

HIGH COURT RULING (INCOME TAX)

[2016-TIOL-1246-HC-AHM-IT](#)

J J Leasing & Finance Pvt Ltd Vs ITO (Dated: June 15, 2016)

Whether when the main activity of the assessee is to provide loan and main source of its income is interest, moreover the income earned by way of interest is more than the income earned by way of service charges, it can be contended that the company is not a finance company - NO: HC

[Also see analysis of the order](#)

[2016-TIOL-1245-HC-MUM-IT](#)

CIT Vs KSB Pumps Ltd (Dated: June 9, 2016)

Whether the penalty u/s 271(1)(c) can still be levied on the disallowed claim u/s 80M on the basis of the fact that this quantum disallowance was deleted by the Tribunal but which decision of the Tribunal has not been accepted by the Revenue - NO: HC

[2016-TIOL-1244-HC-KAR-IT](#)

Kushal D Oswal Vs ACIT (Dated: June 13, 2016)

Whether when the assessee is indeed justified in contending that the material documents were not available on hand in order to establish his case at the earliest point of time, the opportunity to establish his case even subsequently can be brushed aside - NO: HC

[2016-TIOL-1242-HC-KERALA-IT](#)

CIT Vs Late Smt Khairunnisa Ebrahim (Dated: May 25, 2016)

Whether the matter can be remanded to lower authorities if the lower authority dismissed the appeal merely on the instruction of the Board not to entertain the appeal below the monetary limit, where the operation of the Instruction is only prospective - YES: HC

[2016-TIOL-1237-HC-AHM-WT](#)

Amigo Securities Pvt Ltd Vs ACWT (Dated: June 9, 2016)

Whether if the building under construction is not to be regarded as an asset chargeable to tax, then the land on which the construction was commenced will have to be included in the assets under clause (v) - YES: HC

[Also see analysis of the order](#)

[2016-TIOL-1236-HC-MUM-IT](#)

CIT Vs Honeywell Automation India Ltd (Dated: June 20, 2016)

Whether the penalty levied u/s 271(1)(c) on excessive claim u/s 10A has to be deleted, in case the Department has not accepted the decision of the Tribunal of setting aside of the case to the Assessing Officer - YES: HC

2016-TIOL-1235-HC-MUM-IT
India Furniture Products Ltd Vs CIT (Dated: June 6, 2016)
Whether when there is no specific mention in the order by the Revenue authority regarding the manner of calculation of the amounts in terms of the explanation to Section 115 JB(2), can such a order be passed in a valid manner - NO: HC
2016-TIOL-1234-HC-AHM-IT
CIT Vs Lok Prakashan Ltd (Dated: June 15, 2016)
Whether the transaction of leasing out electrical equipments to Rajasthan Electricity Board is genuine or not, is based on appreciation of evidence on record as found by the Tribunal by referring to the various documents like invoice - YES: HC
2016-TIOL-1233-HC-AHM-IT
Jalaram Developers Vs ITO (Dated: June 9, 2016)
Whether when no reasons are assigned by the Revenue in the notice issued u/s 148, which was issued beyond four years, to claim that the AO has earlier wrongly allowed the claim of the assessee, such issue of notice for reopening can be considered valid - NO: HC
2016-TIOL-1232-HC-PATNA-IT
Ajay Kumar Singh Vs CIT (Dated: April 7, 2016)
Whether when neither before the AO nor before the CIT(A) nor before the Tribunal the assessee had raised the plea that he should have been allowed depreciation after applying net profit rate, he can be allowed so before the High Court - NO: HC
2016-TIOL-1228-HC-KOL-IT
CIT Vs Shaw Wallace Distilleries Ltd (Dated: June 6, 2016)
Whether when the assessee, an amalgamating company, itself chose not to inform the Revenue about the amalgamation sanctioned by the High Court and preferred to file its return in its own capacity, the assessment order passed by the AO can still be held as nullity - NO: HC
Also see analysis of the order
2016-TIOL-1227-HC-KOL-IT
CIT Vs J J Development (P) Ltd (Dated: June 16, 2016)
Whether when only the nature of deposit has changed during the previous year, the money which was owed by the assessee by way of loan now became the capital of the assessee, any addition can be made in assessee's income u/s 68 - NO: HC
2016-TIOL-1226-HC-KOL-IT
Arvind And Company Vs CIT (Dated: June 21, 2016)
Whether the question that if the business has been closed, it is permanently closed or there is any intention of resumption of the business, is essentially a question of fact and that has to be decided only on the basis of documentary evidence and such other evidences which may be adduced - YES: HC

2016-TIOL-1225-HC-KOL-IT
Ernst And Young Pvt Ltd Vs DCIT (Dated: June 15, 2016)
Whether when the issue with regard to TDS was raised for the purpose of scrutiny and the assessee had replied to the same and the scrutiny was done, the assessee is still guilty of not disclosing fully and truly all material facts necessary for its assessment - NO: HC
2016-TIOL-1224-HC-KOL-IT
CIT Vs Howrah Gases Ltd (Dated: June 14, 2016)
Whether when the Revenue is not able to prove as to why the income earned by the assessee on account of commission should not have been treated to have been earned from business or profession, can the same be disallowed on presumption basis - NO: HC
2016-TIOL-1223-HC-AHM-IT
CIT Vs Bannari Amman Sugars Ltd (Dated: June 13, 2016)
Whether once the losses and other deductions are set off against the income of the assessee in the previous year, it should not be re-opened again, for the purpose of computation of current year income, u/s 80-I and 80IA - YES: HC
2016-TIOL-1217-HC-AHM-IT
Vicky Rajesh Jhaveri Vs DCIT (Dated: June 14, 2016)
Whether reopening can be treated as invalid, when there is no live link between the 'material on record' and 'formation of belief' that the income chargeable to tax had escaped assessment - NO: HC
Whether initiation of reopening on basis of accomodation entries found during the course of search, is sustainable - YES: HC
Also see analysis of the order
2016-TIOL-1214-HC-MUM-IT
Palkhi Investments And Trading Co Pvt Ltd Vs ITO (Dated: June 9, 2016)
Whether by showing a non-existing liability as an existing liability, the assessee can be considered as making an attempt to escape offering of the ceased liability as income as obliged to do u/s 41(1), that not offering to tax, would by itself amount to furnishing inaccurate particulars of income leading to escapement of income from tax - YES: HC
2016-TIOL-1213-HC-KAR-IT
CIT Vs Telco Construction Equipment Co Ltd (Dated: June 7, 2016)
Whether where the assessee had reduced the 'provision of bad debts' so made from the sundry debtors in the balance sheet, the same could not be considered as provision but, was the write off of bad debts - YES: HC
2016-TIOL-1212-HC-AHM-IT
Latin Rasayani Pvt Ltd Vs PR CIT (Dated: June 6, 2016)
Whether when stay of demand during pendency of assessee's appeal depends upon

payment of 50% of the amount of the said demand and the amount being sizeable assessee fails to deposit the same leading to rejection of his appeal, would it be required for the Revenue to point out reasons for such rejection - Yes: HC

