

INCOME TAX APPELLATE TRIBUNAL ORDER[2011-TIOL-819-ITAT-MAD](#)**M/s L&T Transportation Infrastructure Limited Vs ITO, Chennai (Dated : July 22, 2011)**

Income tax – Section 80IA – Whether when assessee earns income from use of wayside amenities, incidental to the business of developing, operating and maintaining an infrastructural facility, the same is eligible for Sec 80IA(4) benefits.

[2011-TIOL-818-ITAT-MUM](#)**DCIT, Mumbai Vs M/s Siroya Developers (Dated : May 31, 2011)**

Income tax – Section 133A – Whether when the assessee proves that an amount, which was declared in the Survey as receivable from a client, was not received, even then addition can be made made relying on the assessee's statement recorded.

[2011-TIOL-817-ITAT-MUM](#)**Addl.CIT, Mumbai Vs Shri Rajesh L Durgani (Dated : September 30, 2011)**

Income Tax - Section 2(22)(e) – Whether advance received from a company cannot change its colour by virtue of leave and license agreement and the same is to be treated as deemed dividend.

[2011-TIOL-816-ITAT-MUM](#)**Shri Rajesh G Kapadia HUF Vs ITO, Mumbai (Dated : September 16, 2011)**

Income Tax - Sections 54EC, 263 – Whether for treating a transaction as adventure in the nature of trade, presence of circumstantial intention is a condition precedent, and in absence of such intention a transaction cannot be taxed as adventure in the nature of trade, and hence the order of CIT setting aside the order of AO u/s 263 is not tenable.

[2011-TIOL-815-ITAT-MUM](#)

Mahindra Intertrade Ltd Vs DCIT, Mumbai (Dated : September 30, 2011)

Income Tax – Section 275 (1)(a) - Whether in view of the proviso to Section 275(1)(a) the AO is duty bound to impose penalty within six months from the receipt of CIT appeal order and there is no need to wait for ITAT order - Whether order imposing penalty passed after four years from the date of the CIT(A) appeal order is barred by limitation in view of the proviso inserted w.e.f. 01.06.2003 – Whether mere provision is sufficient for claiming a bad debt.

[2011-TIOL-814-ITAT-MUM](#)

Addl.CIT, Mumbai Vs Smt Harsha L Tahilramani (Dated : August 10, 2011)

Income Tax - Sections 28, 45 - Whether mere presence of Portfolio Maner (PMS) is sufficient to treat short term capital gain as business income - Whether when such PMS has also provided credit facility the situation is doubtful and, can be judged from the treatment given to sale proceeds - Whether each year under income tax is independent, and the findings of one year cannot be applied to another year without correlating facts - Whether principle of consistency would come into play when the entire facts of one year are verbatim in the other

[2011-TIOL-813-ITAT-MUM](#)

Boman Irani Vs ACWT, Mumbai (Dated : December 16, 2011)

Wealth Tax Act - Sections 2(ea), 18(1)(c) - Whether the land occupied by building which was under construction and development and approved by the municipal authority, can be excluded from wealth tax, in terms of the meaning to be given to urban land - Whether building under construction which had the approval by the appropriate authority is exempt from wealth tax in terms of the definition of urban land in the Wealth Tax Act.

[Also see analysis of the Order](#)

[2011-TIOL-812-ITAT-HYD](#)

M/s Visu International Ltd Vs DCIT, Hyderabad (Dated : July 15, 2011)

Income Tax - Sections 10A, 10B, 263 - Whether there is a difference between the provisions of section 10A and 10B since the former is meant for Export processing zone (EPZ) and the latter for Export oriented units (EOU) and hence the approval of former issued by STPI can not be applied to the latter units, as the latter units are entitled for deduction only after getting approval from Board as envisaged in clause (4) of explanation 2 - Whether on the basis of change of opinion, which opinion is conceived on the basis of a clarification issued by Board subsequent to the passing of assessment order, CIT can not assume jurisdiction under section 263.

