

INCOME TAX APPELLATE TRIBUNAL ORDER

[2016-TIOL-1343-ITAT-KOL](#)

ITO Vs Wizard Enterprises Pvt Ltd (Dated: April 29, 2016)

Whether assessee is entitled to deduction u/s 10B from its call centre operation where approval granted under STP Scheme complies with all the requirements contemplated u/s. 10B - Yes: ITAT

[2016-TIOL-1342-ITAT-MUM](#)

Trivector Origio Scientific Pvt Ltd Vs DCIT (Dated: April 29, 2016)

Whether addition in respect of commission paid to two employee is justified when additional evidences requires examination and verification by the AO to come to conclusion whether the commission is an allowable expenditure - Whether the commissions to two employees is hit by provisions of Section 36(1)(ii) when these two employees are not shareholders or directors of the assessee nor are they relatives of the shareholders and directors of the assessee.

[2016-TIOL-1341-ITAT-BANG](#)

Triton Valves Ltd Vs ACIT (Dated: April 29, 2016)

Whether the petition for condonation of delay can be allowed when the Assessee has neither revealed source of such advice nor tried to explain delay of each day.

[2016-TIOL-1340-ITAT-MUM](#)

Ronuk Metafin Pvt Ltd Vs CIT (Dated: April 20, 2016)

Whether the CIT has wrongly invoked the revisional jurisdiction u/s 263 when the AO has taken one of the possible views with regard to the deduction in question.

[2016-TIOL-1339-ITAT-MUM](#)

Gharda Chemicals Ltd Vs DCIT (Dated: April 22, 2016)

Whether disallowance is justified u/s 43B when the sales tax liability of Rs.9,71,247/- was not paid on or before the due date of filing of return of income - Whether provisions of section 2(22) (e) are attracted in the case of normal business transactions.

[2016-TIOL-1338-ITAT-DEL](#)

Dish TV India Ltd Vs ACIT (Dated: February 29, 2016)

Whether TDS has to be deducted u/s 194J instead of sec 194C, if right to use

programs is transferred by TV channel to DTH/cable operators for value, and all revenue from ultimate viewership goes to the DTH/Cable operators and TV Channel ends up by receiving consideration from DTH/cable operator for transfer of rights in its programs - Yes: ITAT

Whether assessee will be deemed as 'assessee in default' and is liable u/s 201(1), upon his failure to deduct TDS on the sum paid to a resident, in case the resident has taken into account such sum for computing income in his return and has paid the tax due on the income declared - NO: ITAT

Whether assessee is liable to pay interest u/s 201(1A) on the amount upon which he failed to deduct TDS, even if he is not liable to pay actual amount u/s 201(1) - YES: ITAT

[2016-TIOL-1337-ITAT-DEL](#)

DCIT Vs Delphi Automotive Systems Ltd (Dated: April 12, 2016)

Whether the deletion of disallowance of depreciation - on impaired assets is justified when it is apparent that assets have been used by the assessee - Whether even if Inter Ministerial Standing Committee approval is not received but it is received from Director of STPI deduction u/s 10A should not be disturbed.

[2016-TIOL-1336-ITAT-HYD](#)

ITO Vs SMT Guthula Nagamany (Dated: June 29, 2016)

Whether an addition for unexplained cash deposits can be made without any material on record if the assessee is a joint holder of any account with her husband and claimed that the amount is deposited by her husband earned from a separate business - NO: ITAT

[2016-TIOL-1335-ITAT-AHM](#)

HCP Design And Projects Pvt Ltd Vs ITO (Dated: July 12, 2016)

Whether the explanation 3 to Section 43(1) can be invoked if Assessing Officer finds its satisfactory that the main purpose of the transfer of such assets was reduction of liability to the tax - YES: ITAT

Whether depreciation claimed by the assessee can be deleted after considering re-classification as deliberate attempt to reduce the tax liability as contemplated by explanation 3 of section 43(1) - NO: ITAT

[2016-TIOL-1334-ITAT-MUM](#)

DCIT Vs ITD Cementation India Ltd (Dated: July 12, 2016)

Whether the onus to prove the genuineness of the transaction on account of non-reconciliation of AIR can be put on the assessee, when the AO is not able to prove positively that aforementioned transactions belongs to the assessee - NO : ITAT

Whether the principle of consistency should be followed, when nothing contrary could

be proved by the AO that warranted deviation - YES : ITAT

[2016-TIOL-1333-ITAT-DEL](#)

J R Modi Finance Pvt Ltd Vs ACIT (Dated: June 6, 2016)

Whether in case of the searched person, the date with reference to which proceedings for assessment or reassessment of any assessment year within a period of six assessment years shall abate, is the date of initiation of search u/s 132 or requisition u/s 132A - Whether when no incriminating material was found during the course of search against the assessee, then no addition can be made on the other than searched person.

