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Recent Judicial Pronouncements in Direct Tax

Direct Tax | Corporate Law | Judicial Developments

CA Namrata Hitesh Chande

15 July 2026

Pooja Ramesh Singh vs. Jammu & Kashmir Bank Ltd.

Supreme Court of India | 2026 INSC 668

CLASSIC CASE OF AI HALLUCINATION

- The Supreme Court set aside the NCLT and NCLAT orders after finding that they relied on non-existent and AI-hallucinated judicial precedents.
- The Court held that a decision founded on fake or hallucinated legal authorities is 'no decision in the eyes of law' and amounts to a subversion of the rule of law.
- The Court declared a zero-tolerance approach towards citing, producing, or relying on AI-generated precedents without independent verification, for both the Bar and the Bench.
- It observed that citing unverified AI-generated authorities may constitute professional misconduct, while judicial reliance on such material is a serious lapse.
- While recognising the benefits of AI in the legal ecosystem, the Court emphasised that human oversight must remain central to adjudication at every stage.
- The Court directed the Bar Council of India to formulate guidelines and consider disciplinary measures to prevent submission of fake or hallucinated AI-generated legal materials before courts and tribunals.
- On the facts, the matter was remanded back to the NCLT for fresh consideration on merits, uninfluenced by the tainted precedents.

Global Hospitality Licensing SARL v. ACIT

Bombay High Court | Writ Petition No. 1611 of 2024

ISSUE INVOLVED

Whether failure of the Assessing Officer to pass the order giving effect (OGE) to the CIT(A)'s order within the limitation under Section 153 (thereby preventing recomputation of tax and issue of a fresh demand) causes the original assessment to abate and the return to be deemed accepted, and consequently whether penalty proceedings under Section 271(1)(c) initiated in the course of the abated assessment survive?

STATEMENT OF FACTS

- Petitioner (Luxembourg resident) filed return for AY 2009-10 declaring nil; receipts under IMPPA (International Marketing Program Participation Agreement) were disputed and AO treated them as business income by assessment dated 6 Feb 2012 and initiated penalty proceedings under s.271(1)(c).
- CIT(A) by order dated 31 Dec 2018 held the receipts to be royalty, directed application of beneficial rate and verification/credit for TDS, and directed AO to give opportunity before passing OGE; Tribunal appeal withdrawn by petitioner in July 2022 after petitioner contended AO had failed to pass OGE within statutory time.
- No OGE was passed within the time prescribed by Section 153 (s.153(5) read with s.153(3)), petitioner sought refund and AO issued fresh show-cause and on 30 Mar 2023 levied penalty of Rs.12,11,070/-.

Global Hospitality Licensing SARL v. ACIT

Bombay High Court | Writ Petition No. 1611 of 2024

JUDGMENT OF BOMBAY HIGH COURT

- The High Court held that the CIT(A) altered the basis of taxation and the AO was obliged to pass a quasi-judicial OGE (not merely administrative) within the limitation under Section 153; failure to do so resulted in the assessment abating and the return being treated as accepted.
- As the foundation of the penalty proceedings (the taxed demand) no longer survived, the penalty order dated 30 Mar 2023 and consequential demand were quashed and set aside; any amounts recovered must be refunded with applicable interest.

Sterling Holiday Resorts Limited v. DCIT

ITA Nos. 843 & 941/MUM/2024 | A.Y. 2015-16 | dated 25.06.2026

ISSUE INVOLVED

Huge loss of tax benefits merely because the receiver of undertaking was not the issuer of shares, in case of demerger — the entire dispute was: will the claim of Rs. 240.15 crore of losses be allowed if the company receiving the undertaking & issuing shares is different?

STATEMENT OF FACTS

The restructuring was a single composite scheme of arrangement, sanctioned by the Bombay High Court, involving three related entities:

- SHRIL — Sterling Holiday Resorts India Ltd., a listed company; the demerged (transferor) company.
- TCIL — Thomas Cook (India) Ltd., a listed company; the holding company that issued shares to SHRIL's shareholders.
- TCISL — Thomas Cook Insurance Services India Ltd., a wholly-owned subsidiary of TCIL (since renamed Sterling Holiday Resorts Ltd.) — the assessee; the company that received the demerged undertaking.