2011-TIOL-811-ITAT-PUNE
Kirlsokar Oil Engines Ltd Vs JCIT, Pune (Dated: June 30, 2011)
Income tax – Section 55(2)(aa) – Whether where the shares which were acquired as bonus shares prior to 1/4/1981, the cost of acquisition of the same will taken as the fair market value of the shares on 1/4/1981 while computing the capital gain at the time of sale of the shares and not as Nil.
2011-TIOL-810-ITAT-DEL
Nafe Singh Gahlawat Vs ACIT, Faridabad (Dated: April 29, 2011)
Income Tax - Section 43B - Finance Act 1994 - Section 68 read with rule 6 of the Service Tax rules - Whether service tax billed but not received can be disallowed u/s 43B of the Act - Whether outstanding service tax is not payable in the light of section 68 read with rule 6 of the service tax rules.
2011-TIOL-809-ITAT-MUM
M/s Godrej Industries Ltd Vs DCIT, Mumbai (Dated: October 8, 2010)
Income Tax - Section 14A, Rule 8D - Whether interest paid by the assessee on borrowing is allowable when numbers of evidences on record establish that no part of the borrowing funds was invested in tax-free securities - Whether part of common administrative expenses warrants disallowance if quantified in reasonable manner.
2011-TIOL-808-ITAT-BANG
Shri Anil H Lad Vs DCIT, Bangalore (Dated: January 07, 2011)
Income Tax - Section 80IA - Whether for claiming deduction of 80-IA the initial year may be any subsequent year also - Whether un-absorbed depreciation and losses of a unit which are eligible for 80IA deduction can be computed on notational basis and sett-off with the income of that year in which deduction has been claimed ignoring the fact that these losses were already set-off with income of other sources.
2011-TIOL-807-ITAT-BANG
M/s Astra Zeneca Pharma India Ltd Vs JCIT, Bangalore (Dated: May 31, 2011)
Income tax – Sections 153(2A), 153(3) – Whether when the ITAT set aside the order of the CIT(A) with the direction to the AO to pass an appropriate order after calling information, the limitation of period for passing an order by the AO would be as per section 153(2A) and not as per section 153(3).
2011-TIOL-806-ITAT-MAD

DCIT, Chennai Vs M/s MA FOI Consulting Solutions Ltd (Dated: August 18, 2011)

Income Tax - Section 32 - Whether depreciation can be disallowed in respect of software when the integration of the modules and change in the input and reporting format as a result of the installation of the new software have been complied with and also with respect to assets written off in the course of shifting of office premises of the assessee.

[2011-TIOL-805-ITAT-MAD](#)

ACIT, Puducherry Vs M/s Packaging India Ltd (Dated: March 11, 2011)

Income tax - Section 80B - Whether where all the conditions specified in section 80B are fulfilled, the assessee is entitled to claim deduction in respect of the second unit though it was already claiming deduction for the first unit.

[2011-TIOL-804-ITAT-MAD](#)

DCIT, Chennai Vs M/s Lakshmi General Finance Ltd (Dated: July 15, 2011)

Income Tax – Section 32 – Whether additional depreciation on Wind Mill is allowable, whether Indira Vikas Patra are capital assets and hence interest approved on these Indira Vikas Patra is capital gain, whether interest under section 234-D is leviable retrospectively – Held - appeal of the revenue is partly allowed.

[2011-TIOL-803-ITAT-KOL](#)

Samrendra Tibarewalla Vs DCIT, Kolkata (Dated: June 6, 2011)

Income Tax - Sections 50C, 54F - Whether for justifying that actual market value of the property was less than the applicable circle rate it is incumbent on the assessee to avert for a reference to DVO.

[2011-TIOL-802-ITAT-KOL](#)

M/s Eterna Steel & Investments Pvt Ltd Vs DCIT, Kolkata (Dated: April 8, 2011)

Income tax – Capital Gain or Business Income – Whether where the shares were purchased out of own funds, the intention was to earn dividend and bonus, the shares were shown as investment and not as stock in trade in the books of account, and the holding period was sufficient, the gain arising on sale of shares could not be considered as business income only on the basis of the magnitude of the transactions.

[2011-TIOL-801-ITAT-KOL](#)

Deeplok Financial Services Limited Vs ITO, Kolkata (Dated: May 13, 2011)

Income Tax - Sections 14A, 28, 45, 143(1), CBDT Circular 1827 of 1989 - Whether in absence of any provisions vis-à-vis treatment of surplus arise due to conversion of stock in trade into investment the surplus so arise is taxable as business income -

Held Yes - Appeal of the assessee is dismissed.

[2011-TIOL-800-ITAT-DEL](#)

DCIT, New Delhi Vs M/s International Cargo Carrier (P) Ltd (Dated: June 10, 2011)

Income tax - Sections 147, 194C - Whether when the assessee had disclosed fully and truly all material facts necessary for assessment with the return of income filed, no reassessment proceedings can be initiated after a period of four years from the end of the assessment year - Whether the addition cannot be made for the difference in the commission amount as per the TDS certificates claimed by the assessee and the commission income shown by it in the return of income as the difference was on account of the amount received by the assessee under contractual agreement which was directly transferred to the Airways company and was not reflecting in the profit and loss account of the assessee.