[2016-TIOL-1332-ITAT-BANG](#)

DCIT Vs Rambus Chip Technologies India Pvt Ltd (Dated: June 30, 2016)

Whether expenses excluded from the export turnover should also be excluded from the total turnover for the purpose of calculating deductions admissible under the Act - YES : ITAT

Whether remuneration and the Income-tax thereon paid on behalf of the employee is an allowable expenditure u/s 37 of the Act - YES : ITAT

Whether addition of reimbursement of expenses should not be made when invoices, documents with proper break up is produced in support of the same - YES : ITAT

[2016-TIOL-1331-ITAT-MAD](#)

DCIT Vs Mcc Finance Ltd (Dated: May 4, 2016)

Whether a matter deserves to be remanded, when assessee in the written submission has agreed that loan balance should be charged to interest @15% as the loan was given out of public deposits carrying interest of the same rate but the CIT(A) has completely foregone the said interest - Yes: ITAT

Whether depreciation claim can be disallowed by the AO on the ground that lease income was not offered as income during the subject year, when the lease transaction started during the year and the due date for receipt of lease rent was only in next year - NO: ITAT

Whether in case of lease of machine by assessee to another company, depreciation benefit can be denied by the AO on the ground that only financial assistance had been granted by the assessee and therefore assessee is not the owner of the property - NO: ITAT

Whether depreciation benefit is available to the lessor of a machine, when such machine is leased out in the course of leasing business - YES: ITAT

[2016-TIOL-1330-ITAT-MAD](#)

Universal Embroidery Vs ITO (Dated: June 30, 2016)

Whether section 40(a)(ia) can be applied to disputed amount liable for deduction of

TDS u/s194C when there is no outstanding balance at the end of the close of the year relevant to the assessment year in respect of these payments - NO: ITAT

[2016-TIOL-1329-ITAT-HYD](#)

Vjil Consulting Ltd Vs ITO (Dated: July 15, 2016)

Whether if the delay in filing of appeal has been explained by the M.D. of the assessee company, same should have been considered by CIT(A) in its correct perspective, but in case there was no opportunity granted to assessee, the appeal can be considered as decided exparte – YES: ITAT

[2016-TIOL-1328-ITAT-AHM](#)

DCIT Vs Tubestar Oil And Gas Services Pvt Ltd (Dated: June 7, 2016)

Whether the Assessee being engaged in providing services like testing, analysis and inspection services relating to oil and gas to various companies can claim depreciation @ 60% on plant & machinery - YES: ITAT

Whether the claim of the Assessee related Site Advances and Rent Deposits can be disallowed when the claim of business loss are directly related to the business of the assessee - NO: ITAT

[2016-TIOL-1327-ITAT-KOL](#)

DCIT Vs Hooghly Mills Co Ltd (Dated: April 8, 2016)

Whether where a provision is made for payment of gratuity to retiring employees in respect of previous year, then the assessee is entitled to claim the deduction u/s 40A(7)(b)(i) even if actual payment is not made - YES: ITAT

Whether assessee's claim of deduction u/s 43B and/or 40A(7)(a) on account of the provision can be denied, on ground of non-payment of the said gratuity - NO: ITAT

Whether deemed dividend can be assessed only in the hands of a person who is a shareholder of the lender company and not in the hands of a person other than a shareholder - YES: ITAT

Whether Rule 8D can be considered as retrospective - NO: ITAT

[Also see analysis of the order](#)

[2016-TIOL-1326-ITAT-KOL](#)

Leela Mondal Vs ITO (Dated: June 1, 2016)

Whether when the Assessee has claimed exemption after disclosing the relevant basic facts and under ignorance of the provisions of the Act, and not offered that amount for tax, in such cases, penalty u/s 271(1)(c) can be imposed - NO: ITAT

[2016-TIOL-1325-ITAT-AHM](#)

ITO Vs Sanitex Chemicals Ltd (Dated: June 14, 2016)

Whether reopening of assessment after the expiry of four years from the end of the assessment year is sustainable where in reasons recorded AO just re-appreciated the figures disclosed by the assessee in the original assessment proceedings and had not laid his hand on this information from some outside sources after the assessment and could not make a case that assessee had failed to disclose any material particulars fully and truly regarding assessment of its income – No: ITAT

