

Communiqué

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A delay of 524 days in filing of appeal before CIT(A) was bona fide and not intentional but caused by circumstances beyond assessee's control was condoned in the interest of substantial justice, and merits required adjudication; disallowance of house property loss cannot be dismissed by CIT(A) on limitation ground.

Benefit of section 11 for deduction of application and accumulation of income cannot be denied merely due to procedural delay in submitting Form 10B electronically in case where the audit report in Form 10B was obtained before filing of the return, but the form was filed during appellate proceedings.





High Court Rulings

Addition u/s 68 cannot be made where assessee-company received share capital investment from third-party investor and was not a shell entity, and revenue brought no evidence that invested amount was routed back by assessee.

Facts

The assessee company, for AY 2012-13, received an investment from a third-party investor, M/s Apurva Leasing Finance and Investment Company, towards its share capital. The assessee was the recipient of the invested amount from this third party. An assessment order dated 27-03-15 was passed capturing the dispute pertaining to treatment u/s 68 of the amount received towards share capital from the said investor. On appeal, CIT(A) allowed the assessee's appeal confirming the genuine activity of the assessee and stating that the assessee was not a shell entity and accepted that the assessee had invited investment in its share capital. The present appeal filed by the revenue arises from the order dated 08-10-25 passed by the ITAT, Delhi bench wherein the bench had dismissed the revenue's appeal and thereby confirmed the order passed by the CIT(A).

Ruling

HC finds that the CIT(A) has recorded categorical findings confirming the genuine activity of the assessee. To the extent, the present assessee is not a shell entity and further to the extent, it had invited investment in its share capital, the fact that said investment made by M/s Apurva Leasing Finance and Investment Company may have been added at the hands of the assessee only if evidence may existed of that money having been passed on by the assessee itself. HC stated that as far as the present assessee is concerned, it is the recipient of the amount invested. The amount in issue is share capital received from third party. Which third party is to be assessed with respect to the amount invested, may remain outside the control of the assessee and may have no bearing on it is an assessment. In view of the above, the order of the Tribunal was upheld.



Source : High Court, Allahabad in PCIT vs Livros Publishing (P.) Ltd. vide [2026] 186 taxmann.com 885 (Allahabad) on May 14, 2026.

Proceedings initiated u/s 148A and notices issued u/s 274 against a deceased assessee, without proceeding against legal representatives as required u/s 159 are not legally sustainable and must be quashed.

Facts

The department has initiated proceedings u/s 148A against the people who have already expired. The law in this regard is well settled that proceedings against person who has expired cannot be initiated u/s 148A and what is required to be inducted is by way of taking aid of Section 159, which has not been done in the present case. The assessee had placed reliance on the order passed by another Division Bench of this Court in Meena V. Kumar v. Principal Chief CIT & Anr. [D.B. Civil Writ Petition No. 15115 of 2022, dated 22-3-2024].

Ruling

High Court going by the above ruling quashed the proceedings and accordingly the petition was allowed in favour of the assessee.

Source : High Court, Rajasthan in Devendra Pareek vs ACIT vide [2026] 186 taxmann.com 979 (Rajasthan) on May 19, 2026..



Period between notice date and deemed reply date was to be excluded in computing limitation u/s 149 where notice u/s 148A(b) was issued and assessee sought adjournments but did not file reply by deferred date. Passing of order u/s 148A(d) with notice u/s 148 on next day was within limitation.

