R.C. JAIN AND ASSOCIATES LLP

NEWSLETTER

December 2024

"You have the right to perform your duties, but you are not entitled to the results. Act with dedication, but let go of attachment to the outcome."

- Lord Krishna

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Circular dated 16th December 2024

The **Vivad se Vishwas Scheme** is a dispute resolution mechanism introduced by the Indian government to settle pending tax disputes. It aims to reduce litigation and expedite the resolution of disputes under direct taxes by offering taxpayers an opportunity to pay disputed taxes without additional interest or penalties under specific conditions. Here's a brief overview of its key feature is to reduce litigation, provide certainty to taxpayers, and recover outstanding tax arrears in a hassle-free manner. It Covers appeals filed by taxpayers or the Income Tax Department pending at various appellate forums (Commissioner, ITAT, High Court, Supreme Court) as of the prescribed cut-off date. The commencement date of the said Scheme has already been notified as 1.10.2024. Further, Rules and Forms for enabling the Scheme have also been notified on 20.09.2024.

Kindly refer below link for FAQ asked by Tax payers.

https://incometaxindia.gov.in/Pages/communications/circulars.aspx

Circular dated 30th December 2024

The Central Board of Direct Taxes (CBDT) extends the due date for determining amount payable under Vivad Se Vishwas Scheme from 31st December, 2024 to 31st January, 2025.

(2) Where declaration is filed on or before 31st January, 2025, amount payable shall be determined as per column (3) of the Table specified in section 90 of the Scheme, and where declaration is filed on or after 01 February, 2025, amount payable shall be determined as per column (4) of the said Table. Refer Circular Dated 15th October 2024 for details.

https://incometaxindia.gov.in/Pages/communications/circulars.aspx

Circular dated 31st December 2024

The Central Board of Direct Taxes has extended the last date for furnishing belated return of income or for furnishing revised return of income for the Assessment Year 2024-25 in the case of resident individuals from 31st December, 2024 to 15th January, 2025.

~Compiled by Sanskar Gaikwad

Case Law-1

The issue in this case was whether gains from the sale of crypto currency (Bitcoin) should be taxed as capital gains or as income from other sources. The Assessing Officer argued that Bitcoin was not a "capital asset" under the law and taxed it as income from other sources. However, the assesse held Bitcoin as a long-term investment and claimed long-term capital gains and an exemption under Section 54F for reinvestment in property.

IN THE ITAT JODHPUR BENCH

Raunaq Prakash Jain

V/s.

Income-tax Officer

DR. S. SEETHALAKSHMI, JUDICIAL MEMBER AND
RATHOD KAMLESH JAYANTBHAI, ACCOUNTANT MEMBER
IT APPEAL NO. 1 (JODH) OF 2024
NOVEMBER 28, 2024

Gist of the Case:

- The assesse who invested Rs.5.05 lakhs in FY 2015-16 in Bitcoin (Crypto currency) and sold it for Rs. 6.69 crores in FY 2020-21.

- The assesse declared the gain under capital gains, with a view that the Bitcoin is a capital Asset.

- Further the assesse invested the money realized from the sale of the Bitcoin in Property and claimed the deduction under section 54F.

- The Assessment Officer was of the view that gain realized on the sale of Bitcoin should be taxed under head – Income from Other Sources and not Capital Gains and thus deduction claimed under section 56 should be disallowed.

- **Key Issues:**
    - Whether Bitcoin (crypto currency) qualifies as a capital asset under Section 2(14) of the Income-tax Act.
    - Whether the gain from the sale of Bitcoin should be taxed under capital gains or as income from other sources under Section 56.
    - Whether the assesse is entitled to claim exemption under Section 54F on the sale of Bitcoin.

Facts of the Case:

- The assesse was a salaried individual who purchased Bitcoin for Rs. 5.05 lakhs in FY 2015-16 and sold it for Rs. 6.69 crores in FY 2020-21, realizing a long-term capital gain.

- The assesse invested the sale proceeds in the purchase of property and filed a return declaring the capital gain.

- The Assessing Officer (AO) argued that Bitcoin is not a capital asset under Section 2(14) and taxed the gain under Section 54F as income from other sources.

- The AO also denied the assessee's claim of exemption under Section 54F, arguing that the sale of Bitcoin did not qualify for long-term capital gains treatment.

