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NEWS LETTER

(For the month of October-November 2025)

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AN ASSOCIATION OF
Chartered Accountants
Advocates
Company Secretaries
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President Message

Dear Esteemed Members,

The months of October and November were marked by intense professional engagement for all members. With the dual responsibilities of statutory audits and the filing of income tax returns, this period demanded the utmost focus and dedication from every professional. Recognizing this, the Association consciously kept its calendar of seminars and webinars limited, allowing members the time and space to complete their work efficiently.

Even as members remained fully occupied, the Executive Committee continued to perform its duties diligently, ensuring that the concerns of our fraternity were effectively represented before the authorities. On 9th October 2025 and again on 24th November, a delegation from Team DTBA met the Worthy Principal Commissioner of Income Tax–1, Ludhiana, to once again emphasize the long-pending issues relating to rectifications, appeal effects, grant of prepaid tax credits, and deletion of unjustified demands raised due to clerical or data errors, even in cases where taxes had already been paid.

As desired by the Worthy PCIT-1, a copy of the legal opinion obtained from a Senior Advocate of the Supreme Court and Delhi High Court was handed over for examination. The Worthy PCIT assured that necessary instructions will be issued after due consideration of the legal position to resolve the pending matters of members.

He also reiterated his earlier advisories that members should encourage their clients to ensure timely payment of Advance Tax and avoid the repeated practice of paying the entire liability through Self-Assessment Tax at the time of return filing. The Department, he stated, may initiate proceedings under Sections 218, 220, and 221 where defaults persist. Members were also advised to counsel clients to clear any outstanding self-assessment tax or demand arising after return processing without delay.

On behalf of the Bar, I assured that DTBA will organize a formal interaction between the Department and Members in the first week of December 2025, to discuss these matters in greater detail and to find practical solutions to the ongoing issues of demand reconciliation and refunds.

While the detailed list of activities during this period appears elsewhere in this newsletter, I am pleased to note that the spirit of cooperation, unity, and professional integrity among DTBA members continues to remain strong, even during the busiest phase of the year.

At this juncture, I would also like to earnestly request the few members who are

yet to clear their pending membership subscriptions to kindly do so at the earliest. Your timely contribution enables the Association to continue its activities effectively and to further strengthen our collective voice.

It also gives me immense pleasure to share that DTBA's new official website is being launched very shortly. The portal will feature several member-oriented functionalities, including updates, notifications, resource materials, and professional networking tools. Only members who have cleared their dues will be eligible to have their names included in the members' directory on this new platform.

Friends, the journey of DTBA has always been one of collaboration and commitment. Let us continue to move forward with the same sense of unity, responsibility, and mutual respect that defines our Association. Together, we can ensure that DTBA remains not only a strong representative body but also a vibrant professional community.

Warm regards,
(I. S. Khurana)
President, DTBA

SECRETARY MESSAGE

Namaskar and Warm Greetings, Esteemed Members,

The months of October and November often bring a unique blend of momentum and reflection. While the professional landscape remained active with year-end compliances and evolving digital workflows, these weeks also offered an opportunity to pause, recalibrate, and strengthen our collective stride before we enter the final phase of the financial year.

This period was well experienced being enriched by the vibrant festival season too. The celebrations of Dussehra, Diwali, Gurpurab and other festivals in these months brought with them a spirit of togetherness, positivity, and gratitude. Despite professional pressures, we, ofcourse, balanced our responsibilities with festive warmth which reminds us that our cultural values are as important as our professional duties. The joy and harmony of the season beautifully complemented the dedication shown by our members. Beyond the numbers, notices, or compliances, it is the consistency of our efforts and the dignity with which we carry out our duties that truly shape our professional journey.

As the winter sets in and the year approaches its close, this is a fitting time to reflect on how far we have come as a community—steadily, responsibly, and with a shared intention to improve the tax ecosystem.

Friends, we always have observed in the past that even amidst shifting processes and tight timelines, our fraternity always demonstrated commendable focus, composure, and an unspoken commitment to stand by one another. May, this quiet strength and resilience reflected, alongwith our selfless & sincere Efforts (Karma) continue to define the character of our Association as well of our Profession. Undoubtedly, Karma in this way also leads to Salvation. In this spirit of reflection and renewed purpose, a thought from the Bhagavad Gita resonates in my mind too:-

यतः प्रवृत्तिर्भूतानां येन सर्वमिदं ततम् स्वकर्मणा तमभ्यर्च्य सिद्धिं विन्दति मानवः

("From whom all beings arise and by whom this universe is pervaded—a person attains perfection by worshipping Him through the sincere performance of one's own duty.")

So, Let us continue to uphold our values, support each other, and carry forward the spirit of disciplined enthusiasm that strengthens our Association.