[2011-TIOL-799-ITAT-DEL](#)

DCIT, New Delhi Vs EDS Electronics Data Systems India (P) Ltd (Dated: June 24, 2011)

Income Tax - Sections 80HHE, 271(1)(c) - Whether when the assessee claims Sec 80HHE deduction for interest income as well, it amounts to furnishing of inaccurate particulars.

[2011-TIOL-798-ITAT-DEL](#)

M/s Penta Software Pvt Ltd Vs ITO, New Delhi (P) Ltd (Dated: April 29, 2011)

Income Tax - Sections 10B, 143(3), 271(1)(c) - Whether penalty under section 271(1)(C) is automatic upon the selection of a case because once a claim is allowed via processed return there are no other remedies to the revenue to disallowed the same - Whether a claim which is based on a verdict of the High Court is a bonafide claim and won't deserve penalty if for any reason not contested in appeal.

[2011-TIOL-797-ITAT-DEL](#)

ACIT, Meerut Vs Shri Sanjay Kumar (Dated: July 29, 2011)

Income tax - Sections 40(a)(ia), 194C - Whether TDS is required to be deducted on the expenditure incurred for lease rent for hiring or renting of equipments treating it as "work" under the provisions of section 194C.

[2011-TIOL-796-ITAT-DEL](#)

DCIT, New Delhi Vs NEC Engineering Pvt Ltd (Dated: January 14, 2011)

Income Tax - Section 41(1) - Whether the assessee's expenditure can be allowed on

the ground that due to gulf war there was temporary lull in the business due to circumstances beyond the control of the assessee - Whether sec. 41(1) can be applied when the sundry creditors were never written off.

[2011-TIOL-795-ITAT-DEL](#)

DCIT, New Delhi Vs Asian Hotels Ltd (Dated: January 7, 2011)

Income Tax - Sections 40(a)(ia), 271(1)(c) - Whether penalty is leviable in a case where the substantial returned income proves the bonafide of assessee vis -à-vis disallowance of 40(a)(ia).

[2011-TIOL-794-ITAT-MUM](#)

Mr Bhavanji S Bhadra Vs ACIT, Mumbai (Dated: May 4, 2011)

Income Tax - Sections 132(4), 271(1)(c), 153A, 271(1)(c) - Whether a disclosure or admission which is made after the deduction of default can be termed as voluntary.

[2011-TIOL-793-ITAT-MUM](#)

ACIT, Mumbai Vs Shri Vijay S Shirodkar (Dated: August 30, 2011)

Income Tax – Sections 54EC, 54F – Whether mere inclusion of wife's name in the securities purchased as per the provisions of the Sec. 54 EC would debar the assessee from claiming deduction under Sec. 54 EC - Whether for claiming deduction under Sec-54 F, it is incumbent upon the assessee to establish the existence of the property with documentary evidences.

[2011-TIOL-792-ITAT-MUM](#)

GO Investment & Trading Pvt Ltd Vs ACIT, Mumbai (Dated: July 22, 2011)

Income tax – Sections 47(iii), 147 – Whether the amount received by the assessee as gift under a WILL is exempt u/s 47(iii) and cannot be taxed.

[2011-TIOL-791-ITAT-MUM](#)

M/s Swan Mills Ltd Vs ACIT, Mumbai (Dated: June 03, 2011)

Income Tax - Section 115JA - Whether it is permissible for the assessee to revise the annual accounts for the purpose of computation of book profit u/s.115JA - Whether the revised P&L Account filed by the assessee without including the surplus/gain on conversion of land into stock in trade was in accordance with the requirements of Part II & III of Schedule VI of the Companies Act, 1956.

[2011-TIOL-790-ITAT-MUM](#)

ACIT, Mumbai Vs Endress & Hausser India Pvt Ltd (Dated: May 9, 2011)

