiated as based on unverified Tax Evasion Petition alleging transfer of certain immovable (Benami) properties in the name of assessee the case was reopened.

Source : ITAT, Delhi in Urvara Agro (P.) Ltd. vs ITO vide [2026] 190 taxmann.com 959 (Delhi - Trib.) on September 25, 2026.

Ruling

The reassessment proceedings have been solely initiated because of anonymous and unverified TEP received in the name of one of the directors Vishwas Tripathi. ITAT after considering the show cause notice u/s 148A(b) and the copy of order passed u/s 148A(d), is of the opinion that not even there is a disclosure of nature of properties as to if the same were residential, commercial or agricultural and there no detail of location, valuation, date of acquisition, mode of acquisition or alleged source of investment coming up either from the information which is said to be “credible information” or any separate findings. In order u/s 148A(d), it is observed by Id. AO that assessee had failed to explain the source of investment as out of small profit of the company invest was made and merely showing assets in its ITR does not make the transaction authentic, however, ITAT find that what is the nature of asset itself is not reflected. These facts and the content or information coming out of all these facts would not at all constitute information so as to justify allege that the same provide a live link to the reasons for recording a satisfaction of escapement of income to issue show cause notice u/s 148A(b) or the order passed u/s 148A(d).

ITAT stated that we are of considered view that the jurisdictional threshold prescribed by the statute remains wholly unmet and where the settled law is that reassessment proceedings cannot be initiated on the basis of vague, unverified or borrowed information and the Assessing Officer must possess tangible and credible material which, after applying his own mind independently suggests escapement of income in the hands of the assessee, the reopening in case of assessee is not sustainable in law.



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