With warm regards,
CA Deepak Jain
Secretary,
District Taxation Bar Association (Direct Taxes), Ludhiana

FROM THE DESK OF THE EDITOR

As we approach the turn of 2025, the Indian fiscal landscape is being re-shaped by a confluence of tax policy, revenue collection dynamics, and evolving macro-economic trends. The developments of October and November provide a mixed — yet instructive — snapshot of both promise and challenge.

According to provisional data from the Central Board of Direct Taxes (CBDT), net direct tax collection for FY 2025-26 stood at ₹12.92 lakh crore as of November 10, reflecting a year-on-year increase of 7%. Net non-corporate collections (personal income tax, HUFs, firms, etc.) rose around 8.7%. Corporate tax receipts rose by 5.7% over the same period. While growth is evident, the pace is modest compared with the ambitious targets set in the 2025 Budget — for instance, net non-corporate collections are well behind the projected 21.6% jump. Analysts attribute the slow collection growth in part to the reliefs and lower slabs introduced under the new income-tax regime earlier in the year. In short, the direct tax revenues are rising but not at a rate that would leave the exchequer complacent.

A positive development in late October was that CBDT announced an extension of the due date for furnishing Return of Income for AY 2025-26 for certain assessees from 31 October to 10 December 2025. Similarly, the deadline for audit reports for certain classes of assessees was extended from 31 October to 10 November 2025. These administrative relaxations reflect a pragmatic approach by the revenue authorities. It helps ease compliance pressure and reduces the risk of inadvertent defaults or rushed filings.

By November, the impact of GST tax cuts began to show up in softer indirect tax revenues: although gross GST collections were up 0.7% compared to last year, the inclusion of cess-adjustments caused overall revenue to slip underscoring the trade-off between encouraging consumption and safeguarding revenue. Credit-rating agency Moody's Ratings recently warned that reduced revenue growth partly driven by these tax cuts could constrain the government's ability to support the economy further through fiscal measures. As a result, the fiscal deficit has surged. Data suggest that by October 2025, the deficit breached 50% of the full-year target, a steep jump from earlier in the year, reflecting falling net tax revenues and continued expenditures.

The period of October–November 2025 will likely go down as a period of transition, a time when the reforms of the 2025 Budget began to show their real-world effects, when taxpayer-friendly administrative choices met with fiscal-revenue pressures, and when the economy tried to recover amidst tough global headwinds.

For a tax professionals, this moment offers much to study, reflect, and debate. The task going forward will be to ensure that tax-policy both direct and indirect supports growth without endangering fiscal stability. If handled with prudence, the reforms could mark a turning point for India's tax ecosystem, citizen compliance, and economic trajectory.

Sincerely Yours,
CA HITESH BHAKOO
Editor

KNOWLEDGE SECTION

ENFORCEABILITY OF CASH LOANS UNDER NEGOTIABLE INSTRUMENTS ACT 1881

Enforceability of loans given by a lender in Cash in the Courts has always been a subject matter of constant litigation and dispute. Many a times, a common stand taken by the borrower in such cases was that the loan was received in Cash and the same was unenforceable being in violation of the Income Tax Act, 1961 and therefore, doesn't constitute a legally enforceable debt. The Kerala High Court in P.C. Hari v. Shine Varghese (2025), held the extreme view that cash transactions above ₹20,000 violating Section 269SS of the Income Tax Act, 1961 cannot constitute legally enforceable debts. The Bombay High Court followed the judgment of Kerla High Court which came up before the Hon'ble Supreme Court of India in appeal in the case of Sanjabij Tari vs. Kishore S. Borcar & Anr. (Civil Appeal no. 1755 of 2010). The key issue was as to whether a debt created through a cash transaction exceeding ₹20,000 constitutes a legally enforceable debt under Section 138 of the Negotiable Instruments Act despite of the fact that the same was in apparent violation of provisions of Section 269SS of the Income Tax Act, 1961. Further, whether such violation of Section 269SS rendered the transaction void or whether was only liable to penalty under the Income Tax Act, 1961.

After examining the interplay between the Negotiable Instruments Act and Income Tax Act, the Court emphasized that Section 269SS was designed to curb menace of cash transactions of Rs. ₹20,000 and above and the same was meant for tax compliance purposes. Although Section 271D of the Income Tax Act, 1961 prescribes penalties for violation of Section 269SS. But, at the same time, neither 269SS nor 271D state that any transaction in breach thereof will be illegal, invalid or statutorily void. Therefore, the view that any transaction in violation of 269SS of Income Tax Act, 1961 is illegal can't be sustained.

These provisions have no bearing on the validity of transactions. The Court observed that the legislative intent was to impose penalties, not to invalidate commercial relationships.

The judgment passed by the Hon'ble Supreme Court is truly a landmark judgment on this issue and has far reaching ramifications and commercial significance. The judgment has finally affirmed the view that loan received in cash is an enforceable debt.