[2016-TIOL-1211-HC-AHM-IT](#)

PR CIT Vs Shailesh Dungarbhaj Prajapati (Dated: June 7, 2016)

Whether when the assessee has accepted order of block assessment, additions made in the regular order of assessment must be given way, as operation of both the assessments may levy double taxation on the assessee - YES: HC -

[2016-TIOL-1210-HC-P&H-IT](#)

PR CIT Vs Torque Pharmaceuticals Pvt Ltd (Dated: March 16, 2016)

Whether penalty u/s 271(1)(c) is sustainable, when neither there is any concealment of income nor inaccurate particulars of income have been furnished by him - No: HC

[2016-TIOL-1209-HC-P&H-IT](#)

CIT Vs UG Hospitals Pvt Ltd (Dated: March 16, 2016)

Whether where the expenses are incurred towards repair of the premises taken on lease so as to make it fit for its business activity, such expenditure would fall within the expression of repair as appearing in section 30(a)(i) - YES: HC

Whether where it is established that the interest free advances are made by an assessee who has adequate free reserves, it is sufficient to hold that the amounts advanced interest free cannot be added to the assessee's income - YES: HC

[2016-TIOL-1202-HC-KOL-IT](#)

CIT Vs Bijoy Kumar Jain (Dated: June 10, 2016)

Whether when the deposits received by assessee were treated as liability, in the subsequent years when expenses were incurred both out of pocket and on account of his fees the liability has been adjusted, can there be any doubt that the deposits were treated by the assessee as a capital receipt - NO: HC

[2016-TIOL-1201-HC-AHM-IT](#)

Pr.CIT Vs Khandwala Integrated Financial Services Pvt Ltd (Dated: June 6, 2016)

Whether assessee's claim of bad debts is allowable in the current year, when in the earlier year also the same issue had arisen which was decided in favour of the assessee - YES: HC

[2016-TIOL-1200-HC-AHM-IT](#)

PWS Engineers Ltd Vs Dy.CIT (Dated: June 6, 2016)

Whether when excessive remuneration has already been taxed in the hands of

directors at the same rate at which it would have been taxed in the hands of the Company if it had not been distributed, then again taxing the same in the hand of the Company would amount to double taxation - YES: HC

[2016-TIOL-1199-HC-AHM-IT](#)

Pranav Dhanjibai Patel Vs ACIT (Dated: June 6, 2016)

Whether a notice issued u/s 147 for reopening of assessment shall be deemed to be valid, if the same is issued during the pendency of scrutiny assessment - NO: HC

Whether when the assessment proceedings are pending, would it be possible for the AO to come to a conclusion that income chargeable to tax has escaped assessment - NO: HC

[2016-TIOL-1193-HC-MUM-IT](#)

CIT Vs 3D PIm Software Solutions Ltd (Dated: June 9, 2016)

Whether when telecommunication and insurance expenses have been incurred in local currency in India and not with regard to providing software services outside India, the same can be excluded while computing deduction u/s 10A - NO: HC

[2016-TIOL-1192-HC-MUM-IT](#)

CIT Vs Abhimanyu J Thackersey (Dated: June 14, 2016)

Whether if determination of a fact regarding sale of shares by assessee was made on consideration of all the evidences led by the Revenue and does not involve the application of any principle of law to determine the same, can it be said that the said determination is a mixed question of fact and law - NO: HC

[2016-TIOL-1190-HC-AHM-IT](#)

Pr.CIT Vs Bilakhia Holdings Pvt Ltd (Dated: June 9, 2016)

Whether merely when assessee has credited the profit on sale of shares claimed to have been received as a gift by way of family arrangement directly in to the capital reserve account instead of routing it through the profit and loss account, the same amounts to furnishing of inaccurate particulars of income - NO: HC

[2016-TIOL-1189-HC-KOL-IT](#)

CIT Vs Mitul Krishna Kapoor (Dated: June 9, 2016)

Whether when all the amounts were paid by the assessee through cheque out of accounted fund in the regular books of accounts, a copy of the confirmation along with the bank statement in respect of the assessee's accounts was duly filed, can the AO still make addition u/s 68 on such account - NO: HC

[2016-TIOL-1188-HC-KERALA-IT](#)

CIT Vs Muthoot Bankers (Aryasala) (Dated: June 6, 2016)

Whether when the assessee failed to produce any evidence to substantiate its claims, as contemplated in Section 273B to resist an order of penalty u/s 271C, can the penalty be avoided - NO: HC

[2016-TIOL-1187-HC-KOL-IT](#)