Sterling Holiday Resorts Limited v. DCIT

ITA Nos. 843 & 941/MUM/2024 | A.Y. 2015-16

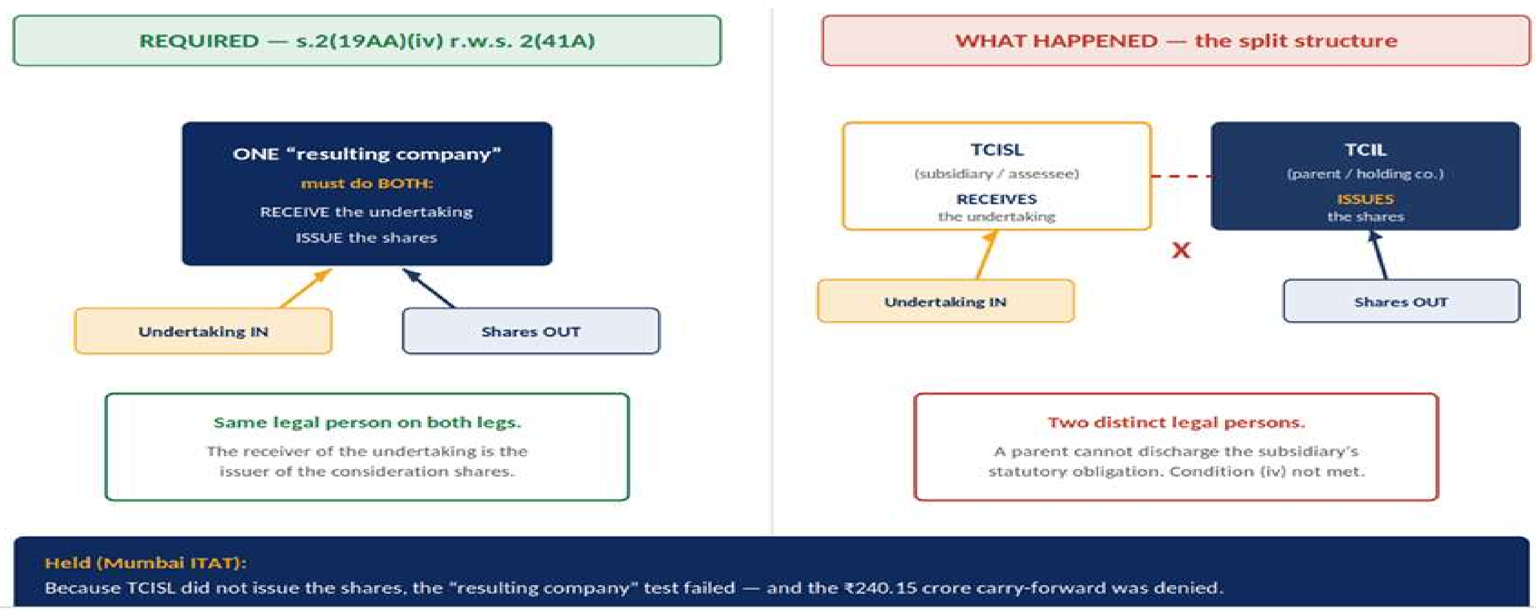
STATEMENT OF FACTS (CONTD.)

The scheme had two limbs, and the second matters as much as the first: (1) the resorts and time-share undertaking of SHRIL was demerged into the assessee (TCISL) on a going-concern basis; and (2) the residual business of SHRIL was amalgamated into TCIL, pursuant to which SHRIL ceased to exist. Because SHRIL was extinguished and the undertaking had gone to its wholly-owned subsidiary, the consideration shares to SHRIL's shareholders were issued by TCIL, the parent — not by TCISL, the company that actually received the undertaking. On that footing the assessee claimed, under S. 72A(4), carry-forward and set-off of the demerged undertaking's accumulated business loss (₹121.66 crore) and unabsorbed depreciation (₹113.29 crore), with ₹5.19 crore set off against the year's income. The Assessing Officer disallowed the entire claim, holding that as the shares were issued by the holding company and not by TCISL or its own wholly-owned subsidiary, the conditions of S. 2(19AA)(iv) read with S. 2(41A) were not met.