CA HITESH BHAKOO

CIRCULARS/NOTIFICATIONS AND NEWS

1. CBDT vide Circular No. 15/2025 dated 29.10.2025 extended the due date for filing the Return of Income under section 139(1) of the Income-tax Act, 1961 for AY 2025-26 from 31.10.2025 to 10.12.2025, and also extended the due date for furnishing the Tax Audit Report under section 44AB of the Income-tax Act, 1961 from 31.10.2025 to 10.11.2025, thereby providing compliance relaxation for assesses requiring audit and for specified categories notified by CBDT.
2. CBDT vide Notification S.O 4901(E), No. 155/2025 dated 27.10.2025 authorises designated Income Tax Authority to rectify apparent mistakes u/s 154 and issue demand notices u/s 156 in all cases processed through CPC interface.
3. CBDT vide Notification No. 161/2025 dated 19th November 2025 constitutes the Capital Gains Account (Second Amendment) Scheme, 2025. Amendments are made to section 54 and related sections (54B, 54D, 54F, 54G, 54GA, 54GB) of the Income-tax Act. The new scheme (effective on publication) updates provisions for depositing capital gains into capital gains accounts (as per CGAS, 1988) to claim exemptions. The notification formalizes the revised scheme framework but does not itself extend benefits beyond the announced amendments.

Compiled by:

CA. Megha Kalra

JUDGMENTS SECTIONS

PSR Sustainability Foundation v. Commissioner of Income-tax(Exemption) [2025] 179 taxmann.com 258 (Pune - Trib.)
Where assessee-trust filed application for grant of regular registration under section 12A(1)(ac)(iii) and Commissioner (Exemption) rejected said application on ground that assessee failed to make compliance to second notice issued by him calling for information/ clarification, since wrong selection of section code/ clause would not disentitle assessee to its rightful claim, Commissioner (Exemption) was to be directed to give an opportunity to assessee to file correct application and then decide case on merits.

HDFC Bank Ltd. v. Deputy Commissioner of Income-tax [2025] 179 taxmann.com 268 (Mumbai - Trib.)
CSR expenditure incurred as per provisions of section 135 of Companies Act, 2013 is allowable as deduction under section 80G.

American megatrends International India (P.) Ltd. v. Assessment Unit Income-tax Department Ministry of Finance Government of India, New Delhi [2025] 180 taxmann.com 42 (Madras)
Where assessee filed DRP objections within prescribed time but did not furnish a copy to Assessing Officer and Assessing Officer, having not received objections, passed final assessment order, assessment order was to be set aside and matter remanded for fresh order after DRP considers assessee's objections.

SP Armada Oil Exploration (P.) Ltd. v. Deputy Commissioner of Income-tax
[2025] 179 taxmann.com 196 (Mumbai - Trib.) Interest under section 234C is to be computed on returned income filed by assessee instead of assessed income.

Sumati Lokendra Patel v. Commissioner of Income-tax [2025] 179 taxmann.com 608 (Gujarat)
Where assessee, an NRI, sold a residential plot and earned income by way of long-term capital gain, however, assessee could not file return of income within prescribed due date, since assessee was genuinely prevented from filing return due to COVID-19 pandemic and travel restrictions and, moreover, purchaser of property had deposited TDS which was also reflected in Form 26AS, delay in filing return of income was to be condoned under section 119(2)(b).

Lakhi Trust v. Income-tax Officer Exemption Ward - 1 (4) [2025] 179 taxmann.com 566 (Bombay)
Where assessee, a charitable trust registered under sections 12A and 80G, inadvertently failed to file mandatory Form No. 9A for claiming deemed application of income for first year of requirement and subsequently filed it during assessment along with condonation application, delay was condonable as trust faced genuine hardship.

Sree Raja Rajeswari Educational Trust v. Commissioner of Income-tax, Exemption
[2025] 179 taxmann.com 505 (Chennai - Trib.)
Where assessee-trust's application for registration under section 12AB was rejected by CIT(E) on allegations of commercial activities and non-charitable application of income, enquiry at registration stage is limited to examining genuineness of charitable objects and activities, and as assessee's objects and activities were found charitable, CIT(E) was required to grant registration under section 12AB.

Mother Leela Trust v. Commissioner of Income-tax (Exemption)
[2025] 179 taxmann.com 274 (Chennai - Trib.)
Where assessee filed an application for final registration under section 80G(5)(iii) after the due date and Commissioner (Exemption) rejected it as time-barred, in view of amendment by Finance Act 2024 inserting clause (iv) to first proviso of section 80G(5), such delayed application was to be treated under the new clause and decided as per law since time limits were directory in nature.