Held:

- The Tribunal held that despite the absence of explicit reference to Bitcoin as a capital asset before the Finance Act, 2022, crypto currency was still considered a capital asset by virtue of being a form of property under the broad definition of Section 2(14).

- The Tribunal reasoned that crypto currencies, like Bitcoin, are virtual digital assets (VDAs), and even prior to the specific legislative recognition of VDAs in 2022, the intention of the legislature was to treat such assets as capital assets.

- The Tribunal noted that the assesse held Bitcoin for more than three years, indicating intent to hold for long-term capital gains. This was evident from the investment in property after the sale, further reinforcing the argument for capital gains taxation.

- The Tribunal directed that the gain from the sale of Bitcoin should be treated as long-term capital gain, and Section 54F exemption should be allowed since the sale proceeds were invested in a property.

Case Law-2

Where three companies in which assesse was a director allotted shares to assesse at par as against allotment of shares to a third party at a premium, since alleged benefit to assesse was not arisen from business or profession of assesse or from exercise of profession of assesse, then same could not be brought to tax under provisions of section 28(iv).

IN THE ITAT HYDERABAD BENCH 'B'

Deputy Commissioner of Income-tax

V/s.

Prakash Nimmagadda

VIJAY PAL RAO, VICE PRESIDENT AND MANJUNATHA G., ACCOUNTANT MEMBER
IT APPEAL NO.974 (HYD) OF 2017
DECEMBER 3, 2024

Gist of the Case:

The assesse, a director of three companies, was allotted shares at par (Rs. 10 each), while a third party was allotted shares at a premium (Rs. 350 per share). The Assessing Officer (AO) treated the difference in the share price as a benefit taxable under Section 28(iv) of the Income-tax Act, 1961, which taxes business-related benefits.

The Tribunal disagreed with the AO, ruling that:

- The transaction was not part of the assessee's business or professional activities, as the shares were acquired as an investment.
- Section 28(iv) applies only to benefits arising from business or professional activities, which was not the case here.
- The benefit from the shares was related to an investment, and income from the sale of such shares would be taxable under "Capital Gains," not as business income.
- No provision existed to tax the receipt of shares at a price lower than their fair market value before the 2017 amendment to Section 56(2)(x).

Thus, the Tribunal upheld the decision of the Commissioner (Appeals), ruling that the benefit could not be taxed under Section 28(iv).

Facts of the Case:

- The assesse, a director of three companies, was allotted shares by these companies at par (Rs. 10 each), while third parties were allotted shares at a premium of Rs. 350 per share.

- The Assessing Officer (AO) contended that the difference in the share price (premium) of Rs. 350 was a benefit to the assesse and should be taxed under Section 28(iv), arguing that this benefit arose from the business nexus between the assesse and the companies.

- The assesse argued that the transaction was simply an investment in shares, and there was no business activity or professional service involved in acquiring the shares.

Held:

- The Tribunal upheld the decision of the Commissioner (Appeals) and ruled that the benefit from the allotment of shares at par could not be taxed under Section 28(iv) because it did not arise from the business or professional activities of the assesse.

- The income from the sale of shares, if any, would be taxable under the head "Capital Gains" and not as business income.

~ Compiled by Subrat Mohanty

RBI/2024-25/93
CO.DPSS.POLC.No.S908/02-14-003/2024-25
December 04, 2024.

Amendment to Framework for Facilitating Small Value Digital Payments in Offline Mode.

- The RBI circular dated January 3, 2022, and updated on August 24, 2023, allowed small digital payments to be made offline. The rules set a limit of Rs500 for each transaction and Rs2,000 as the total limit for a payment instrument.
- In the Statement on Developmental and Regulatory Policies on October 9, 2024, the RBI announced that these limits for UPI Lite would be increased. The new limits are Rs1,000 per transaction and a total limit of Rs5,000 for a payment instrument.
- This update is effective immediately and is issued under the Payment and Settlement Systems Act, 2007.

RBI/2024-25/95
DoR.RET.REC.52/12.01.001/2024-25
December 06, 2024

Maintenance of Cash Reserve Ratio (CRR)

The RBI circular, dated May 4, 2022, and related to the Cash Reserve Ratio (CRR), has been updated. As announced in the Statement on Developmental and Regulatory Policies on December 6, 2024, the CRR for all banks will be reduced by 50 basis points, in two steps of 25 basis points each.