Sterling Holiday Resorts Limited v. DCIT

ITA Nos. 843 & 941/MUM/2024 | A.Y. 2015-16

JUDGEMENT BY ITAT MUMBAI BENCH – B



CONCLUDING REMARKS

Learnings from the said judgement state that corporate restructuring is about ensuring that every statutory condition under the Income Tax Act aligns with the commercial structure. One wrong step & it will lead to crores of loss.

Parashuram Dayaram Jewellers v. ITO

Gujarat High Court | [2026] 187 taxmann.com 586 (Guj) | dated 10.06.2026

ISSUE INVOLVED

Whether the appellant was entitled to the deduction under Section 40(b) of the Income Tax Act, 1961 in respect of the income of Rs.55,00,000/- declared during the course of survey under section 133A of the Act?

STATEMENT OF FACTS

A survey under section 133A was carried out at the assessee firm's business premises.

- During the survey, the assessee surrendered Rs. 55 lakhs as additional income.
- The Assessing Officer treated the surrendered amount largely as deemed income under sections 69B and 69C and denied the assessee's claim for deduction of partners' remuneration under section 40(b).
- The CIT(A) treated the surrendered amount as business income but the Tribunal, while agreeing it was business income, still denied partners' remuneration on the view that such excess stock/income could not be treated as regular business income for section 40(b) purposes.
- The assessee appealed before the High Court.

Parashuram Dayaram Jewellers v. ITO

Gujarat High Court | dated 10.06.2026

JUDGEMENT BY HIGH COURT OF GUJARAT

The central premise of the decision is that once the surrendered amount is accepted as business income, it must carry with it the normal incidents of business income under the Act.

- The Court relied heavily on its earlier decision in CIT v. Shilpa Dyeing & Printing Mills (P.) Ltd., which in turn followed broader principles concerning set-off and classification of income.
- It held that the Act does not contemplate a separate “orphan” category of taxable income outside the heads recognized under section 14 unless the statutory scheme compels such classification.
- Since the CIT(A) and Tribunal had already accepted that the Rs. 55 lakhs arose from business activity and was therefore business income, the assessee was entitled to regular business deductions.
- This included remuneration to partners under section 40(b), subject of course to the normal statutory conditions of that provision.
- The Court thus found the Tribunal's distinction viz.: treating the amount as business income for taxability but not for allowing ordinary business consequences — to be unsustainable.

CONCLUDING REMARKS

- The Gujarat High Court allowed the assessee's appeal.

Bacha Kharshedji Mowdavala Charitable Trust v. CIT(E)

Mumbai Tribunal | [2026] 187 taxmann.com 79 (Mumbai-Trib.) | dated 20.05.2026

ISSUES INVOLVED

- Issue I: Whether assessee-trust's application for registration under section 12AB can be rejected solely because its trust deed contained object clauses permitting scholarships and financial assistance outside India?
- Issue II: Whether filing Form 10AB beyond prescribed time but where no defect was found in its objects, activities or documents be ground for rejection of registration?

STATEMENT OF FACTS — ISSUE I

The assessee-trust applied in Form 10AB under section 12A(1)(ac)(iii) seeking registration under section 12AB. It had already been granted provisional registration in Form 10AC dated 03-08-2022, valid from AY 2023-24 to AY 2025-26.

As per its trust deed/MOA, its objects included awarding scholarships and fellowships to students studying in India or abroad and rendering financial assistance for medical treatment in India or abroad, with the stipulation that, where treatment was to be obtained abroad, financial assistance would be rendered in India.

Bacha Kharshedji Mowdavala Charitable Trust v. CIT(E)

Mumbai Tribunal | dated 20.05.2026

STATEMENT OF FACTS — ISSUE I (CONTD.)

On verification, the CIT(E) observed that clauses 2(c)(5) and 2(c)(10) of the trust deed envisaged application of funds outside India and treated the same as violative of section 11.

In response, the assessee submitted that it operated entirely within India, had no foreign income and had not violated any law. Rejecting the explanation, the CIT(E) rejected the application under section 12AB(1)(b)(ii)(B).

STATEMENT OF FACTS — ISSUE II

The assessee-trust held provisional registration in Form 10AC dated 3-8-2022, valid from AY 2023-24 to AY 2025-26, and filed Form 10AB for regular registration under section 12A(1)(ac)(iii). Under that clause, the application was required to be filed at least six months prior to expiry of the provisional registration or within six months of commencement of activities, whichever was earlier. CBDT Circular No. 7/2024 dated 25-4-2024 extended the due date for filing such applications till 30-6-2024. The assessee filed Form 10AB on 30-10-2024.