Principal Commissioner of Income-tax v. Parivar Television (P.) Ltd [2025] 180 taxmann.com 530 (SC)
SLP dismissed against order of High Court that where assessee's premises were searched and block assessment order was passed computing undisclosed income, but, there was no mention in block assessment order regarding initiation of penalty proceedings under section 271D, penalty proceedings would not be sustainable.

Atul Mahavirprasad Paldecha v. Income-tax Officer, Ward 2(3)(6) [2025] 179 taxmann.com 281 (Gujarat)
Where assessee was issued a notice under section 148A(b) alleging bogus sales transactions and was directed to furnish reply by certain date, since assessee was allowed only four days to respond to notice which was contrary to minimum required statutory period of seven days as mandated under section 148A(b), impugned order passed under section 148A(d) as well

as notice issued under section 148 were required to be quashed and set-aside.

Columbia Global Center in India v. Income-tax Officer (Exemptions) Ward - 1(2), Mumbai
[2025] 179 taxmann.com 522 (Bombay)
Where assessee, a charitable institution, filed Form No. 10 for claiming benefit of accumulation under section 11(2) after due date, since fact relating to such accumulation formed part of return of income and was duly supported by Board resolution and audit report in Form No. 10B, and substantive requirements of section 11(2) stood fulfilled, delay in filing Form No. 10 was to be condoned.

Navinbhai Bhagubhai Patel v. Union of India [2025] 179 taxmann.com 275 (Gujarat)
Where assessee-individual, received compensation on compulsory acquisition of land in assessment year 2022-23 and was unaware of TDS deducted thereon until PAN registration in 2024, rejection of condonation application under section 119(2)(b) without granting hearing and by examining merits of transaction was unjustified and Principal Commissioner was required to condone delay and allow assessee to file return.

Arris Estates (P.) Ltd. v. Assessment Unit [2025] 179 taxmann.com 280 (Gujarat)
Where assessee after receiving a show cause notice proposing additions under section 68, specifically requested a hearing through video conferencing, however Assessing Officer passed assessment order raising a demand without providing an opportunity of hearing, impugned order was passed in clear violation and breach of principles of natural justice and thus, matter was to be remanded to Assessing Officer to pass a fresh order after providing an opportunity of hearing to assessee.

Commissioner of Income-tax (Exemption) v. Dignity Education Society [2025] 180 taxmann.com 157 (SC)
SLP dismissed against order of High Court that where assessee-society running a college with existing registration under section 12AA applied for approval under section 80G and CIT(E) rejected application solely because surplus was generated from student fees and other claimed activities were not carried out, approval under section 80G(5) was deserved since charitable status was already recognized, making ITAT's direction to grant such approval legally valid.

Hasmukh Nanalal Parekh v. Union of India [2025] 179 taxmann.com 288 (Gujarat)
Where assessee NRI, alleged to have not filed return for relevant year and subjected to reassessment proceedings for alleged escapement of income, sought adjournment and personal hearing but was denied an opportunity to be heard before reassessment order was passed, such failure to grant hearing rendered reassessment order and consequential demand notice liable to be quashed and set aside.

Bharat Garg v. Principal Commissioner of Income-tax (Central) Jaipur
[2025] 179 taxmann.com 661 (Rajasthan)
Where reassessment notice under section 148 was issued by JAO instead of FAO in contravention of faceless regime, such notice was liable to be quashed with liberty to revenue to revive if Supreme Court takes a contrary view.

Rajesh Narendrabhai Patel v. Income Tax Officer [2025] 179 taxmann.com 262 (Ahmedabad - Trib.)
Where investment in new residential property is made by assessee from his own funds, mere fact that property is purchased in name of spouse does not disentitle assessee from exemption under section 54.

Inamul Haq v. Income-tax Officer [2025] 179 taxmann.com 321 (Delhi - Trib.)
Where reassessment proceedings were initiated by ITO, Ward-3, whereas assessment order under section 147 read with section 143(3) was passed by ITO, Ward-2, impugned assessment order passed by non-jurisdictional officer was illegal and was to be set aside.

Deputy Commissioner of Income-tax v. Amardeep Constructions
[2025] 179 taxmann.com 358 (Mumbai - Trib.)
Tolerance limit of 10 per cent introduced by Finance Act, 2020 to section 43CA is curative in nature and, therefore, applicable retrospectively.

Bhupendrabhai Bhikhalal Patel v. Income-tax Officer [2025] 179 taxmann.com 422 (Ahmedabad - Trib.)
Where assessee disputed stamp duty valuation as excessive, Assessing Officer was required to refer matter to Departmental Valuation Officer; since such reference was not made despite assessee's objection, matter was remanded to Assessing Officer for fresh determination of fair market value and recomputation of capital gains.