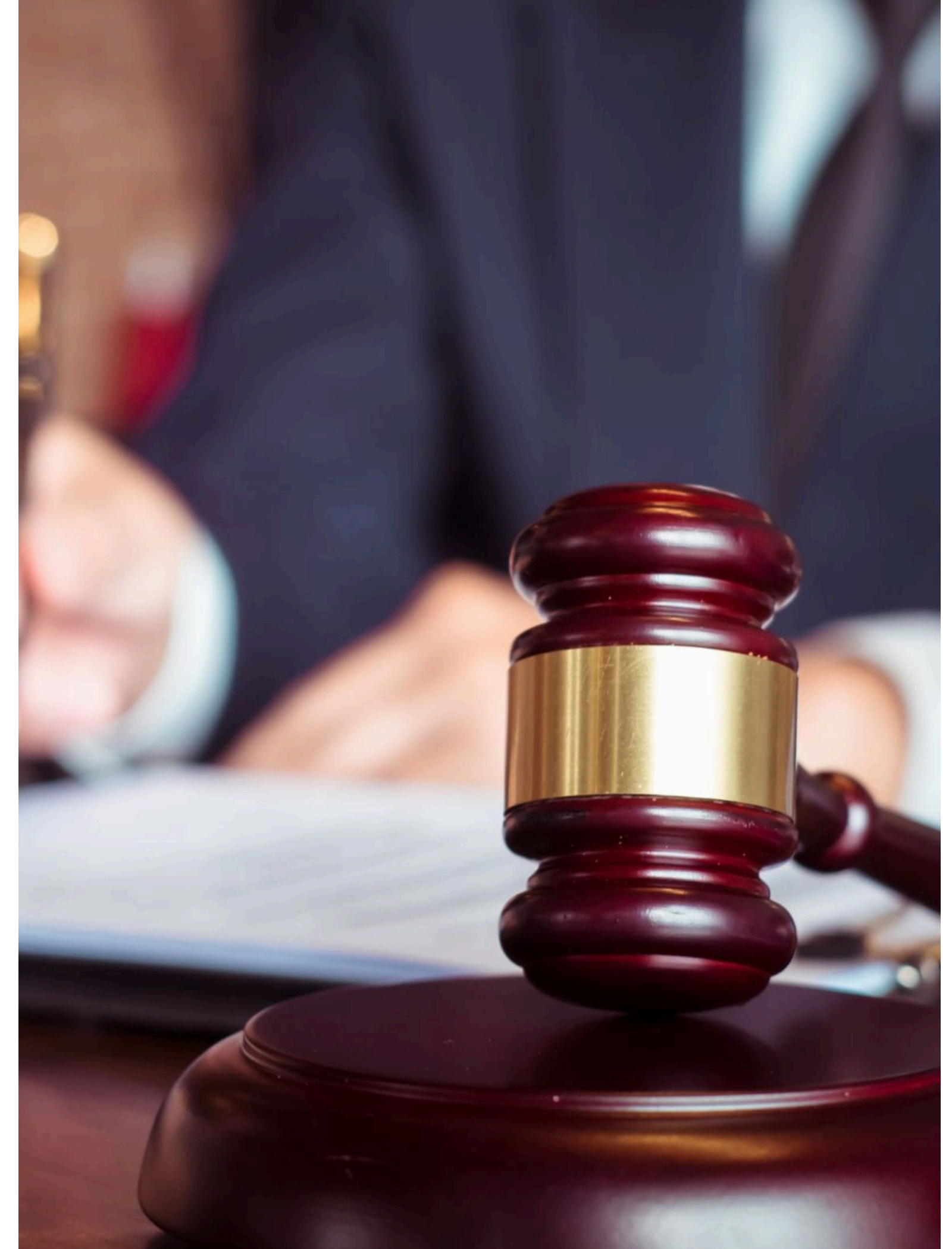
Facts

On 29-03-24, the assessee was called upon to file his reply as provided in Section 148A(b) and (c) to which on 08-04-24 instead of filing reply, he sought an adjournment and on 12-04-24, the assessee sought another adjournment which was turned down by the AO and on 21-04-24, the assessee filed reply, with a plea that the proceedings have become time-barred.

Ruling

HC held that since the reply was not filed, 15-04-24 will be deemed to be the date of filing the reply as the request of the petitioner for an adjournment was turned down. HC stated that needless to observe that on 28-03-24, the AO had three days' time in his hands and even going by sixth proviso to Section 149 from the date of filing reply, the AO had seven days' time to pass an order. The last date for passing order u/s 148A(d) and issuing notice u/s 148 was therefore 7 days from 15-04-22, i.e. 22-04-24. Therefore, going by the facts of the present case, since the order u/s 148A(d) and notice u/s 148 have admittedly been issued on 16-04-24, the same are well within limitation and the present writ was disposed of.