[2016-TIOL-1324-ITAT-DEL](#)

Phoenix Data Tech Services Pvt Ltd Vs DCIT (Dated: June 13, 2016)

Whether when a dumb document is seized from the third party, it is the duty cast upon the revenue to state that the transactions mentioned in the said document have really taken place and the money involved there in constitute the undisclosed income of the assessee - YES: ITAT

Whether addition can be made on the basis of merely making an assertion by a person that it is entry operator or the companies are formed for capital formation which remains unsubstantiated - NO: ITAT

[Also see analysis of the order](#)

[2016-TIOL-1323-ITAT-DEL](#)

ITO Vs Anjana Dhingra (Dated: June 14, 2016)

Whether in view of the Circular No. 21/2015 dated 10th December, 2015 appeal involving the tax effect of less than Rs. 10 lakh would not be considered by Tribunal - YES: ITAT

[2016-TIOL-1322-ITAT-DEL](#)

ITO Vs Oriental Structural Engineers Pvt Ltd (Dated: July 1, 2016)

Whether where the intent with which the joint venture is formed, is to earn profit, then the said joint venture is an association of persons and is liable to be taxed on that basis - YES: ITAT

[2016-TIOL-1321-ITAT-MUM](#)

Medley Pharmaceuticals Ltd Vs DCIT (Dated: June 29, 2016)

Whether where Daman Unit-2 is a separate unit having its own plant and machinery, manufacturing of products, independent funds, and separate labour force, it can be considered as a mere part of the Daman Unit-1 so as to defeat its claim of deduction u/s. 80IA/80IB - NO: ITAT

Whether where there is no material found during the course of the search leading to any additions/disallowances, then the invocation of provisions of section 153A is not warranted - YES: ITAT

[2016-TIOL-1320-ITAT-MUM](#)

R P Apparels Vs ACIT (Dated: June 29, 2016)

Whether where the assessee firm has duly paid the fringe benefit tax, then no further disallowance is called for in the absence of any incriminating material on record - YES: ITAT

Whether where a disallowance is made on the basis of estimates and the same is confirmed by the appellate authorities without bringing on record any cogent incriminating material on record, then such disallowance is liable to be deleted - YES: ITAT

[2016-TIOL-1319-ITAT-MUM](#)

Silvassa Estates Pvt Ltd Vs ITO (Dated: June 14, 2016)

Whether where no borrowed funds are used for the purposes of making investments in shares yielding exempt income, no addition is warranted on the same by invoking Section 14A r/w Rule 8D - YES: ITAT

Whether where the self owned funds which is far in excess of investment in shares, no disallowance is warranted for the interest paid by the assessee on the said investment u/s 14A r/w Rule 8D(2)(ii) - YES: ITAT

Whether where the assessee company had made voluntary disallowance of its own u/s 14A r/w Rule 8D(2)(iii), then further disallowance under the said provision thus leading to double disallowance of the same amount, is not permitted under the I-T Act - YES: ITAT

[2016-TIOL-1318-ITAT-KOL](#)

ACIT Vs Rikhab Chand Jain (Dated: July 8, 2016)

Whether where neither part of the investments is made out of loan funds nor interest expenditure is incurred for the purpose of making investments, no addition is warranted on the said transaction - YES: ITAT

Whether interest claimed against borrowed fund to acquire controlling stake in a company is allowable - YES: ITAT

Whether where the investment made by the assessee is not with an intention to earn dividend income but as business expediency investments and strategic investments, then there cannot be any disallowance u/s 14A - YES: ITAT

Whether where the assessee had only made payments for purchase of materials and had admittedly not supplied the materials to the job worker, then the same would not fall under the definition of 'work' as per section 194C and no disallowance u/s 40(a)(ia) is warranted on such payments for not deducting tax u/s 194C - YES: ITAT

Whether where the expenditure is only in the nature of staff welfare, then it is squarely allowable as a deduction - YES: ITAT

Whether gifts made to employees on the occasion of the marriage in their families in

order to maintain harmonious relation with the staff members, is an allowable deduction - YES: ITAT

[2016-TIOL-1317-ITAT-AHM](#)

DCIT Vs Karsanbhai K Patel (Dated: June 9, 2016)

Whether once it is held that the assessee is following cash system of accounting, no income on account of interest of OFCPNs can be taxed in the current year on accrual basis - YES: ITAT

Whether where the quantum addition is deleted by the Tribunal, then in such cases assessee should not be visited with penalty u/s 271(1)(c) for concealment of income or furnishing of inaccurate particulars of income - YES: ITAT