<p>Nirmal Kumar Ravindra Kumar (HUF) Vs CIT (Dated: June 9, 2016)</p> <p>Whether the action of AO in making reference to DVO while not accepting the valuation shown by the assessee on the basis of the registered valuer's report is permissible under the provisions of section 55A(2)(b) - YES: HC</p>
<p>2016-TIOL-1186-HC-MAD-IT</p>
<p>CIT Vs Karur Vysya Bank Ltd (Dated: June 6, 2016)</p> <p>Whether when the very same ground has been raised as substantial question of law in the earlier Tax Case and answered in the negative, a second Tax Case Appeal on the very same substantial questions of law can still be maintained - NO: HC</p>
<p>2016-TIOL-1180-HC-P&H-IT</p>
<p>A S Precision Machines Pvt Ltd Vs CIT (Dated: March 14, 2016)</p> <p>Whether there is any requirement to dispatch the revisional order passed u/s 263, within the period of limitation itself prescribed under the said provision - NO: HC</p>
<p>2016-TIOL-1179-HC-AHM-IT</p>
<p>Ajanta Transistor Clock Mfg Co Vs DCIT (Dated: June 8, 2016)</p> <p>Whether it is open to an assessee to claim refund of the entire tax for a previous A.Y, merely because the Tribunal has accepted the assessee's stand that substantive addition having been made in the said year, there would be no further requirement of maintaining protective assessment for the subsequent A.Y - NO: HC</p> <p>Whether such assessee can take benefit out of an order passed by the Appellate Revenue Authority, in case such order was passed in complete misdirection and non-application of mind - NO: HC</p>
<p>2016-TIOL-1178-HC-AHM-IT</p>
<p>PR CIT Vs Gujarat Gas Trading Co Ltd (Dated: June 9, 2016)</p> <p>Whether it is open to the Tribunal or the CIT(A) to entertain a claim of assessee which was made in the original return during assessment and without filing any revised return - YES: HC</p>
<p>2016-TIOL-1177-HC-P&H-IT</p>
<p>Haryana State Cooperative Supply And Marketing Federation Ltd Vs CIT (Dated: March 29, 2016)</p> <p>Whether the order of the Tribunal could be rectified in view of retrospective amendment made by the Income Tax Act, in case of apparent mistake on record - YES: HC</p>
<p>2016-TIOL-1175-HC-AHM-IT</p>
<p>Hemal Bharatsinh Vaghela Vs CIT (Dated: June 10, 2016)</p> <p>Whether when the assessee has transferred majority of amount arising as a result of sale of land through account payee cheques to third party, the same can be considered as diversion of income and has to be taxed in assessee's hands only - YES: HC</p> <p>Also see analysis of the order</p>

2016-TIOL-1174-HC-AHM-IT
CIT Vs Jyoti Ltd (Dated: June 8, 2016)
Whether excise duty is required to be excluded at the time of valuation of the closing stock on finished goods at the end of the accounting period, it is not necessary to set out the facts and contentions in detail - YES: HC
2016-TIOL-1162-HC-KOL-IT
CIT Vs Hotel Silver Cascade Pvt Ltd (Dated: June 8, 2016)
Whether merely on the basis of assessee's omission to produce hard copy of share certificates, it can be said that the assessee failed either to offer an explanation as regards the sum found credited in its books or that the explanation offered by it was not satisfactory - NO: HC
2016-TIOL-1161-HC-AHM-IT
Home Depot India Pvt Ltd Vs ITO (Dated: June 8, 2016)
Whether when all the necessary information on the basis of which assessment was reopened u/s 147 was already in possession of AO, that attempt on part of the Assessing Officer is, clearly based on change of opinion - YES: HC
2016-TIOL-1160-HC-AHM-IT
CIT Vs GMDC Science and Research Centre (Dated: June 7, 2016)
Whether if upon verification of case, it was noticed that there were certain discrepancies in the tax liability of assessee, but in the reasons recorded there is no reference that income chargeable to tax escaped assessment due to failure on the part of the assessee to disclose truly and fully all material facts, assessment can be reopened u/s 147 - NO: HC
2016-TIOL-1159-HC-AHM-IT
Eros For Sanitary Wares Vs ITO (Dated: June 6, 2016)
Whether when in the reasons to believe, the AO himself accepted that all the necessary facts were already on record and it was only on the basis of the case record it had formed the reason to believe that income chargeable to tax had escaped assessment, the notice issued u/s 147 is still valid - NO: HC
2016-TIOL-1158-HC-AHM-IT
Amrapali Fincap Ltd Vs Vice Chairman (Dated: April 26, 2016)
Whether the petition can be entertained merely on an apprehension that there is likely to be a breach of the principles of natural justice, where the matter is already pending for adjudication before the lower authority - NO: HC
2016-TIOL-1154-HC-P&H-IT
Pr.CIT Vs Ramesh Steels (Dated: May 5, 2016)
Whether an assessee is entitled to deduction of premium paid on keyman insurance taken on life of partners, when the expenditure is related to the subject A.Y - YES: HC

2016-TIOL-1153-HC-KAR-IT
Pr.CIT Vs Syed Mohammed Shabbir (Dated: May 31, 2016)
Whether when in respect of an earlier, regular assessment proceedings were undertaken and the order u/s 143(3) r.w.s 147, was passed, whereby the rental income received from letting out the assessee's property was treated as 'income from house property', can the same be denied by the AO in a subsequent AY in case there is no change of circumstances - NO: HC
2016-TIOL-1152-HC-KAR-IT
United Breweries Ltd Vs DCIT (Dated: May 31, 2016)
Whether the fact that there is a connection between the assessee's business and the loss, is a question of fact which has to be determined after taking into consideration the facts of the each case - YES: HC
Whether at the stage of enquiry under Sec.14A, it is open to the AO to independently consider the matter for admissibility of the interest on borrowings - YES: HC
2016-TIOL-1151-HC-AHM-IT
Pr.CIT Vs Shah Investor's Home Ltd (Dated: June 7, 2016)
Whether when in the earlier assessment years, Assessee had offered the profits as short terms capital gains and the same was also accepted by the Revenue, can the Revenue officials contest against it in the event of no change in circumstances - NO: HC
2016-TIOL-1144-HC-MUM-IT
DIT Vs Maharashtra Housing And Area Development Authority (Dated: April 18, 2016)
Whether it is open for the Revenue to withdraw the exemption granted to a trust u/s 12AA(3), in the absence of any evidence on record to indicate that such trust/institution or its affairs are not being carried out in accordance with their objectives - NO: HC
2016-TIOL-1143-HC-AHM-IT
Alpha Lab Vs ITO (Dated: June 7, 2016)
Whether even in case of subsidy which was admittedly received in a year, earlier to the year under consideration, merely because the same is transferred to the capital account of the partners, the cost of assets could be reduced by the said amount while working out the depreciation allowance - NO: HC
Whether the cost of assets could be reduced by the amount of subsidy which was received prior to insertion of Explanation 10 to Section 43(1) - NO: HC
2016-TIOL-1142-HC-AHM-IT
Anil Gajanan Sane Vs ITO (Dated: June 7, 2016)
Whether at the time of making addition in assessee's income u/s 68 on account of unexplained credit in its books of account, an assessee can be expected to prove the source of source - NO: HC