Source : High Court, Delhi in Sunil Bhalla vs DCIT vide [2026] 186 taxmann.com 1235 (Delhi) on May 29, 2026





ITAT Rulings

Where assessee sold share in immovable property, received full sale consideration and handed over possession by 31-10-17 but execution of sale deed was delayed due to revenue record lien, since both parties had complied with terms by that date, transfer was deemed effected in that year u/s 2(47)(ii), making capital gains taxable and section 54 deduction allowable in same year.

Facts

The assessee had entered into an agreement to sell on 21-10-17 to sell impugned property wherein the share of the assessee in the property was 50%. As per terms of agreement, total sale consideration was fixed at INR 15 crores, out of which INR 4.50 crores was advanced by purchaser as earnest money. Remaining payment was to be given on or before 28-10-17 and the date of execution of sale deed was fixed as 31-10-17. Sellers were required to clear all outstanding dues against said house before execution of sale deed. Clause 9 of agreement mentioned that physical possession of house was already with purchaser. Sellers were required to hand over original documents of property at time of execution of sale deed. However, there was an extension agreement dated 30-10-17 whereby execution of sale deed was extended with mutual consent up to 10-04-18. The assessee received entire sale consideration of INR 2.23 crores and INR 5.79 crores, which stood credited to assessee's account on 31-10-17. Thus, assessee received excess payment of INR 60 lakhs, which was refunded to purchaser on 06-12-17. Due taxes were deducted by purchasers while making aforesaid payments, which stood reflected in Form 26AS of seller. Other two co-owners also computed capital gains in AY 2018-19, which apparently had not been disputed by revenue. Clause 1 of sale deed, as placed on record, would show that full sale consideration had flown to all three sellers by 05-12-17.

It is further found that assessee carried out inspection of said property. Upon perusal of same, it was seen that property was flagged as red entry in revenue records pursuant to instructions issued by Assistant Excise & Taxation Officer, Sangrur to Estate Officer on ground that one third party was owner of property under consideration. Instructions were issued so that said person could not alienate property without prior consent of Excise Department. Again, Excise and Taxation Department wrote another letter to Estate Officer to enquire whether the person said was owner of property, enabling it to recover arrears who intimated that property was owned by assessee along with other co-owners. Considering same, Deputy Commissioner, State Tax, Sangrur issued no objection on 10-1-18 for transfer of property to any other person. Finally, red entry in records with respect to impugned property was deleted. After removal of red-entry, sale deed was finally executed on 06-04-18.

Ruling

The bench in the given set of facts held that it could be said that the sale consideration has flown to the present assessee by 31-10-17 and the physical possession was already handed over to the purchaser by that date. The execution of sale deed got extended due to reasons which were beyond the control of the assessee. No doubt, the sale deed was executed on 06-04-2018, however, the assessee seller as well as purchaser fully complied with the terms of the agreement to sell in AY 2018-19 only. There is no quarrel on the proposition that the ownership would be conveyed only upon execution of sale deed, however, the facts of the case would indicate that the execution of sale deed has been postponed due to reasons which were beyond the control of the assessee. However, for all intents and purposes, the rights in the property stood transferred by 31-10-17 and the case was covered u/s 2(47)(ii) which provide that the transfer would include the extinguishment of any rights in the immovable property. The assessee has filed affidavit and certificate on behalf of the purchaser entity confirming the said facts were part of the paper book. It could be well that for all practical purposes, the assessee as well as the purchaser had complied with all the terms of the sale in this year only. Therefore, the claim of the assessee, in the considered opinion of the bench must be accepted. The new property has been purchased by the assessee on 03-11-16, which is within one year from the date of exchange of full sale consideration to the assessee i.e., 31-10-17. Therefore, finding substantial strength in the arguments of Ld. AR, the bench directed that the gains are to be taxed this year only and the assessee would be entitled for deduction u/s 54.

Source : ITAT, Chandigarh in *Sat Paul Bansal vs DCIT vide [2026] 186 taxmann.com 537 (Chandigarh - Trib.) on May 07, 2026.*



A delay of 524 days in filing of appeal before CIT(A) was bona fide and not intentional but caused by circumstances beyond assessee's control was condoned in the interest of substantial justice, and merits required adjudication; disallowance of house property loss cannot be dismissed by CIT(A) on limitation ground.