[2016-TIOL-1316-ITAT-AMRITSAR](#)

DCIT Vs Surinder Pal Gandhi (Dated: July 1, 2016)

Whether where the additional evidences are at the root of additions which are necessary for consideration, then the appellate authorities are justified in admitting them even at the appellate stage - YES: ITAT

Whether where books of accounts of assessee are produced and assessing authorities had verified figures of purchases and sales and other expenses, which are tallied with the books of accounts, then no addition deserves to be sustained u/s 44AF - YES: ITAT

Whether where the bank account on basis of which the addition has been made, does not belong to the subject assessee but to a different assessee under separate case, then the said addition deserves to be deleted - YES: ITAT

[2016-TIOL-1315-ITAT-NAGPUR](#)

ITO Vs Sant Amardas Urban Credit Co-Op Society Ltd (Dated: June 17, 2016)

Whether deduction u/s 80P(2)(a)(i) can not be denied if the interest is earned on investment made of idle funds on short term basis by cooperative society who is otherwise maintaining proper operational funds - YES : ITAT

[2016-TIOL-1314-ITAT-MUM](#)

DCIT Vs N H Securities Ltd (Dated: May 18, 2016)

Whether the Prohibitory order passed us 132(3) by an officer not authorised will extend the limitation period - NO: ITAT

Whether the Assessment Order is barred by limitation and is liable to be quashed when the date of execution of last authorization was 16.10.1997 and the AO passed the block assessment order on 31.1.2000 - YES: ITAT

[2016-TIOL-1313-ITAT-DEL](#)

ACIT Vs Shri Pawan Kumar Malhotra (Dated: April 29, 2016)

Whether penalty u/s 271(1)(c) is leviable, when appeal against the order imposing such penalty has been admitted before the Jurisdictional High Court - NO: ITAT

Whether admission of appeal would mean that the issue in hand is debatable, open and capable of having alternate view as the same is held to be representing a substantial question of law by Jurisdictional High Court at the time of such admission - YES: ITAT

Whether when High Court has accepted substantial question of law u/s 260A, then this would itself show that the issue is debatable and in such a case no penalty was imposable u/s 271(1)(c) - YES: ITAT

[2016-TIOL-1312-ITAT-MUM](#)

Green Acres Educational Trust Vs DCIT (Dated: June 24, 2016)

Whether pre-schooling is an integral part of the term 'education' as envisaged u/s 2(15) of the Act - YES: ITAT

Whether when the carrying out of the activity of 'education' itself is a charitable purpose, then at the stage of granting registration u/s 12A, the DIT is required to examine only the genuineness of the activities of the trust and is neither permitted nor obliged under the law, to go beyond that at the stage of registration - YES: ITAT

Whether merely because an Educational institute happens to earn surplus then by that fact it can be held that educational institute is not charitable and will lose the benefit of exemption under the law by that fact alone - NO: ITAT

[Also see analysis of the order](#)

[2016-TIOL-1311-ITAT-KOL](#)

ITO Vs Fieta Sales And Services Ltd (Dated: July 1, 2016)

Whether gain earned on selling the exclusive right to do business with a particular entity is a long term capital gain if that right has been held for a period more than 3 years irrelevant of the fact that depreciation has never been claimed on it - YES : ITAT

[2016-TIOL-1310-ITAT-BANG](#)

Chikodi Tal Mahila Supplementary Nutrition Vs PR CIT (Dated: June 17, 2016)

Whether expenditure incurred can be considered as the capital expenditure if the benefit arising out of it is not considered as a capital asset - YES : ITAT

[2016-TIOL-1309-ITAT-JAIPUR](#)

Cheer Sagar Vs DCIT (Dated: June 3, 2016)

Whether upfront payment made for the acquisition of leasehold rights over an immovable property for a long duration of time can be taken to constitute rental

income on which lessee is liable to deduct tax at source - NO : ITAT

[2016-TIOL-1308-ITAT-DEL](#)

M K Cycle Industries Pvt Ltd Vs ITO (Dated: June 10, 2016)

Whether reopening of assessment is sustainable where the information available with Assessing Officer was sufficient to form a primary belief that income had escaped assessment – Whether addition u/s 68 is sustainable where the assessee fails to discharge its onus in respect of the credit received in the form of share capital.