2016-TIOL-1141-HC-AHM-IT
Dinesh Mills Ltd Vs ACIT (Dated: June 6, 2016)
<p>Whether where the assessee company had interest bearing funds for its capital investment, claiming deduction u/s 36(1)(iii) would automatically imply that any diversion of funds without interest to a subsidiary would automatically give rise to disallowance - NO: HC</p> <p>Whether where there was no advance made by the assessee to the subsidiary, the question of charging interest on the investment made, would not arise - YES: HC</p>
2016-TIOL-1140-HC-P&H-IT
Improvement Trust Vs CIT (Dated: May 4, 2016)
<p>Whether 'town development expenditure' incurred by an Improvement Trust under the statutory scheme as envisaged in Punjab Town Improvement Trust Act, 1922, would be entitled to exemption u/s 11 - YES: HC</p>
2016-TIOL-1139-HC-P&H-IT
CIT Vs Market Committee (Dated: March 21, 2016)
<p>Whether it is open to an assessee trust to claim depreciation on capital assets, when capital expenditure relating to acquisition of such assets had already been allowed as "application of income" for the purpose of allowing exemption u/s 11 of I-T Act - YES: HC</p> <p>Whether further allowing of depreciation on these capital assets will amount to double deduction for the same expenditure - NO: HC</p>
2016-TIOL-1138-HC-P&H-IT
CIT Vs National Auto Roadline Carriers (Dated: May 4, 2016)
<p>Whether the expenditure by an assessee incurred on account of interest paid to a car scheme, is liable to be disallowed, when the amount of advance received by the assessee from Car Scheme were for business purposes - NO: HC</p> <p>Whether any addition is warranted to the income of assessee, when the Revenue had itself passed an order accepting the version of assessee after the ITAT had called for the remand reports from the AO - NO: HC</p>
2016-TIOL-1132-HC-P&H-IT
Pr.CIT Vs Rana Sugar Ltd (Dated: March 29, 2016)
<p>Whether in the absence of any finding recorded by the CIT(A) or Tribunal with regard to the claim of the assessee that it was malafide, there is no error in canceling the penalty imposed by the Assessing Officer, can there be still be possibility to levy penalty for concealment by Higher Authority on the same account - NO: HC</p>
2016-TIOL-1131-HC-P&H-IT
CCIT Vs Superman Knitters Pvt Ltd (Dated: March 14, 2016)
<p>Whether in case the CIT merely set asides an issue without finding any error in the assessment made by the AO, can it be said that the twin conditions for invoking the</p>

provisions of Section 263 were fulfilled and a valid order has been passed - NO: HC
2016-TIOL-1126-HC-MUM-IT
DIT Vs Khar Gymkhana (Dated: June 6, 2016)
Whether in view of the amended Section 2(15) of I-T Act, restricting the definition "charitable purpose", by excluding carrying on any trade, commerce and business in receipt of an amount in excess of Rs.25 lakhs would by itself entitle the Director of Income Tax to cancel the registration u/s 12AA (3) of the I-T Act - NO: HC
Whether the Registration granted to a trust u/s 12AA can be cancelled, merely because the receipts on account of business of the said trust exceeded the cutoff specified in the proviso to section 2(15) - NO: HC
Whether the jurisdiction to cancel the Registration arises only if there is change in the nature of activities of the institution, or the activities of the institution are not genuine - YES: HC
Whether the Registration granted to the Trust u/s 12AA would continue even when the receipts on account of business is in excess of Rs.25 lakhs, unless & until there is change in the activities of the trust other than the objectives mentioned in the trust deed - YES: HC
Also see analysis of the order
2016-TIOL-1120-HC-P&H-IT
CIT Vs Canara Bank (Dated: March 16, 2016)
Whether the demand created u/s 201(1) & 201(1A) in respect of Punjab Infrastructure Development Board, treating the assessee in default for not deducting the tax at source, as compulsorily required u/s 194A , whereas no automatic exemption is available, can be raised even in case the assessee is exempted u/s 10(23C)(iv) - NO: HC
2016-TIOL-1115-HC-MAD-IT
Holy Cross Primary School Vs CBDT (Dated: March 3, 2016)
Whether when the salaries given to Priests and Nuns when they were added to the income of the said Congregation or Diocese, is not taxable as income and therefore TDS is not applicable on the salaries received by these nuns or priests - YES: HC
Also see analysis of the order
2016-TIOL-1114-HC-DEL-IT
PR.CIT Vs Green Valley Plywood Ltd (Dated: June 1, 2016)
Whether an appeal with an inordinate delay is maintainable where sufficient measures were taken by the court to inform the litigants for filing of soft copies of the paper book - NO: HC
Whether the matter can be considered afresh to rectify an obvious error where the AO only relied on investigation report of investigation which in turn was based entirely on the statements of the alleged accommodation entry providers - NO: HC

[2016-TIOL-1109-HC-DEL-IT](#)

PR.CIT Vs Ecom Concept (India) Pvt Ltd (Dated: May 31, 2016)

Whether in case the order of ITAT is concurring with that of CIT(A), the reasons for deleting the penalty have been adequately discussed in the concurrent orders of CIT (A) and ITAT, can the High Court intervene on no reasonable basis - NO: HC

[2016-TIOL-1106-HC-RAJ-IT](#)

CIT Vs Garment Exporters Association Of Rajasthan (Dated: May 18, 2016)

Whether in case the application filed by the assessee is without any defect and the audited accounts were submitted later on because submission of audited accounts along with the application was not mandatory, can the application be rejected without any further reference - YES: HC

[2016-TIOL-1103-HC-DEL-IT](#)

Anand Mehta Vs UoI (Dated: June 3, 2016)

Whether Court can issue a direction to the ITD to accept the offer of the Petitioners to pay the present value of the balance sum adjusted for cost inflation index where there was no confirmation of the sale in favour of the Petitioners and the correct current market price can be determined only through re-auction – NO: HC

[Also see analysis of the order](#)

[2016-TIOL-1102-HC-RAJ-IT](#)

CIT Vs Agarwal Marble And industries Pvt Ltd (Dated: May 20, 2016)

