



Just 5 Minutes

TAXCONTM INDIA PRIVATE LIMITED

INCOME TAX ACT

1. *Reg. Refund claim processing for prior years*

In view of pending taxpayer grievances related to the issue of refund, the CBDT has issued directions that all validly filed returns for Assessment Years 2018-19, 2019-20 and 2020-21 bearing refund claims can be processed until January 31, 2024.

2. *Condonation of delay in filing Form 10IC*

The Central Board of Direct Taxes (CBDT) has notified the condonation of delay under section 119(2)(b) of the Income-tax Act, 1961 in filing of Form No. 10-IC for Assessment Year 2021-22. Form 10-IC is required to be filed only if a Domestic Company chooses to pay tax at concessional rate of 22% under Section 115BAA of the Income Tax Act, 1961.

GST

1. *Reg. Judgement of Apex Court on secondment of contract*

The CBIC has issued instructions with regard to Judgement of the Supreme Court in the case of Northern Operating Systems Private Limited (NOS) on the issue of nature of secondment of employees by the overseas entities to the Indian Firms and tax applicability thereon. In each arrangement, the tax implications may be different, depending upon the specific nature of the contract and other terms and conditions attached to it. Therefore, the decision of the Hon'ble Supreme Court in the NOS judgment should not be applied mechanically in all the cases. Investigation in each case requires a careful consideration of its distinct factual matrix, including the terms of contract between overseas company and Indian entity, to determine taxability

LABOUR LAWS

1. *Minimum Wages in UP revised w.e.f. Oct 01, 2023*

Class of Employment	Basic Per Month	VDA Per Month	Total Per Day	Total Per Month
Unskilled	5750.00	4525.00	395.19	10275.00
Semi-skilled	6325.00	4978.00	434.73	11303.00
Skilled	7085.00	5576.00	486.96	12661.00

CASE LAWS - INCOME TAX

1. *G.E. Power India Ltd. (earlier Alstom India Ltd.) Vs. ACIT, 25/09/2023,*

It has been held that the requirement of prior intimation under section 245 of the Act was a mandatory requirement and failure to comply with this mandatory requirement of prior intimation would make the entire adjustment as wholly illegal. Moreover, it is also averred in the petition that the Income-tax Appellate Tribunal had stayed the demand for the assessment year 2014-15 and, therefore, the respondent could not have adjusted against the refund.

2. *Pall India (P.) Ltd. v. DCIT, Circle 10(2)*

It has been held that where intra- group services received by assessee-company was supported by the proper agreement, substantial evidences with respect to services rendered by the Associated Enterprises and also demonstrated the benefits received therefrom, AO was not justified in determining of said service at nil.

CASE LAWS - INCOME TAX

3. *Societe De Participations Financieres Et Industrielles Spafi v. ACIT*

It has been held that a notification under section 90(1) would be a mandatory condition to give effect to a DTAA, or any protocol changing its terms or conditions, which would have effect of altering existing provisions of law and furthermore, for a party to claim benefit of a "same treatment" clause, based on entry of DTAA between India and another state which is member of OECD, relevant date would be entering into treaty with India and not a later date, when, after entering into DTAA with India, such country becomes an OECD member, in terms of India's practice.

4. *Apeejay (P.) Ltd. v. DCIT, Circle-8(1)*

It has been held that where assessee received loan from its group company and AO made additions of deemed dividend in hands of assessee on ground that both companies had a common shareholder having substantial interest, since assessee was not a shareholder in group company, section 2(22)(e) could not be invoked in hands of assessee.

CASE LAWS - INCOME TAX

5. *Mr. Bhanu Mohan Kaila Vs. UOI, 29/11/2023 (Delhi High Court)*

It has been held that the petitioner having accepted the salary after deduction of income tax at source had no further control over it in the sense that thereafter it was the duty of his employer acting as tax collecting agent of the revenue to pay the deducted tax amount to the Central Government in accordance with law. The employer of the petitioner having failed to perform his duty to deposit TDS, petitioner cannot be penalized. It would always be open for revenue to proceed against the employer of the petitioner for recovery of the deducted tax. The petition is allowed, thereby setting aside the intimations/ communications issued by respondent no. 3 u/s 143 of the Act raising a demand of tax to the tune.

CASE LAWS – INDIRECT TAX

1. *South Eastern Caolfields Ltd v. Principal Commissioner, CGST [2023]*

In the matter the petitioner was a PSU and it received a SCN by State Tax Authority which was dropped. Thereafter, Central Tax Authority issued another notice for same period on same issue. It filed writ petition and challenged the notice by contending that there was no reason to issue another notice making same averments and allegations. The High Court held that CGST department has authority of law to issue SCN on same issue on which SGST department already initiated and dropped proceedings.



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