[2016-TIOL-1307-ITAT-MUM](#)

Dhanraj Dhadda And Sons Pvt Ltd Vs ITO (Dated: June 1, 2016)

Whether when the assessee has deposited a sum at the time of allotment of a property and transfers such amount in favour of another party, it would amount to transfer of his rights over such property - YES: ITAT

Whether in case of transactions between related concerns, human probabilities and surrounding circumstances can be considered by the AO and accordingly 'fair market value' of the properties can be taken as 'full value of consideration' for ascertaining capital gains - YES: ITAT

Whether capital gain for transfer of property be taxable in the year in which approval for transfer is given and not in the year in which the application for such transfer is made by assessee - YES: ITAT

Whether the matter would require factual verification and can be set aside to the file of AO, if AO has not considered the actual dates of payment of deposits for the purpose of ascertaining indexation benefit in respect transfer of property - YES: ITAT

Whether when transferor & transferee both made payment of deposit amount for the properties, should full value of consideration be apportioned in the ratio of such payment and capital gain should also be charged on such proportionate amount - NO: ITAT

[Also see analysis of the order](#)

[2016-TIOL-1306-ITAT-MUM](#)

ITO Vs Kalypto Risk Technologies P Ltd (Dated: May 18, 2016)

Whether Appellate authority is justified in deleting addition made by AO following the principle of consistency where no addition was made on the issue in the earlier assessment years and no contrary material/facts were brought on record by the Revenue – Yes: ITAT

Whether assessee is liable to deduct tax at source u/s 195 on the payment of front end commission by the assessee company to foreign agent for arranging export order of software in favour of the assessee company – No: ITAT

[2016-TIOL-1305-ITAT-PUNE](#)

Jitendra Bandu Bhosale Vs ITO (Dated: May 31, 2016)

Whether in the absence of any explanation filed by the assessee and in the absence of assessee having produced the books of account to substantiate his claim the addition made on account of unexplained credit u/s 69 is justified - YES: ITAT

[2016-TIOL-1304-ITAT-KOL](#)

ACIT Vs Jewell India Jewellers (Dated: June 1, 2016)

Whether addition on account of valuation of closing stock can be made where the assessee had been consistently following LIFO method for valuation of closing stock of gold and AO had not recorded any finding that the LIFO method of accounting followed by the assessee for valuing its closing stock was such that correct profit could not be deducted from the books of account maintained by the assessee and no defects were noticed or pointed out by AO in the books of accounts and stock registers furnished by the assessee – No: ITAT

[2016-TIOL-1303-ITAT-MUM](#)

Tata Sons Ltd Vs ACIT (Dated: April 1, 2016)

Whether a debatable point of law can be rectified u/s 154 of Income Tax Act - NO: ITAT

[2016-TIOL-1302-ITAT-COCHIN](#)

Silpa Projects And Infrastructures (India) Pvt Ltd Vs DCIT (Dated: June 10, 2016)

Whether the cost of material and other expenses, where no profit element is involved, should be excluded while making estimation of income - YES: ITAT

[2016-TIOL-1301-ITAT-KOL](#)

DCIT Vs RBA Exports Pvt Ltd (Dated: May 11, 2016)

Whether it was mandatory on the part of the CIT(A) before admitting additional evidence as well as before taking into account any additional evidence produced before CIT(A) to afford opportunity to examine the evidence so produced and to allow opportunity to produce any evidence in rebuttal of such evidence.

[2016-TIOL-1300-ITAT-MUM](#)

Mema Engineers And Contractors Pvt Ltd Vs ACIT (Dated: June 13, 2016)

Whether demolition expenses incurred by the assessee to remove illegal structure in the portion of the plot of land granted by Collectors office in favour of the assessee is allowable as business expenditure – Yes: ITAT

Whether the amount payable by assessee towards unearned increase in the plot of land in the event of sale or transfer vide agreement entered into by the assessee and Additional Collector of Bombay for grant of land in favour of the assessee company is hit by provisions of Section 43B – No: ITAT

[2016-TIOL-1299-ITAT-DEL](#)

Tegh International Vs ACIT (Dated: May 27, 2016)

Whether addition made for bogus purchases without any incriminating material found during the search and seizure operation is justified - NO : ITAT

[2016-TIOL-1298-ITAT-MAD](#)

Comstar Automotive Technologies Pvt Ltd Vs DCIT (Dated: June 17, 2016)

Whether Rule 8D is applicable where assessee has investments which yielded exempt income and which does not form total income and assessee is not able to demonstrate what is the own funds available to the assessee to make investments which yielded exempt income – YES: ITAT

Whether exemption u/s. 10B can be allowed by adjusting only a portion of unabsorbed depreciation of an earlier year against the income of the export unit and adjusting the balance of unabsorbed depreciation against other business income once again to show 'Nil' tax liability – NO: ITAT