The CIT(E) recorded that the trust had commenced its charitable activities during AY 2023-24 and, even if such activities began in March 2023, the application ought to have been filed by September 2023. Holding that the application filed on 30-10-2024 was delayed by more than a year and that no reasonable cause or genuine hardship had been shown, the CIT(E) rejected the application under section 12AB(1)(b)(ii)(B).

Bacha Kharshedji Mowdavala Charitable Trust v. CIT(E)

Mumbai Tribunal | dated 20.05.2026

JUDGEMENT BY MUMBAI TRIBUNAL — ON ISSUE I

The Tribunal has carefully perused the record and gone through various clauses of the Trust deed. The CIT has categorically stated that certain objects leave room for any potential future endeavour that may be undertaken by the assessee Trust which would require expenditure outside India.

It appears that he had objections to this clause only, on which he inferred that the applicant had left open option for its activity and operation outside India in future endeavours, although it is found that the applicant had categorically stated in the deed that all its activities as also the beneficiaries would be confined to the boundaries of the country only.

It was necessary for the Commissioner to examine the purpose for satisfying himself that the activities are genuine. It was open for him to make necessary enquiries in this behalf and to pass an order as per the procedure laid down under section 12AA.

So far as income which is applied outside India is concerned, is not a relevant criteria for rejecting the application. In absence of order under section 11(1)(c), one cannot seek benefit for application of income for charitable or religious purposes, outside India.

Therefore, the impugned order which is based on irrelevant criteria is quashed and set aside with a direction to consider the application strictly in accordance with law.

Bacha Kharshedji Mowdavala Charitable Trust v. CIT(E)

Mumbai Tribunal | dated 20.05.2026

JUDGEMENT BY MUMBAI TRIBUNAL — ON ISSUE II

Having regard to the totality of facts, including the assessee being an existing trust carrying out charitable activities, the nature and genuineness of its charitable activities and the fact that the defect in the original application was purely technical and not substantive, the Tribunal is of the considered view that the assessee's application could not be rejected on the ground of an inadvertent clause selection or alleged delay. Accordingly, the impugned order is set aside and the CIT(E) is directed to grant the registration to the assessee under section 12A, if otherwise admissible in law, by treating the application as validly made within time and under the appropriate clause. The grounds of appeal are therefore, allowed for statistical purposes. [Para 7]

CONCLUDING REMARKS

- Registration could not be denied merely because trust's objects contemplated application of income outside India, and CIT(E) was to be directed to grant registration.
- Registration could not be rejected for incorrect selection of clause in original application which was procedural error or for delay of application, as such lapses were procedural rather than substantive.

K2 Family (P.) Trust v. DCIT

Bombay High Court | [2026] 182 taxmann.com 19 (Bombay) | dated 15.12.2025

ISSUE INVOLVED

Wanted to set off STCL (STT paid) against STCG (non-STT paid) but the income tax utility was not permitting the same, what recourse is available?

STATEMENT OF FACTS

The assessee trust earned short-term capital gains and incurred short-term capital losses on both STT-paid and non-STT-paid transactions for AY 2025-26.

- It wanted to set off STCL (STT-paid) first against STCG (non-STT paid), which according to it was permissible under section 70(2) and favorable.
- However, the income-tax utility compulsorily applied a different logic: it first adjusted STCL (STT-paid) against STCG (STT-paid), leading to higher tax.
- Because the utility did not permit the preferred claim, the assessee filed the return as per the portal's computation and immediately raised grievance before authorities.
- As the due date for revised return was approaching and no solution was given, the assessee moved the High Court seeking modification of the utility or, alternatively, permission to file a paper revised return.

K2 Family (P.) Trust v. DCIT

Bombay High Court | dated 15.12.2025

JUDGEMENT BY HIGH COURT OF BOMBAY

It was held that the return of income is the foundational document through which a claim must be made, and the utility cannot prevent an assessee from making a claim the law may permit.

- The correctness of the claim is for later assessment and appellate adjudication, not for pre-emptive denial by software architecture.
- The Court therefore directed the system to be modified in time for the revised return filing.
- Failing that, it directed acceptance of a paper revised return as a valid return under section 139(5).
- The Court directed modification of the utility.

Thank You!!

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