Whether in case CBDT instructions apply retrospectively to all the pending appeals, appeals can be preferred henceforth in High Courts/Tribunals, subject to exceptions where the tax effect even if is less than Rs.20 lac - NO: HC

[2016-TIOL-1101-HC-ALL-IT](#)

CIT Vs Sushila Umrao Singh Charitable And Educational Trust (Dated: May 11, 2016)

Whether issuance of notice within the prescribed limits of six months is sine qua non and an incurable defect - YES: ITAT

Whether for the purpose of Section 292BB notice and not receipt of notice within the prescribed limit of six months is essential - YES: HC

[2016-TIOL-1100-HC-MAD-IT](#)

D Srinivas Vyas Vs ITO (Dated: March 8, 2016)

Whether the treatment of payment made by a third party in the hands of assessee, after it was treated differently in the hands of that third party can, given some allowance, be treated as an error apparent, the moment it is shown to have been rejected in the order of Assessment, it would become at the most a mistake correctable on an appeal - YES: HC

Whether in case an issue is a pure and simple question of law or if it is a mixed question of fact and law on which the fact has already been held in favour of assessee, the High Court would certainly take up the additional substantial question of

law for consideration - YES: HC
2016-TIOL-1099-HC-P&H-IT
Haryana Agro Industries Corporation Ltd Vs CIT (Dated: April 26, 2016)
Whether reopening on the basis of audit objection can be sustained, in case some factual error was pointed out by the audit party which had been overlooked by the AO - YES: HC
2016-TIOL-1083-HC-P&H-IT
Jai Amba Co-Op Labour & Construction Society Vs CIT (Dated: April 25, 2016)
Whether a labour & construction society can claim deduction u/s 80P(2)(a)(vi) for a contract work undertaken which was not solely executed by the members but by engagement of some other persons who were not members of the society - No: HC
2016-TIOL-1082-HC-MAD-IT
Official Assignee Vs T R Bhuvaneswari (Dated: April 20, 2016)
Whether insolvency court itself had the power and jurisdiction to grant waiver of interest payable u/s 234A, 234B & 234C and there is no necessity for the official assignee to approach any other authority under the Income Tax Act, 1961 for grant of waiver - YES: HC
Whether official assignee needs to approach any other authority for waiver of interest as aforesaid when the ultimate payment to the department actually depends upon the extent of funds available in the coffers of the Official Liquidator or Official Assignee - NO: HC
2016-TIOL-1081-HC-MAD-IT
CIT Vs Sas Hotels And Enterprises Ltd (Dated: April 12, 2016)
Whether when the losses and other deductions have been set off against the income of the previous year, it should not be reopened again for the purpose of computation of current year income under Section 80I or 80IA and the assessee should not be denied the admissible deduction under Section 80IA - Yes: HC
2016-TIOL-1080-HC-MAD-IT
Sri Chakra Foundation Vs DCIT (Dated: March 28, 2016)
Whether the power to make an amendment u/s 254(2) cannot be equated to a power of review, since in a power of review, no party can compel the Court to review its earlier order - YES: HC
Whether in case the Tribunal does not have the power to recall its earlier order, if the Tribunal does not have the power to erase its previous order in total and if the Tribunal does not have the power to obliterate its previous order in entirety, the question as to whether there was a mistake apparent from the record or not, does not arise - YES: HC
Whether if once it is found that the assessee had sold away the school and what was

carried on by them later do not qualify as charitable activity, can the assessee still claim exemption u/s 11 - NO: HC

[2016-TIOL-1079-HC-DEL-IT](#)

Lear Automotive Pvt Ltd Vs DCIT (Dated: May 18, 2016)

Whether reopening of assessment is sustainable when original assessment was completed after scrutinizing the documents produced by the Assessee and after specific queries were put to the Assessee which were replied to by the Assessee to the satisfaction of the AO - No: HC

Whether reopening of assessment is sustainable without any fresh tangible material that came to the notice of the AO after the passing of the original assessment order - No: HC

Whether AO or his successor can reopen the assessment if after considering the matter in detail the AO chooses not to give a specific finding with regard to a particular issue - No : HC

[2016-TIOL-1078-HC-DEL-IT](#)

CIT Vs Zuari Investment Ltd (Dated: May 27, 2016)

Whether condonation of delay of 1100 days can be granted to the Revenue on the ground of practice directions issued by the Court for e-filing of the appeal - NO: HC

Whether AO's order to disallow expenditure claimed by the assessee for the purposes of Section 14A is acceptable, when the AO has failed to record the reasons for such disallowance - NO: HC

[2016-TIOL-1076-HC-KOL-IT](#)

Deeplok Financial Services Ltd Vs CIT (Dated: May 5, 2016)

Whether when the assessee has wittingly taken a decision not to file an appeal, he can do so after 1500 days merely because he was advised by his counsel to do so - NO: HC

[2016-TIOL-1065-HC-DEL-IT](#)

Prakash Aggarwal Vs CIT (Dated: May 17, 2016)

Whether an extraordinary delay in filing fresh application to the AO seeking waiver of interest under Rule 117-A, without having satisfactory explanation for the same, is entitled for condonation - NO: HC

[2016-TIOL-1064-HC-MUM-IT](#)

CIT Vs Gia Exports (Dated: May 2, 2016)

Whether it is open to the AO to deny benefit of deduction u/s 10A to a jewellery manufacturer for all previous years, on the basis of survey conducted in its premises during current year only, in case the the assessee is engaged in manufacturing activity under the control of Central and Excise Department - NO: HC

