

CBDT Press Release

CBDT Initiative on Voluntary Review of ITR Claims

- The tax department has found that some taxpayers may have claimed refunds using deductions or exemptions they were not eligible for, such as bogus political donations, incorrect PAN details, or higher-than-allowed claims.
- Using data analysis, these cases for AY 2025–26 have been flagged, and affected taxpayers are being contacted through SMS and email under the Non - Intrusive Usage of Data to Guide and Enable (NUDGE Campaign) initiative to review their returns.
- Taxpayers are being given a chance to voluntarily correct mistakes by filing a revised return by 31 December 2025, helping them avoid further scrutiny.
- So far, many taxpayers have already corrected their returns over 21 lakh for earlier years and more than 15 lakh for the current assessment year resulting in significant tax payments.
- Those who have made correct and genuine claims don't need to do anything, while others can still file an updated return after 1 January 2026 by paying additional tax.

DIRECT TAX

Judicial Rulings

Non-Compete Fees for business efficiency and profitability held as Revenue Expenditure

- The Sharp Business System ("The Appellant"), was engaged in the business of importing, marketing, and selling electronic office products in India. The company was incorporated as a joint venture between Sharp Corporation, Japan and Larsen & Toubro Ltd. (L&T).
- As part of restructuring and realignment of business interests between the joint venture partners, the Appellant entered into a non-compete agreement with L&T.
- The Appellant paid a sum of INR 3 crore as a non-compete fees to L&T for not setting up or undertaking or assisting in the setting up of or undertaking any business in India of selling, marketing and trading in electronic office products for 7 years.
- The Appellant filed his return of income for the AY 2001-02 as non-compete fees paid to L&T and claimed the said payment as revenue expenditure under section 37(1), contending that the expenditure was incurred wholly and exclusively for the purpose of business.
- The Assessing Officer held that the payment of non-compete fee conferred an enduring benefit upon the Assessee by eliminating competition for a period of seven years. Therefore, the expenditure incurred towards non-compete fee was capital in nature and not allowable as revenue expenditure.
- The Commissioner of Income Tax ('CIT(A)') confirmed the findings of the AO. However, in the course of the appellate proceedings, an alternative ground was put forth by the Appellant that if the amount of non-compete fee paid to L&T was treated as capital expenditure, then the benefit of depreciation allowance should be extended to the Assessee under Section 32(1)(ii) of the Act.
- With respect to the alternative ground, the CIT(A) held that the Appellant's business interests would not have suffered in the absence of the non-compete agreement and that the commercial necessity for incurring such expenditure was not established. Since the purpose of the payment was not proved to be wholly and exclusively for business, the expenditure was treated as non-revenue in nature, depreciation was denied, and the Assessee's appeal was dismissed.
- The Hon'ble ITAT confirmed the findings of CIT(A) and held that non-compete rights do not constitute an intangible asset under section 32(1)(ii), and therefore, depreciation was not allowable.

- The Court held that non-compete results in right in personam only against payee and not a right in rem for an asset, it has to be right in rem. Accordingly, the Delhi High Court dismissed the appeal of the Appellant and decided in favour of revenue.
- The Hon'ble Supreme Court analyzed the nature and purpose of non-compete fees, held that such expenditure as revenue in nature. It does not result in acquisition of a capital asset nor in creation of a new profit-earning apparatus. The Hon'ble Supreme court observed the following:
 - Purpose of non-compete is to give head start to the business.
 - Non-compete fee paid by the appellant was not only seeks to protect or enhance the profitability of the business, also facilitating to carry on of the business more efficiently and profitably.
 - Such payment does not create a monopoly, as there is no complete elimination of competition.
 - The non-compete compensation from the standpoint of the payer of such compensation is in anticipation that absence of a competition from the other party may secure a benefit to the party paying the compensation. However, there is no certainty that such benefit would accrue.
- With respect to remaining appeals tag with this decisions, the Apex Court is of the view that it would be appropriate if the matters are remanded back to the respective ITATs, all appeals/ cross-appeals filed are revived and heard afresh having regard to the ratio laid down in this judgement.

Sharp Business Systems [TS-1685-SC-2025]

TRANSFER PRICING

Judicial Rulings

Time Limitation under Section 153 overrides Section 144C of the Income Tax Act

- The Assessee, engaged in the manufacture and sale of steel doors, industrial doors and allied hardware products, filed its return of income for AY 2020-21 declaring total income of INR 16.95 crore.
- The case was selected for scrutiny and a reference was made to the Transfer Pricing Officer (TPO) under section 92CA in respect of certain international transactions. The TPO passed an order proposing transfer pricing adjustments towards royalty payment, interest on unsecured compulsorily convertible debentures and interest on trade receivables.
- Pursuant to the TPO's order, the Assessing Officer issued a draft assessment order under section 144C(1) on 26 September 2023, which was within the extended TP limitation period.
- The Assessee filed objections before the Hon'ble Dispute Resolution Panel (DRP), which issued its directions on 21 June 2024, upholding all the transfer pricing adjustments. Thereafter, the Assessing Officer passed the final assessment order on 25 July 2024 under section 143(3) read with sections 144C(13) and 144B.
- Before the Hon'ble ITAT, the Assessee primarily challenged the validity of the final assessment order on the ground of limitation, contending that for AY 2020-21, even after availing the additional 12 months extension due to reference to the TPO, the statutory time limit under section 153 expired on 30 September 2023.
- The Assessee to support his contention had relied upon the judgment of the Hon'ble High Court of Madras in the case of CIT. v. Roca Bathroom Products P. Ltd (2022) 445 ITR 537 (Madras).

- The Hyderabad ITAT accepted the Assessee's contention and held that section 153 prescribes the outer time limit for completion of assessment, and the procedure under section 144C cannot override the statutory limitation.
- The Hon'ble ITAT quashed the final assessment order as time-barred, without going into the merits of the transfer pricing adjustments, and decided the issue in favour of the Assessee.

Shakti Hormann Private Limited [TS- 771-ITAT-2025(HYD)-TP]

INDIRECT TAX

Judicial Rulings

Refund of ITC cannot be denied in case of delay in filing of LUT/Bond

- The Hon'ble Karnataka High Court held that non-filing of a Letter of Undertaking (LUT) or Bond prior to export under Rule 96A of the CGST Rules is a procedural lapse and not an incurable defect.
- The Court placed significant reliance on CBIC Circular dated 15 March 2018, which expressly provides that the substantive benefit of zero-rating should not be denied merely due to delay in furnishing LUT/Bond. The circular permits condonation of delay and ex-post facto acceptance of LUT/Bond, and the Court reiterated that such circulars are binding on departmental authorities. Failure to consider these binding instructions vitiates the refund rejection order.
- Emphasizing the principle of substance over form, the Court observed that GST law intends to treat exports as zero-rated supplies, once exports are established in terms of Section 16 of the IGST Act, denial of refund solely on technical grounds would be arbitrary and contrary to the scheme of the IGST Act.

- The Court further held that the refund rejection order suffered from non-application of mind, as the authority rejected the claim mechanically without examining the circular or the possibility of regularizing the lapse by allowing post-export filing of LUT/Bond. Such an approach was held to be legally unsustainable.
- Accordingly, the impugned refund rejection order was set aside and the matter was remanded for fresh consideration, with a direction to permit the exporter to furnish LUT/Bond along with an application for condonation of delay and to decide the refund claim afresh in accordance with law and the CBIC Circular.

Prime Perfumery Works Vs Assistant Commissioner of Central Tax [TS-1029-HC(KAR)-2025-GST]