Whether MTM loss on forward contracts is a business loss to be set off against the business income of assessee – YES: ITAT

[2016-TIOL-1297-ITAT-JAIPUR](#)

DCIT Vs Asha Mandowara (Dated: May 31, 2016)

Whether addition can be made even if the decline in the GP rate is verifiable from the bill which shows hike in the purchase price as compared to the preceding year but the sale price has not increased proportionately - NO: ITAT

Whether mere rejection of books of accounts should necessarily result in trading addition if the assessee is able to justify the trading result - NO: ITAT

[2016-TIOL-1296-ITAT-HYD](#)

Sujana Universal Industries Ltd Vs ACIT (Dated: April 7, 2016)

Whether the matter needs to be remanded when the Coordinate Bench of the Tribunal has already adjudicated on the matter in appeal and given instructions to be followed by the authorities - YES: ITAT

[2016-TIOL-1295-ITAT-MAD](#)

DCIT Vs Standard Fireworks Pvt Ltd (Dated: April 1, 2016)

Whether the revenue can take a view contrary to the judgment of the High Court in a similar matter merely because the SLP filed by the Department is pending before the Apex Court - NO : ITAT

[2016-TIOL-1294-ITAT-MAD](#)

Sindya Infrastructure Development Company Pvt Ltd Vs ACIT (Dated: April 1, 2016)

Whether interest taken on loan from a group company can be allowed as business expenditure when such loan amount was diverted to another sister concern - NO : ITAT

[2016-TIOL-1293-ITAT-MAD](#)

Eastman Exports Global Clothing (P) Ltd Vs JCIT (Dated: May 17, 2016)

Whether when the assessee was given incentive for exploring the new markets across the globe, would such incentive be taken as a revenue receipt - NO: ITAT

Whether when export incentive was given to the assessee not for running the business profitably but for expanding the market, it would amount to capital receipt - YES: ITAT

[Also see analysis of the order](#)

[2016-TIOL-1292-ITAT-DEL](#)

Ujagar Holdings Pvt Ltd Vs ITO (Dated: May 16, 2016)

Whether the reassessment completed by the AO u/s 147 can be sustained when no reasons for reassessment were provided to the assessee - NO: ITAT

[2016-TIOL-1291-ITAT-DEL](#)

ACIT Vs Ottoman Steel Tubes Pvt Ltd (Dated: June 21, 2016)

Whether addition u/s 68 is sustainable where assessee discharged the onus cast upon it to prove the identity of the share applicants, their creditworthiness and genuineness of the transaction - No: ITAT

[2016-TIOL-1290-ITAT-KOL](#)

Blimal Kumar Nopany Vs WTO (Dated: June 8, 2016)

Whether mere non-furnishing of a return per se tantamounts to concealment of any asset or furnished any inaccurate particulars of assets or debts within the meaning of section 18(1)(c) when during the proceedings u/s 17, the AO has not found that the assessee has concealed any assets or furnished any inaccurate particulars of assets or

debts and the AO has also accepted the return filed - NO: ITAT

[2016-TIOL-1289-ITAT-HYD](#)

Indus Business Systems Ltd Vs ITO (Dated: June 17, 2016)

Whether the deduction u/s 10A is to be allowed on the balance amount after setting off the brought forward loss and depreciation of the non-eligible unit in accordance with the provisions of section 72 of the Act – NO: ITAT

[2016-TIOL-1288-ITAT-DEL](#)

Cambhoj Brothers (P) Ltd Vs ITO (Dated: May 12, 2016)

Whether the reopening of assessment u/s 147/148 was justified when there was no new material before the AO to start reassessment proceedings.

[2016-TIOL-1287-ITAT-JAIPUR](#)

Cardiac Care Consultants Vs JCIT (Dated: May 31, 2016)

Whether in case of failure to deduct tax at source disallowance can be made only if the tax is payable and not where tax is already paid - Whether the Revenue was justified in relying on CBDT circular No. 739 dated 25/3/1996 to disallow the assessee's claim of remuneration paid to the partners when the assessee had debited remuneration on the basis of Section 40(b)(v) which was ratified by the amended partnership deed.