Facts

The assessee filed the return by declaring total income amounting to INR 12.90 lacs and c/f the loss from house property amounting to INR 17.42 lacs arising on account of interest on borrowed capital. During the assessment the Ld. AO restricted the c/f of loss amounting to INR 9.64 lacs by disallowing 50% of the interest solely of assumption that property and loan were jointly held even though entire loan repayment and interest borne by the assessee himself. The Ld. AR narrated that the legal advisor of the assessee failed to inform the assessee about the passing of assessment order and accordingly, the assessee has no knowledge about the adversity of the order of Ld. AO. Finally, the carry-forwarded loss was disallowed amount to INR 7.78 lacs. The aggrieved assessee filed an appeal before the Ld. CIT(A) with a delay of 524 days. The Ld. AR contended that the explanation for delay in filing appeal was filed by the assessee by an affidavit in a very cryptic manner which was rejected by the Ld. CIT(A) on the ground of limitation. Being aggrieved assessee filed an appeal before ITAT.

Ruling

ITAT find that the explanation furnished by the assessee demonstrates sufficient and bona fide cause for the delay in filing the appeal before the Ld. CIT(A) which appears neither intentional nor deliberate but attributable to circumstances beyond the control of the assessee. It is a settled proposition of law that substantial justice should prevail over technical considerations, particularly where the litigant has shown reasonable cause supported by affidavit evidence. In the considered view of the bench, the Ld. CIT(A) was not justified in dismissing the appeal in limine without granting an opportunity for adjudication on merits.

Accordingly, in the interest of substantial justice, ITAT condoned the delay of 524 days in filing the appeal before the Ld. CIT(A). The assessee was directed to file the notarized affidavit along with supporting documents before the Ld. CIT(A) with prayer for condonation of delay and accordingly, the impugned appellate order was set aside, and the matter was restored to the file of the Ld. CIT(A) with a direction to adjudicate the issues afresh on merits after providing adequate opportunity of hearing to the assessee in accordance with law.

Source : ITAT, Mumbai in Manish Hansraj Wadhwa vs Assessment Unit of Income-tax Department vide [2026] 186 taxmann.com 997 (Mumbai - Trib.) on May 22, 2026.



Benefit of section 11 for deduction of application and accumulation of income cannot be denied merely due to procedural delay in submitting Form 10B electronically in case where the audit report in Form 10B was obtained before filing of the return, but the form was filed during appellate proceedings.

Facts

The total income of the assessee was computed at INR 76.74 lacs after disallowing the application of income for revenue purpose of INR 38.52 lacs and exemption on account of accumulation u/s 10 of INR 38.37 lacs against which, the assessee had preferred an appeal before the Ld. CIT-A on 26-03-25 along with the application for condoning the delay. The appeal was admitted and the Ld. CIT(A) further suggested that according to the Circular No. 16 of 2024 dated 18-11-24, the condonation of delay in filing Form No. 10B for AY 2018-19 and subsequent years the remedial action lies by filing a condonation petition. If the condonation is granted, the benefit would be allowed and the form 10B was uploaded during the pendency of appeal before the CIT(A).

Source : ITAT, Bangalore in *Anasuya Foundation vs Income Tax Officer (Exemptions) vide [2026] 186 taxmann.com 1074 (Bangalore - Trib.) on May 26, 2026.*

Ruling

Following the decision of the Honorable Gujarat High Court, ITAT held that even if the assessee has violated the provisions of Section 12A(1) by not filing the form No. 10B electronically in time and despite the decision of the Honorable Supreme Court in case of Wipro Ltd., the assessee is entitled to the benefit of form No. 10B filed at the time of filing of the appeal before the Ld. CIT-Appeal.

Coming to the order of the Ld. CIT(A), ITAT finds that the advice rendered by the Ld. CIT-Appeal is correct and in accordance with the plain reading of the law. Further ITAT stated that how could the CPC u/s 143(1) grant the assessee the benefit of accumulation and application in absence of Form No 10B. However, following the judicial precedents of the Hon'ble Gujarat High Court which ITAT was bound to follow in absence of any contrary decision of any other High Court, appeal of the assessee was allowed. Accordingly, the appeal of the assessee was allowed, and the Ld. AO was directed to grant the benefit of deduction of application of income as well as accumulation of income.



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