2016-TIOL-1063-HC-DEL-IT
PR CIT Vs Fortune Technocomps Pvt Ltd (Dated: May 13, 2016)
Whether once the assessment order of the AO in the quantum proceedings is altered by the CIT (A) in a significant way, the very basis of initiation of the penalty proceedings is rendered non-existent - YES: HC
Whether once the finding of the AO on bogus purchases is set aside, it could not be said that there was any concealment of facts or furnishing of inaccurate particulars by the Assessee that warranted the imposition of penalty u/s 271(1)(c) - YES: HC
2016-TIOL-1062-HC-ALL-IT
Ajai Kumar Singh Vs CIT (Dated: May 13, 2016)
Whether best judgment assessment formed on the basis of gross contract receipts, can be faulted merely for the reason that past tax history was not considered while forming such assessment - NO: HC
2016-TIOL-1059-HC-KAR-IT
Teleradiology Solutions Pvt Ltd Vs Dy.CIT (Dated: April 18, 2016)
Whether a direction is warranted by the jurisdictional High Court to the CIT(A) for expidiate disposal of an appeal, in case the CIT(A) has rejected the stay application filed by an assessee without deciding the appeal and keeping the same in pendency for more than a year or so - YES: HC
2016-TIOL-1058-HC-KOL-IT
CIT Vs New Kenilworth Hotel Pvt Ltd (Dated: May 12, 2016)
Whether renovation expenditure incurred to redo a rented premises is deductible u/s 37 - YES: HC
2016-TIOL-1057-HC-DEL-IT
CIT Vs G K Consultants Ltd (Dated: May 24, 2016)
Whether the AO can proceed to make protective assessment by way of reopening of assessment of the assessee company without being a substantive assessment on the date of assumption of jurisdiction u/s 147 - NO: HC
2016-TIOL-1053-HC-KOL-IT
Dimond Polymers Pvt Ltd Vs Uoi (Dated: May 19, 2016)
Whether when a company has been renamed and that leads to some discrepancy in the TIN number quoted in the return, the same amounts to forgery without affording an opportunity of hearing to the assessee - NO: HC

2016-TIOL-1049-HC-ALL-IT
Dayanand Dinanath Group of Institutions Edu. Society Vs CCIT (Dated: May 17, 2016)
Whether writ petition filed by the assessee is maintainable, if a question of fact needs to be decided therein and statutory remedy of appeal is available to the assessee - No: HC
2016-TIOL-1048-HC-KOL-IT
PR.CIT Vs Dutta Automobiles Pvt Ltd (Dated: May 17, 2016)
Whether provisions of Section 68 shall be applicable, if it is proved that the alleged advance money received by assessee from buyers was adjusted against the sale price of the products - No: HC
2016-TIOL-1047-HC-KOL-IT
Khaitan Hotels Pvt Ltd Vs CIT (Dated: May 16, 2016)
Whether an expenditure made by a tenant is admissible as revenue expenditure, when such expenditure represents an amount paid to the landlord for procuring approval of the landlord to undertake some construction on such rented premises - YES: HC
2016-TIOL-1046-HC-KOL-IT
CIT Vs Xpro India Ltd (Dated: May 12, 2016)
Whether an expenditure relating to earlier years be claimed as deduction if the dispute of liability was ultimately crystallized during the period under consideration by the report of the CA - Yes: HC
Whether dues from a Company can be recovered if such company has been declared as sick industry by BIFR - No: HC
Whether the amount not recoverable as aforesaid can be written off in the P&L Account under the head "advances of doubtful recovery written off" - Yes: HC
2016-TIOL-1040-HC-P&H-IT
PR. CIT Vs Punjab State Federation of Coop Sugar Mills Ltd (Dated: May 5, 2016)
Whether in case the Revenue's counsel has not added back the amounts debited to the profit & loss account, which were inadmissible deductions, the mistake of not adding back the impugned amounts in the statement of income was of the Revenue's counsel and it cannot be attributed to the assessee - YES: HC
Also see analysis of the order

[2016-TIOL-1039-HC-P&H-IT](#)

PR.CIT Vs Talbros Engineering Ltd (Dated: April 25, 2016)

Whether if once the receipt of deposits from the six depositors was held to be genuine, the consequent disallowance of interest would automatically stand deleted - YES: HC

Whether in case some subsidy is given for encouraging the industries for setting up units in the remote or rural areas, in such a case the subsidy assumes the character of a capital receipt - YES: HC

[2016-TIOL-1038-HC-ALL-IT](#)

Raja Harpal Singh Inter College Vs PR.CIT (Dated: May 16, 2016)

Whether penalty under 272A(2)(k) is leviable where assessee failed to file e-TDS statements in time despite adequate opportunity provided to it – YES: HC

[2016-TIOL-1035-HC-DEL-IT](#)

Securitrans India Pvt Ltd Vs UoI (Dated: May 17, 2016)

Whether refusal of the I-T Department to release the cash seized from an armoured vehicle, which was transported to banks under a valid agreement between the service provider and the Bank, can be sustained, without verifying the cash slips obtained from the containers and making enquiry from the customers - NO: HC

Whether addition of the said cash in the hands of the service provider, which was seized from the armoured vehicle of the said service provider, deserves to be deleted - YES: HC

[Also see analysis of the order](#)

[2016-TIOL-1034-HC-AHM-IT](#)

Creative Infocity Ltd Vs DCIT (Dated: April 25, 2016)

Whether a direction is required to be given to the Empowered Committee to take a final decision, as per the order of the jurisdictional High Court, in case there is an undue delay on the part of the Empowered Committee in taking the final decision - YES: HC

[2016-TIOL-1033-HC-P&H-IT](#)

Jindal Steel And Power Ltd Vs ACIT (Dated: May 9, 2016)

Whether a writ petition under Article 226 is maintainable where the assessee has an alternative remedy of appeal for enforcing its right - No: HC

[2016-TIOL-1028-HC-MAD-IT](#)

All India Union Bank Officers Federation Vs UoI (Dated: April 20, 2016)

Whether Rule 37(7)(i) is ultra vires Section 17(2)(viii) as it prescribes the exact method of valuation of the fringe benefit and does not leave any fact in the issue requiring adjudication by the Assessing Officer - NO: HC

Whether Rule 37(7)(i) is violative of Article 14 - NO: HC

Whether Rule 37(7)(i) works out as a great hardship to the employees of a bank - NO: HC

[Also see analysis of the order](#)

[2016-TIOL-1027-HC-P&H-IT](#)

CIT Vs Oswal Knit India (Dated: May 5, 2016)

Whether in case no interest bearing capital was invested in the opening balance of capital work in progress, can the Tribunal upheld the order of CIT(A) by recording that there is no merit in disallowing the interest attributable to the opening capital work in progress - YES: HC

[2016-TIOL-1026-HC-MUM-IT](#)

Yes Bank Ltd Vs ACIT (Dated: April 20, 2016)

Whether mere incorrect claim of an assessee to seek benefit of Section 36(1)(vii) in absence of any of its rural branches, would give jurisdiction to the AO to reopen its assessment, when prima facie there has been no failure on the part of assessee to truly and fully disclose all the material facts necessary for the assessment - NO: HC