Commissioner of Income-tax v. Shriram Investments [2025] 180 taxmann.com 291 (SC)
SLP dismissed against order of High Court that where assessee, an investment company, borrowed capital

from its group concern and paid interest on same, impugned interest paid by assessee on amount taken for utilising it for further lending was said to be in business interest or commercially expedient for purpose of business and, thus, impugned disallowance made on account of difference between interest received and paid by assessee was to be deleted.

Yashnu Yasasvi Polucherla v. Income-tax Officer [2025] 179 taxmann.com 470 (Telangana)

Where reassessment proceedings under sections 148A and 148 were initiated by Jurisdictional Assessing Officer after introduction of e-Assessment of Income Escaping Assessment Scheme, 2022 under section 151A, such initiation was without jurisdiction and legal issue stands settled, so impugned proceedings were required to be set aside.

Babubhai C Jariwala Charitable Trust v.Central Board of Direct Taxes (ITA Cell)

[2025] 180 taxmann.com 8 (Gujarat)

Where Form 10B was inadvertently not filed by Chartered Accountant along with return and subsequently, assessee filed belated Form 10B and also filed application for condonation of delay which was rejected, since delay in filing Form 10B was due to inadvertent oversight of CA, same was to be condoned by authority concerned under section 119(2)(b).

Commissioner of Police Coimbatore City Tamilnadu Police Canteen v. Income-tax Officer [2025] 179 taxmann.com 639 (Chennai - Trib.)

Where assessee, operating canteens through mutuality for police personnel and conducting transactions only with its members, filed nil income return and activities did not amount to 'business or profession' under Act, provisions of section 44AB did not apply and penalty levied under section 271B for non-filing of tax audit report was to be deleted.

Panchsheel Mercantile Co-Op Bank Ltd. v. Assistant Commissioner of Income-tax

[2025] 179 taxmann.com 676 (Gujarat)

Where Assessing Officer issued reassessment notice on old PAN which was already surrendered by assessee, impugned order passed under section 148A(d) as well as notice issued under section 148 were to be quashed and set aside.

Pride Foramer S.A. v. Commissioner of Income-tax [2025] 179 taxmann.com 464 (SC)

Where non-resident company actively corresponded with ONGC and submitted a bid for oil exploration during years without securing a contract, such business activities constituted carrying on business in India and entitled it to claim deduction of administrative and audit expenses as business expenditure and also to carry forward and set off unabsorbed depreciation as per applicable provisions.

Deputy Commissioner of Income-tax v. Songwon Specialty Chemicals India (P.) Ltd.[2025] 180 taxmann.com 292 (SC)

SLP dismissed against order of High Court that where Assessing Officer issued notice under section 148A(b) on basis of audit objections which suggested that assessee's claim of depreciation on goodwill was in violation of provisions of Income-tax Act however Assessing Officer had not taken into consideration reply filed by assessee and had reiterated to what was stated in audit objections, impugned reopening notice was to be set aside.

Deb Prasanna Choudhury v. ADIT/DCIT (International Taxation) [2025] 180 taxmann.com 265 (Kolkata - Trib.)

Where assessee received gift from his brother-in-law (spouse of his sister) through NRE account, since source of amount being from relative was not in question, amount was not liable to be included in total income of assessee.

Shushilaben Jayantibhai Patel v.Principal Commissioner of Income-tax [2025] 180 taxmann.com 661 (Gujarat)

Where assessee, an 82-year-old woman suffering from Alzheimer's disease along with hyper tension and diabetes, failed to file her return for relevant assessment year due to default of her accountant and manager who did not inform her about filing requirement, Commissioner, while exercising revisional jurisdiction under section 264, ought to have examined positively in favour of assessee without rejecting her application on technical grounds.

Deputy Commissioner of Income-tax v. Koya and Company Construction Ltd [2025] 180 taxmann.com 791 (Delhi - Trib.)

Where Assessing Officer disallowed 10 percent of conveyance, travelling and vehicle maintenance expenses on ad hoc basis without identifying any personal entries and without rejecting books of account, such ad hoc disallowance was not sustainable.

Compiled by:
CA. Megha Kalra

ARTICLE SECTION

Rectification of mistake – Whether opens a Pandora's Box for assessee ?