[2016-TIOL-1286-ITAT-HYD](#)

Prathima Estates Ltd Vs ACIT (Dated: April 07, 2016)

Whether deduction which had not been allowed while processing the original return can be allowed in the return furnished in response to the notice u/s 153A - NO: ITAT

[2016-TIOL-1285-ITAT-DEL](#)

ITO Vs Renaissance Realcon Pvt Ltd (Dated: April 4, 2016)

Whether in view of CBDT Circular No. [21/2015](#) the Revenue can maintain an appeal before the Tribunal when the tax effect involved in the appeal was less than Rs 10 lakh - NO: ITAT

[2016-TIOL-1284-ITAT-DEL](#)

DCIT Vs M B Finmart Pvt Ltd (Dated: June 9, 2016)

Whether income on sale of shares by NBFC can be treated as Capital gain and not business income when time gap between purchase and sale is not very thin and for the past few assessment years the Revenue used to treat the income as Capital gain - YES: ITAT

[2016-TIOL-1283-ITAT-AMRITSAR](#)

Holy Faith International Pvt Ltd Vs ACIT (Dated: June 13, 2016)

Whether when the advance has been made to the sister concerns out of interest free funds available with the assessee then disallowance of interest u/s 36(1)(iii) is justified.

[2016-TIOL-1282-ITAT-MAD](#)

J R Packages Pvt Ltd Vs DCIT (Dated: April 29, 2016)

Whether assessee can contend that physical inventory taken by the Revenue is not proper, when assessee's employees as well as MD of the assessee company have certified the accuracy of the inventory so taken by the Revenue during survey - NO: ITAT

Whether an inference can be drawn that Revenue intended to tax the entire deficit stock, when the AO himself had taken only 20% of gross profit on the deficit stock arrived at by him - NO: ITAT

Whether determination of gross profit by the AO requires modification, when the AO has not taken the past history of the assessee or the profit of similarly placed industries into consideration - NO: ITAT

[2016-TIOL-1281-ITAT-MUM](#)

Pratima H Mehta Vs DCIT (Dated: May 18, 2016)

Whether when assessee's contention that, no interest u/s 234B & 234C should be levied on the income subjected to TDS, was accepted in assessee's own case in the previous AY, the same view can be taken in the present AY in respect of the same matter in issue - YES: ITAT

[2016-TIOL-1280-ITAT-DEL](#)

Phoenix Air Express Pvt Ltd Vs Addl CIT (Dated: May 5, 2016)

Whether where the non-appearance of the assessee before the appellate authority is due to non-receiving the notice of hearing, which was sent by the CIT(A) at a wrong address, the matter deserves to be restored to the file of AO to pass a fresh order - YES: ITAT

[2016-TIOL-1279-ITAT-PUNE](#)

Paresh Pritamlal Mehta Vs ITO (Dated: March 18, 2016)

Whether disallowance u/s. 14A r.w. Rule 8D can be made on shares held as stock-in-trade - YES: ITAT

Whether the CIT(A) should have followed the order of the Tribunal passed in assessee's own case to maintain judicial discipline - YES: ITAT

[2016-TIOL-1278-ITAT-DEL](#)

DCIT Vs Newgen Software Technologies Ltd (Dated: April 8, 2016)

Whether penalty can be imposed on the additions under Section 115JB - NO: ITAT
2016-TIOL-1277-ITAT-DEL
National Association of Software & Services Companies Vs ADIT (Dated: April 8, 2016)
Whether annual subscription fees collected by the society which is directly linked to activities of purely commercially nature can be brought to tax - NO: ITAT
2016-TIOL-1276-ITAT-AHM
Nanocast R And D (India) Pvt Ltd Vs ITO (Dated: April 6, 2016)
Whether a non speaking order passed by the CIT(A) deserves to be set aside - YES: ITAT
2016-TIOL-1275-ITAT-DEL
Modipon Ltd Vs Addl CIT (Dated: April 26, 2016)
Whether the initiation of penalty proceedings by the AO is the date of initiation of penalty proceedings u/s 271C.
2016-TIOL-1274-ITAT-AMRITSAR
Modern Distributors Vs ITO (Dated: April 12, 2016)
Whether revenue authorities can determine the genuineness of credit in any year, when outstanding balance is still payable to creditor and outstanding balances are being carried in several years - NO: ITAT
Whether additions made in trading results without pointing defect in account is justified act on part of revenue authorities - NO: ITAT
2016-TIOL-1273-ITAT-MUM
Mazagaon Dock Ltd Vs ITO (Dated: February 1, 2016)
Whether if the assessee has made investment in one company only long back, the assessee has received dividend from that company only, the disallowance computed at 0.5% of the investment value of shares is reasonable - YES: ITAT
Whether the tax authorities are not justified in disallowing entire amount of prior period expenses, while assessing the entire amount of prior period income, without bringing support of any of the provisions of the Act - NO: ITAT
Whether if with regard to deposit made with Port Trust, the income is not includible in the computation made u/s 145A, if it does not fall in the category of tax, duty, cess or fee levied under any law, the same shall be liable to included in the adjustments made u/s 145A, only if it is shown that the payment was made under authority of any law - YES: ITAT
2016-TIOL-1272-ITAT-PUNE
ITO Vs Mateshwari Enterprises (Dated: March 30, 2016)