[2016-TIOL-1025-HC-MUM-IT](#)

CIT Vs Vritti Impex Pvt Ltd (Dated: April 26, 2016)

Whether where both the CIT(A) as well as the ITAT have taken a concurrent view that the expenditure of commission payment was made by assessee for purpose of increasing its product sales and was in fact incurred, the said expenditure would be allowable as deduction u/s 37 - YES: HC

[2016-TIOL-1024-HC-MUM-IT](#)

Vaijayanti V Ekbote Vs CIT (Dated: April 16, 2016)

Whether the retirement benefits received by the employee of SBI are entitled to benefit of exemption u/s 10(10C) - YES: HC

Whether such employee of the SBI deserves refund of the income tax which was paid on the said retirement benefits - YES: HC

[2016-TIOL-1023-HC-P&H-IT](#)

Trident Infotech Corporation Ltd Vs CIT (Dated: April 27, 2016)

Whether if once it is established that there is nexus between the expenditure and purpose of business, can the revenue justifiably claim to put itself in arm chair of businessman or in position of Board of Directors and assume role to decide how much is reasonable expenditure having regard to the circumstances of the case - NO: HC

[2016-TIOL-1022-HC-KOL-IT](#)

CIT Vs Ritika Ltd (Dated: May 16, 2016)

Whether in a case where restraint order is not vacated for three months, then search should be deemed to be concluded as per Sec 132 - YES: HC

[2016-TIOL-1021-HC-P&H-IT](#)

Pawan Kumar Vs CIT (Dated: April 6, 2016)

Whether commission payments made to franchisee distributors deserves to be disallowed, in the absence of complete bills & vouchers to show addresses of the sub-dealers - YES: HC

[2016-TIOL-1017-HC-DEL-IT](#)

Priya Desh Gupta Vs DCIT (Dated: May 16, 2016)

Whether the date of acquisition of shares by donor is relevant and not of the assessee, for the purpose of determining chargeability to capital gain, in case where shares are acquired as a gift by the assessee - YES: HC

Whether a case can be re-opened for assessment without any further tangible material giving rise to reasonable belief that assessee's income has escaped assessment, when AO has already made assessment order after taking into account all relevant facts - NO: HC

Whether a case can be re-opened for assessment merely on a change of opinion, when assessment has already been completed by the AO after taking into account all relevant facts - NO: HC

[2016-TIOL-1015-HC-HP-IT](#)

CIT Vs Raghunath Singh Thakur (Dated: April 13, 2016)

Whether a CBDT circular fixing a limit on the total tax factor is binding on all the Revenue collection authorities, such an appeal cannot be proceeded further by the Revenue officers - YES: HC

[2016-TIOL-1014-HC-MAD-CUS](#)

V K Industrial Corporation Ltd Vs Principal.CC (Dated: April 28, 2016)

Customs - Seizure - petitioner Company imported Hot Rolled Steel Coil (with Chromium) Grade API 5L Gr B of various sizes, paid all duties leviable on import of the goods and upon such payment, obtained "out of charge" permission, cleared the

goods to a private warehouse - on examination, it was found that the steel coils contained a label, mentioning the grade as "SS 400" - the goods were seized on the reasonable belief that the petitioner company had misdeclared the grade as API 5L Gr B in order to evade safeguards duty, which is applicable on import of HR steel coils of grade "SS 400" - Aggrieved over the seizure memo dated 04.03.2016, the petitioner has filed the above writ petition.

Held: Having regard to the submissions made on either side, the petitioner is directed to submit Bank Guarantee for a sum of Rs.2,20,55,468/- (Rupees two crores twenty lakhs fifty five thousand four hundred sixty eight only) to the satisfaction of the first respondent - the Bank Guarantee, to be given by the petitioner, shall be in force till the adjudication proceedings is completed - this order shall not stand in the way of the adjudicating authority, deciding the matter in accordance with law; respondents are directed to release the goods, weighing 5558.010 Mts of Coils, within three days from the date of submission of the Bank Guarantee. [Para 11, 12]

[2016-TIOL-1013-HC-P&H-IT](#)

CIT Vs Marvel Home Constructions Pvt Ltd (Dated: April 21, 2016)

Whether any unexplained cash deposit out of cash book of the assessee which is fully explained in the assessment proceeding can be charged to income-tax as the income of the assessee - NO: HC

Whether unexplained cash credit can be charged to tax as the income of the assessee ,if the creditor and sum deposit has been fully explained by the assessee under section 68 of the I-T Act - NO: HC

[2016-TIOL-1012-HC-MAD-IT](#)

Hotel Nagas Pvt Ltd Vs CIT (Dated: April 7, 2016)

Whether all payments for a sum exceeding Rs. 10,000/- made otherwise than by a crossed cheque or a bank draft, shall be subject to disallowance of 20% as stipulated u/s 40A(3) - NO: HC

Whether a mere plea that the payment in the manner prescribed under Section 40A was not empirical or that it would have caused genuine difficulty are sufficient to attract the benefit of clause (j) unless such impracticality or genuine difficulty is shown to have arisen out of the nature of transaction and necessity for expeditious settlement - NO: HC

Whether a case would fall under the exceptions provided in clause (j) of Rule 6DD as long as the payees are identified and genuiness of transactions is not questioned and so long as the payments have been made at the time of registration in the presence of sub-registrar - YES: HC

[2016-TIOL-1011-HC-KOL-IT](#)

Sicpa India Ltd Vs CIT (Dated: May 18, 2016)

Whether income which does not arise out of the business activities of the assessee is also eligible for deduction u/s 80IB - NO: HC

Whether matter needs to be remanded for proper investigation to ensure that the amount of business expenditure has been spent wholly and exclusively for the

purpose of business - YES: HC

Whether business promotion expenditure incurred by the assessee is an allowable expenditure when it is incurred wholly and exclusively for the purposes of its business - YES: HC

[2016-TIOL-1001-HC-KAR-IT](#)

CIT Vs Subhash Kabini Power Corporation Ltd (Dated: March 29, 2016)