This means that banks will need to maintain:

- 4.25% of their net demand and time liabilities (NDTL) starting from December 14, 2024.
- 4.00% of their NDTL starting from December 28, 2024.

RBI/2024-25/94
DoR.SPE.REC.No.51/13.03.00/2024-2025
December 06, 2024.

Interest Rates on Foreign Currency (Non-resident) Accounts (Banks) Deposits.

The RBI has made a change to the interest rates on FCNR (B) deposits, as mentioned in its December 6, 2024 update.

Currently, interest rates on these deposits are capped based on the Overnight Alternative Reference Rate (ARR) for each currency, with additional limits:

- 250 basis points higher for deposits with a term between 1 and 3 years.
- 350 basis points higher for deposits with a term between 3 and 5 years.

From December 6, 2024, the ceiling for interest rates on new FCNR (B) deposits raised by banks will be increased, allowing banks to offer slightly higher interest rates within these limits.

- 400 basis points higher for deposits with a term between 1 and 3 years.
- 500 basis points higher for deposits with a term between 3 and 5 years.

The above relaxation shall be available till March 31, 2025.

~Compiled by Purav Vakil.

BRIEF FACTS OF THE CASE:

- Mrs. Anubama ("the Applicant") has DIN: 0198570 and has a permanent address in the state of Chennai, Tamil Nadu.

- The Applicant submitted an application for adjudication in Form GNL-1 for violation of provisions of Section 155 of Companies Act, 2013.

- As per the application submitted, the Applicant applied for one DIN on 09th January, 2008 and was appointed as director in various companies using such DIN. Later on, the Director resigned from all the companies.

- The director inadvertently obtained a new DIN on 23rd April, 2013 and appointed as directors in some companies using such DIN.

- The Applicant filed an application in Form DIN-5 to surrender the second DIN on 16th July, 2024.

- However, the form was returned with the remark for resubmission stating that "The DIN Holder has violated the provisions of Section 155 of Companies Act, 2013 and required to be adjudicated the violation under provisions of Companies Act, 2013".

2. RELEVANT LEGAL EXTRACTS:

Relevant provisions of Companies Act, 2013 is reiterated below for ready reference:

1. **Section 155 of Companies Act, 2013:**

"155. Prohibition to Obtain More than One Director Identification Number (DIN)

No individual, who has already been allotted a Director Identification Number under section 154, shall apply for, obtain or possess another Director Identification Number."

2. **Section 159 of Companies Act, 2013:**

"Section 159 – Penalty for Default of Certain Provisions.

If any individual or director of a company makes any default in complying with any of the provisions of of section 152, section 155 and section 156, such individual or director of the company shall be liable to a penalty which may extend to fifty thousand rupees and where the default is a continuing one, with a further penalty which may extend to five hundred rupees for each day after the first during which such default continues."

3. FINDING AND ANALYSIS BY THE ROC:

The ROC, Chennai, made following findings and analysis:

- The Applicant obtained her first DIN on 09.01.2008 and second DIN on 23.04.2013.
- The Applicant was holding directorship in various companies using the same DIN.
- The Applicant was holding 2 DINs from 23.04.2013 onwards and the application to surrender DIN was filed in Form DIR-5 on 16.07.2024.
- Accordingly, the applicant has violated the provisions of Section 155 of Companies Act, 2013.

4. PENALTY IMPOSED:

The ROC imposed following amount of penalty under section 159 of Companies Act, 2013:

Period of Violation	Penalty for Default	Total Penalty Imposed
3802 days (01.04.2014 to 27.08.2024)	Penalty may extend to INR 50,000+ penalty for INR 500 for continuing default	19,51,000/-(50000+3802 days*500)
Total Penalty Imposed		**19,51,000/-**

1. The Company and key managerial personnel's may file an appeal against the adjudication order within a period of 60 days from the date of receipt of order in Form ADJ setting forth the grounds of appeal accompanied by a certified copy of this order.

2. Further, as per Section 454(8) (ii) of the Companies Act, 2013, If penalty is not paid within a period of 90 days from the date of the receipt of the copy of the order, officer in default shall be punishable with imprisonment which may extend to 6 months or fine of minimum INR 25,000 which may extend to INR 1,00,000 or both.

~Compiled by Omkar Pawar.

#HUNAR ART

~ By Anusha Sharma.

Allow us to tell you more!

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