A) Prologue

The word `Rectification' has been so imported and legislated under the provisions of section 154 of the Income Tax Act, 1961 by the parliament in a literal understanding connotes and conveys an act to rectify a mistake that stems from the record of a proceeding pending for consideration under the Act. However with the passage of time, the said provision has been principally employed to raise the outburst of demands by creating unsavoury situations for the assessee wherein due recourse to `*Review*' was undertaken at length. Though the department has been amply armed with the myriad strongholds to reopen assessments which although have witnessed the light of the day but to the utter surprise, section 154 is now being potentially exploited to achieve a purpose which differs in breed as compared to the impetus with which the said provision was inducted under the Income Tax Act 1961. To name a few, by taking asylum through the process initiated by the audit party either of Income Tax Department or of the Central instrumentality like the C&AG, notices with respect to enhancement are being issued at great length on multiple occasions. On a second note, by taking due advantages of the processing the returns filed by the assessees incorrectly under the guardianship of `*Centralised Processing of Returns Scheme, 2011',* huge demands are being created by issuing notices to the assessees. On a third note, by incorrectly quoting provisions in the templates of the orders passed by the department from time to time thereby significantly adding to the erosion of a trust an assessee deposes while filing his returns in a fair, pellucid and candid manner and the list goes on and on. The present article offers commensurable stance of a three tier dissection of above noted facts qua section 154 of the Income Tax Act, 1961.

B) Invocation of provisions at the instance of an Audit Party

The provisions of section 154 of the Income Tax Act, 1961 *in-rem* offers an equivalent posture to both the assessee and the department to press into force an action warranting rectification of a mistake apparent from the *record*. At the same time, it is of immense importance to understand the meaning ascribed to the expression *'Record'* as provided under section 154 of the Income Tax Act, 1961. The expression *'Record'* as provided in section 154 had already passed through judicial scrutiny with the Hon'ble Supreme Court of India extending a purposive interpretation to it in context of the previously enacted legislation i.e. the Income Tax Act, 1922. Hon'ble Supreme Court in ***Maharana Mills Private Limited vs. Income Tax Officer reported in (1959) 36 ITR 350 (SC)*** discussed the meaning the expression `Record' and observed that the word `Record' contemplated by section 35 of the 1922 Act does not mean only the order of assessment but it comprises all proceedings on which the assessment order is based. The interpretation as so appears clearly expands, elaborates and enlarges the compass by which the department stands equipped to initiate action against the assessee by taking due recourse to enhancement even under section 154 with the solemn act of providing an opportunity to the assessee being an idle formality.

A fundamental question that touches upon the legality of the orders passed under section 154 can be adjudged from the findings rendered by the audit party which often open a pandora's box for the assessee in general. The objection raised by the audit party is widely acknowledged as an instrument of re-investigating the claims raised by the assessee in return of income so filed with the department. Can an objection raised by the audit party literally become a basis for scrutinizing the facts of the case within the parameters of section 154 of the Income Tax Act, 1961.

The issue with respect to findings of an audit party though in context of re-opening of assessments

was settled long ago by the Hon'ble Apex Court in ***Indian & Eastern Newspaper Society vs. CIT reported in (1979) 2 Taxman 197 / 119 ITR 996 / 12 CTR 190*** wherein it was observed that an audit opinion by itself with respect to application or interpretation of law cannot be treated by the Income Tax Officer as `information' for reopening the assessment. Hon'ble Supreme Court of India in yet another decision titled as ***T.S.Balram, ITO vs. Volkart Brothers reported in (1971) 82 ITR 50 / (1971) 2 SCC 526*** had observed in context of section 154 that a mistake apparent on the record must be an obvious one and not something which can be established by a long drawn process of reasoning on points on which there may conceivably two opinions. The ratio decidendi of the above noted decisions was followed by the Hon'ble Delhi High Court in ***Ambarnuj Finance and Investment Private Limited vs. Deputy Commissioner of Income Tax reported in (2023) 291 Taxman 378 / 331 CTR 421 / (2022) 145 taxmann.com 640 (Delhi)*** wherein the hon'ble court speaking through Justice. Manmeet Pritam Singh Arora observed that where an assessing authority had acted only upon the direction of an audit party while passing the impugned order on a point of law cannot form the basis of rectifying the order passed under section 154 of the Income Tax Act, 1961.

Hon'ble Delhi High Court observed in Para No.31 of its decision '*We are, therefore, of the considered view that since the objection raised by the audit party was in regard to the law, which objection in the facts of the present case was debatable in light of the Circular bearing No.26 (LXXVI-3) dated 7th July, 1955, and thus, it could not have formed the basis for passing a rectification order under section 154 of the Act. We, therefore, set aside the impugned rectification order dated 15th January, 2015*. Therefore it can be safely concluded that where due reference is made to the opinions rendered by the audit party touching upon the essence of a point of law, rectification petitions are barred and cannot be resorted to under the provisions of law in force.

The Hon'ble Delhi High Court in a widely acknowledged decision titled ***Court on its own motion vs. Union of India reported in (2013) 31 taxmann.com 31/ 352 ITR 273/ 258 CTR 113/ 214 Taxman 335*** tried to settle the murkier issue by launching various mandamuses (judicial writ in nature of directions issued as a command to an inferior court to perform a statutory duty/public function) pertaining to the receipt of applications under section 154, procedure of dealing with applications where Aayakar Seva Kendra (ASK) is not functional or ASK software is not used for receipt of dak by the jurisdictional assessing officer (JAO), maintenance of register of rectification under section 154 online followed by due disposal of applications received under section 154. The Central Board of Direct Taxes (CBDT) also issued an ***Instruction bearing No.3/2013 dated 05th July, 2013*** with the intent to streamline the process of taking up and disposing applications received under section 154 through electronic medium i.e. online facilitation route which can also be channelized through *'E-Nivaran'* functionality made available under the umbrella of a dedicated e-filing account of an assessee.