Whether receipt from sale of carbon credit is a capital receipt and is not liable to tax where earning of carbon credit is not the business of the assessee nor the same is generated as a by-product on account of business activity of power generation, but it is generated out of environmental concerns, and it is not having the character of trading activity – Yes: HC

[2016-TIOL-999-HC-AHM-IT](#)

Shree Sidhnath Enterprise Vs ACIT (Dated: March 28, 2016)

Whether reopening of assessment is justified where at the time of earlier assessment under section 143(3) read with section 147 all the primary facts were before the Assessing Officer and on being satisfied about the genuineness thereof, revenue had accepted the return as filed by the assessee and subsequently assessment was sought to be reopened on the basis of the very same set of facts without there being any basis for formation of the requisite belief that income chargeable to tax had escaped assessment on account of any failure on the part of the assessee to disclose fully and truly all material facts - No: HC

[2016-TIOL-998-HC-AHM-IT](#)

Shree Narmada Khand Udhog Sahkari Mandali Ltd Vs ITO (Dated: February 2, 2016)

Whether in absence of any application of mind on his part for the purpose of issuing of notice under sec. 148, the Assessing Officer can borrow the satisfaction from order of High Court in case of other petitioners in substantially similar circumstances

[2016-TIOL-989-HC-ORISSA-IT](#)

Suru Bhaskar Rao Vs CIT (Dated: March 31, 2016)

Whether the income of a minor child is liable to be clubbed together with income of his/her father under individual category, in case the income of minor is not derived from his own manual work or activity concerning minor's skill, talent and likewise - YES: HC

[2016-TIOL-988-HC-ALL-IT](#)

Dr Sheo Murti Singh Vs CIT (Dated: August 5, 2015)

Whether service of notice shall be deemed to be valid, if on account of assessee's refusal to accept the notice the same is affixed at the outer door of his business premises - YES: HC

Whether assessee's contention that procedure of service as provided under Order V Rule 17 and 18 has not been complied with since the notice was served not at his residence, but at his clinic - No: HC

Whether it is open to the ITO to force the assessee to comply with the notice issued u/s 142(1) of the Act as a condition precedent for supply of information that was demanded by him - No: HC

[Also see analysis of the order](#)

[2016-TIOL-987-HC-DEL-IT](#)

PR CIT Vs Nilkanth Concast Pvt Ltd (Dated: May 13, 2016)

Whether Tribunal is competent to adjudicate the order of the Assessing Officer (AO) under the proviso to Section 142(2C)- YES: HC

Whether a question needs to be examined by the CIT(A) as well as ITAI if the said question was incidental to the main question urged - Yes: HC

Whether the ITAT is competent to admit an issue for the first time where there was no material in the assessment or in the order of the CIT(A) - Yes: HC

Whether the AO is competent to extend the period for filing the audit report on the expressed request of the nominated auditor under proviso to section 142(2C) - No: HC

[2016-TIOL-986-HC-GUV-IT](#)

Mul Chand Malu HUF Vs ACIT (Dated: May 2, 2016)

Whether if in case of search, an application is made for the release of assets under first proviso to Section 132B(1)(i) explaining the nature and source of the seized assets and if no dispute was raised during the permissible time of 120 days by the Revenue Department, it had no authority to retain the seized assets - YES: HC

[2016-TIOL-985-HC-AHM-IT](#)

Kalpesh Laxminarayan Thakkar Vs DCIT (Dated: May 5, 2016)

Whether the Department is liable to release the gold ornaments to the assessee which was seized from his premises, in case, pursuant to a representation made by the Department, albeit on a misunderstanding, the ornaments were valued and the assessee has deposited an equivalent amount with them pursuant to a promise made by the Department to release such ornaments - YES: HC

[2016-TIOL-984-HC-DEL-IT](#)

PR CIT Vs Info Eidge India Ltd (Dated: May 13, 2016)

Whether assessee's contention, for making his claim in respect of expenditure u/s 14A as a binding precedent, can be considered to be valid where court is aware that Revenue's SLP against the decision of a case relied hereto is pending consideration in SC - No: HC

Whether application of Rule 8D by the AO be deemed valid, where AO is unable to determine what expenditure was incurred by the assessee for the purposes of Section 14A - Yes: HC

Whether remanding the matter to AO for fresh determination be done instead of applying Rule 8D as stated above in identical circumstances - No: HC

[2016-TIOL-983-HC-DEL-IT](#)

Dr Ajit Gupta Vs ACIT (Dated: March 3, 2016)

Whether reopening of assessment on a factually erroneous premise, that the Assessee had changed the system of accounting from the mercantile to the cash system, can be validly undertaken - No: HC

[2016-TIOL-980-HC-MUM-IT](#)

Center Industries Ltd Vs ITO (Dated: May 2, 2016)

Keywords - purchase of gold coin - reimbursements - selling & distribution expenses.

Whether where an affidavit evidence is relied upon by a party and the same is challenged by other side, then an opportunity to cross examine the deponent of the affidavit is a necessary ingredient of principle of natural justice, before any reliance can be placed upon it - YES: HC

Whether it is open to an assessee to claim deduction u/s 37(1) on account of selling & distribution expenses, where no such expenditure has been proved by the assessee to be incurred for the purpose of its business - NO: HC

[2016-TIOL-979-HC-KOL-IT](#)

Ranglal Bagaria Huf Vs ACIT (Dated: May 4, 2016)

Whether before reopening an assessment, it is mandatory for the AO to demonstrate that a fact which would have had a material bearing on the assessment is not disclosed by the assessee prior to the previous assessment or, that any false or misleading information is furnished by the assessee during assessment to materially affect the same - YES: HC

Whether any reassessment is warranted in a case, where the recorded reasons for seeking to reassess the assessee's income for the relevant A/Y cannot disclose any material that would amount to the failure of true or full disclosure of the primary facts pertaining to the transaction relating to the property - NO: HC

Whether where the fact of change of leasehold rights into ownership rights prior to the execution of sale deed is known to the AO during course of original assessment and he had allowed deduction on the same, then the AO is deemed to have taken such matter into consideration and any reassessment on such score would amount to mere change of opinion or review which is impermissible - YES: HC

Whether a subsequent attempt of the AO to question the valuation report in respect of a property which was earlier available with him and was examined during original assessment, would amount to change of opinion, and hence no reopening based upon such opinion can be sustained -YES: HC