Whether investment made by the partners in the partnership firm can be taxed in the hands of the partnership firm – No: ITAT

Whether addition on account of suppression of WIP is sustainable where although the AO had discussed the valuation of closing WIP/suppression of profits while making the addition, however, the order does not show any query raised by the AO during the course of assessment proceedings on this issue – No: ITAT

[2016-TIOL-1271-ITAT-BANG](#)

Manipal Technologies Ltd Vs Addl CIT (Dated: April 29, 2016)

Whether disallowance u/s 14A can be made when no expenditure was incurred for earning exempt income - Whether addition of the amount disallowed u/s 14A to book profit u/s 115JB is justified.

[2016-TIOL-1270-ITAT-PUNE](#)

Mahaveer Steel Re-rolling Mills Vs ACIT (Dated: March 31, 2016)

Whether addition on account of suppressed Sales can be made where neither investigation by the DGCEI nor any suppressed production has been detected and admitted by the assessee and there was no evidence of removal of goods without payment of Excise duty – No: ITAT

[2016-TIOL-1269-ITAT-MUM](#)

ACIT Vs Hercules Industrial Chemicals Pvt Ltd (Dated: May 13, 2016)

Whether it is open for the Revenue to make addition on account of royalty expenditure, when the entire royalty payable by the assessee to its parent company has been waived off and the entire amount has been offered to tax - NO: ITAT

Whether additions made by the Revenue Department solely on the basis of AIR information, are sustainable - NO: ITAT

[2016-TIOL-1268-ITAT-MUM](#)

Firestorm Electronics Corp Pvt Ltd Vs ACIT (Dated: April 27, 2016)

Whether it is open to the Revenue to make addition on account of cessation of liability u/s 41(1) in respect of the sundry creditors balance, without considering the documents indispensable for determining the creditors liability - NO: ITAT

[2016-TIOL-1267-ITAT-MAD](#)

Bilt Industrial Packaging Co Ltd Vs ACIT (Dated: May 26, 2016)

Whether a matter deserves to be restored to the file of AO for verifying the genuineness of the statement of creditors, when such statements were filed as an additional evidence for the first time before the Tribunal - YES: ITAT

[2016-TIOL-1266-ITAT-PUNE](#)

Purushottam Madanlal Boob Vs DCIT (Dated: May 20, 2016)

Whether income derived from sale of plot can be treated as business income when the intention at the time of purchase of land was for the purpose of investment and the assessee had merely divided bigger plot into small plots - NO: ITAT

[2016-TIOL-1265-ITAT-DEL](#)

DCIT Vs S B Medicare Pvt Ltd (Dated: May 20, 2016)

Whether only the peak of the unexplained cash utilized in cash purchases can be added to the income of the assessee where the identity of the supplier parties was not established, however, the sales corresponding to the purchases were not doubted and unexplained cash was utilized by the assessee for making purchases – Yes: ITAT

[2016-TIOL-1264-ITAT-DEL](#)

Msx Mall Pvt Ltd Vs ACIT (Date: May 31, 2016)

Whether when the addition made in the hands of the payer has been deleted by the Tribunal then similar addition on similar allegation can be made in the hands of the payee - NO: ITAT

Whether the interest income can be treated as business income when the assessee chose to utilise its fixed deposits towards its obligation of keeping margin money towards its business obligation - NO: ITAT

[2016-TIOL-1263-ITAT-MAD](#)

Mangal Tech Park Pvt Ltd Vs DCIT (Dated: June 17, 2016)

Whether donations made by the assessee can be considered as genuine even if the receipt issued by the Secretary of the assessee does not contain the signature of the Secretary and the same was denied her signature: NO, ITAT

Whether the penalty proceedings can be initiated even if the assessee is denied to the principle of natural justice - NO: ITAT

[2016-TIOL-1262-ITAT-AHM](#)

ITO Vs Ekta Prints Pvt Ltd (Dated: June 1, 2016)

Whether reopening of assessment proceedings u/s 147 by issuance of notice u/s 148 after the expiry of period of four years is justified when there was no failure on the part of the assessee company to disclose fully and truly all the material facts necessary for assessment and as there being no new or fresh material before the AO.