But to the surprise of many assessees, rectification orders passed in many cases were not served thereby further multiplying the arena of complications in an electronically driven stream of filing returns wherein the ghost of section 245 used to haunt the benign interest of stakeholders at large. The Central Board of Direct Taxes in yet another ***Instruction bearing No.2/2016 dated 15th February, 2016*** categorically stated and directed the field officers that in respect of rectification applications, an order must be passed in writing and the same also be served upon the taxpayer concerned not by merely making necessary rectification on the AST system.

C) Whether recourse to rectification can be taken wherein the Centralized Processing Centre incorrectly processes the return of income.

In the present scenario of electronic furnishing of returns, the processing job in respect of the same is entrusted to the Centralized Processing Centre (CPC) which is a dedicated hub for executing the same. But at times, it is seen that the Centralized Processing Centre (CPC) indulges in incorrectly processing the returns filed by the assessee thereby aggravating the complications for the assessee in a routine manner. The assessee takes recourse to rectification petition(s) under section 154 of the Income Tax Act, 1961

which are also dismissed and not thoughtfully taken note thereof by the Centralized Processing Centre (CPC) at length thereby discarding the facts of the case with the ultimate remedy available is to challenge the same by way of an appeal.

Factually whether an incorrect processing of return by the Centralized Processing Centre (CPC) would entail an action under section 154 was at times a debatable issue that required a suitable and elaborative thought process perhaps a tight judicial scrutiny. Recently Hon'ble Supreme Court of India took note of the technical glitches in the software program used by the CPC for electronic processing of returns. Hon'ble Court in ***Sunil Bakht vs. Assistant Director of Income Tax and Another reported in (2024) 340 CTR (SC) 937/ 301 Taxman 232/ 167 taxmann.com 267*** took note of the excess levy of surcharge pertaining to the assessment year(s) 2022-23 and 2023-24.

Hon'ble Court while adjudicating the set of facts observed in its wisdom ***'Technological impediment cannot be a reason for harassing an assessee year after year. Immediate steps must be taken by the Revenue to upgrade the software or take such other steps as may be necessary to ensure that such mistake does not occur in future. Accordingly, Revenue is directed to take immediate steps and communicate the order of withdrawal of the excess surcharge amount within six weeks. The Central Board of Direct Taxes is also directed to take necessary steps for rectifying the software.*** The Hon'ble Court came to the aid of assessee and directed the Central Board of Direct Taxes to initiate proper steps for rectifying the technical glitches apparent therein pertaining to which the assessee was subjected to unwarranted harassment as a consequent measure of incorrect processing of returns arising out of the factual aspects of the case under reference. The decision rendered by the Hon'ble Court in ***Sunil Bakht's (supra)*** case will go a long way in retaining, regaining and inspiring the confidence of the honest taxpayers in the judicial set-up of the country.

D) Epilogue

The provisions of rectification of mistake apparent from the record is a benign provision primarily meant to cure mistakes arising out of the proceedings that either culminated into assessment or otherwise. Rectification at the first instance cannot be however equated with a right to review which in case if exercised can seriously jeopardize and threaten the purpose enshrined for inducting such a provision into the statutory web. In view of the recent controversy surrounding the JAO vs. FAO issue pending for consideration before the Hon'ble Supreme Court in context of reopening of assessments, the Central Board of Direct Taxes (CBDT) in its endeavor has issued a Notification bearing No.S.O.4901(E)[No.155/2025/F.No.CB/362/2025-O/O ADDL.DIT 6 CPC Bengaluru – 187/10/2024-ITA-I] dated 27th October, 2025 with respect of concurrent allocation of power of rectification to be exercised equally amongst the Jurisdictional Assessing Officer (JAO) and the Commissioner of Income Tax, Centralized Processing Centre, Bengaluru in all cases where the orders have been passed through the interface between the Assessing Officer and the Centralized Processing Centre which to a greater extent will facilitate in deleting demands arbitrarily created and arising out of various orders passed under the Income Tax Act, 1961 by the authorities from time to time.

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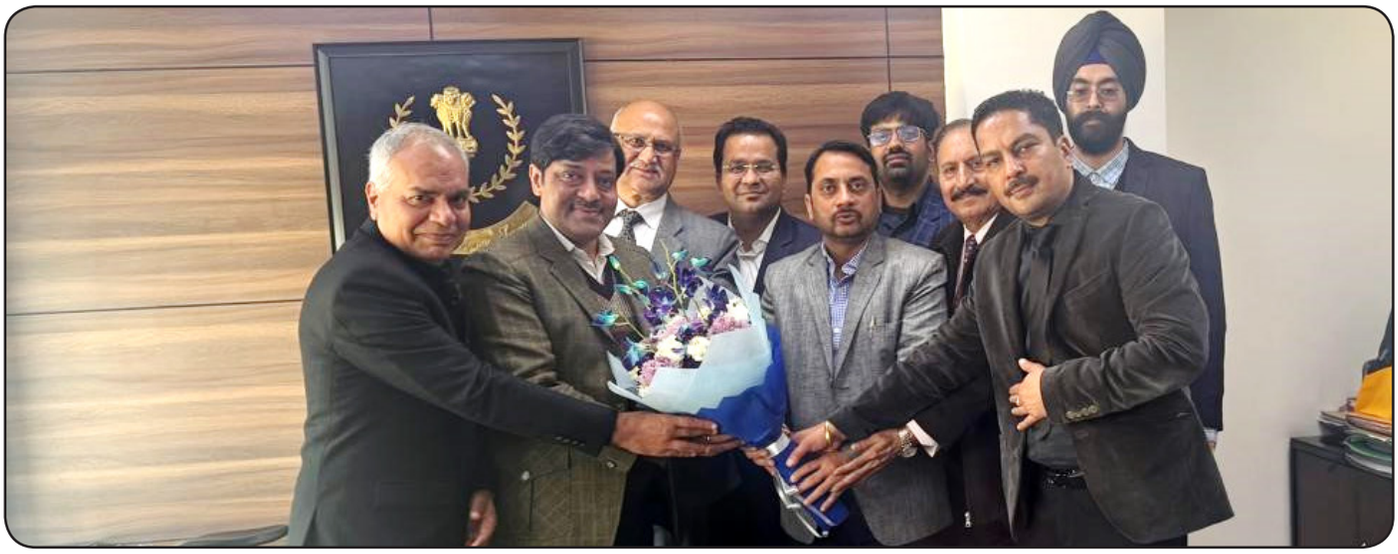


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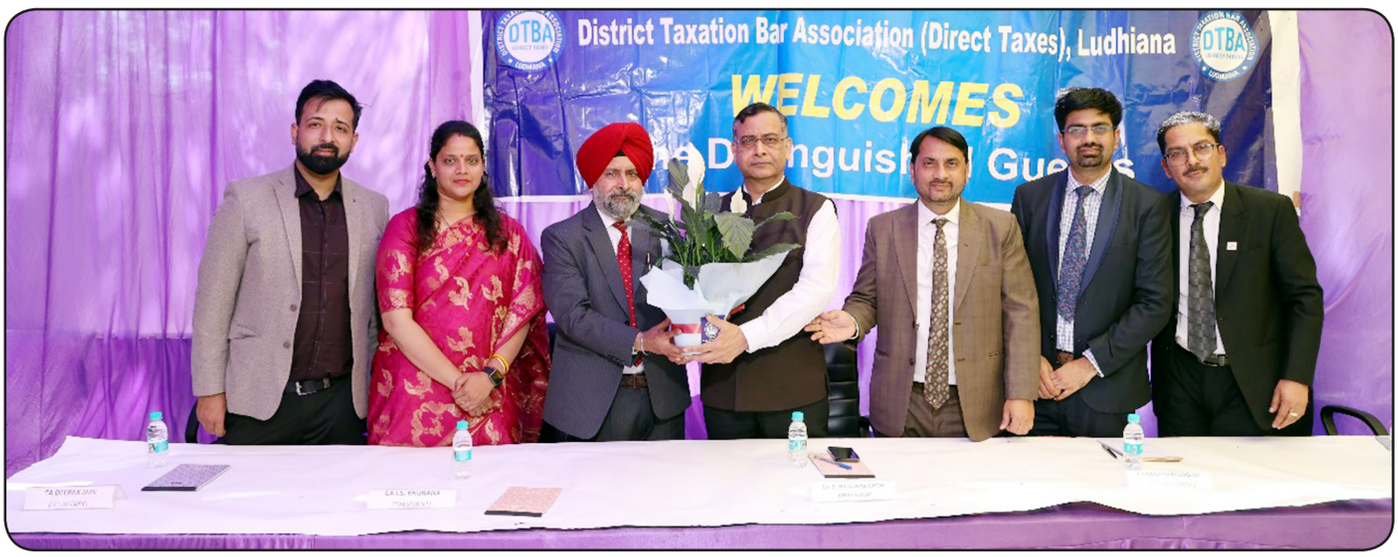
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