Income Tax - Section 115 WB(2)(D) - Whether the assessee is liable to fringe benefit tax on the Commission paid to the agent?
2011-TIOL-789-ITAT-MUM
ITO, Mumbai Vs M/s Par Web Solutions (Dated: July 15, 2011)
Income tax - Section 10A - Whether de-jure status is enough to claim the deduction of 10A for a Software unit and it is not necessary that it's should be physically located in SEZ area.
2011-TIOL-788-ITAT-MUM
M/s Mahindra Realty & Infrastructure Developers Ltd Vs DCIT, Mumbai (Dated: April 27, 2011)
Income Tax - Sections 14A, 36(1)(iii), 37, rule 8D - Whether provisions of Rule 8D are retrospective - Whether reasonable disallowance of expenses attributable to tax free income are required to be disallowed - Whether provisions for anticipated losses are allowable without any supporting material or details - Whether expenses incurred on software are required to be considered in the light of Special Bench division in the case of Amway - Whether interest paid on borrowed funds, which funds are diverted for non-business activities are allowable.
2011-TIOL-787-ITAT-MUM
Shri Kirit Vrajlal Babaria Vs DCIT, Mumbai (Dated: June 8, 2011)
Income Tax - Section 263 - Whether an order which is passed in consonance with one of the possible views tenable in law, can be termed as erroneous and prejudicial to the interest of Revenue - Whether it is incumbent on CIT to record a positive finding that the order of the AO is erroneous and prejudicial to the interest of revenue and absence of any one of the conditions would vitiate Sec 263 - Whether CIT while exercising his powers under section 263 cannot direct the AO to frame an assessment in a particular manner - Whether it is incumbent on the CIT to deal with the objection of the Assessee before reversing order of AO.
2011-TIOL-786-ITAT-MUM
M/s Hiranand Sons Vs ITO, Mumbai (Dated: August 19, 2011)
Income Tax - Section 23(1)(a) - Whether notional interest on interest free deposit from the tenant can be considered as per the provisions of section 23(1)(a).
2011-TIOL-785-ITAT-MUM
ACIT, Mumbai Vs H B Irani (Bond) (Dated: April 29, 2011)
Income tax - Sections 14A, 37, 40A(3), 94(7) - Whether the devanning and detention expenses are not allowable for being penal in nature and incurred for infraction of law - Whether disallowance is warranted u/s 14A for the interest expense incurred on borrowed funds and partner's capital proportionately - Whether where the expenses

are incurred in cash in the normal course of business and admittedly not incurred in excess of Rs. 20,000/- individually, no adhoc disallowance can be made - Whether the loss claimed on sale of shares for the shares sold within 90 days from the record date cannot be disallowed u/s 94(7) of the Act.

[2011-TIOL-784-ITAT-MUM](#)

M/s Global Information Services Ltd Vs DCIT, Mumbai (Dated: July 29, 2011)

Income Tax - Whether when business infrastructure and other related activities during the period of lull in business are not used, it would amount to closure of business - Whether the assessee is entitled to claim depreciation on the goodwill purchased for the business as an intangible asset.

[2011-TIOL-783-ITAT-MUM](#)

M/s Ahuja Exports Vs ACIT, Mumbai (Dated: February 11, 2011)

Income tax - Sections 80HHC, 143(3), 147 - Whether when no assessment was made u/s 143(3) and the reassessment proceedings were initiated due to the amendment in the taxation laws, the proceedings were rightly initiated u/s 147 and cannot be considered as change of opinion.

[2011-TIOL-782-ITAT-AHM](#)

ITO, Baroda Vs M/s Siddharth Enterprises (Dated: June 7, 2011)

Income Tax - Section 80IB(10) - Deduction to developers - Whether deduction to developer under section 80-IB(10) is available when he has dominant control over the project - Whether ownership of the land to be developed is a condition precedent for allowing deduction of 80-IB(10).

[2011-TIOL-781-ITAT-AHM](#)

M/s Shankar Chemicals Works Vs DCIT, Ahmedabad (Dated: June 9, 2011)

Income Tax - Section 14A - Whether expenses incurred in relation to the earning of exempt income are required to be allowed and to be disallowed when the income is chargeable under chapter-III and IV respectively - Whether proportionate interest paid to partners by the firm warrants disallowance when firm has earned tax free income.

[2011-TIOL-780-ITAT-AHM](#)

M/s Chokshi Suryakant & Babubhai & Co Vs ITO, Baroda (Dated: September 08, 2011)

Income Tax - Section 40(a)(ia) - Whether CIT(A) erred in confirming the disallowance made by AO u/s 40(a)(ia) when payment made to parties were found to be valid and there was no evidence on record that recipients were having income.

[2011-TIOL-779-ITAT-AHM](#)

Bhupatlal Chhaganlal Jariwala -Huf Vs ACIT, Surat (Dated: July 29, 2011)

Income Tax - Section 50C - Whether it is incumbent upon AO to refer the matter to DVO where an assessee claims that the value of property is less than that adopted by stamp valuation authority - Whether AO should have waited for DVO report before finalizing the assessment - Whether matter requires fresh consideration when DVO report is not considered though the same was received after the passing of assessment order.

[2011-TIOL-778-ITAT-AHM](#)

DCIT, Ahmedabad Vs Torrent Pvt Ltd (Dated: March 31, 2011)

Income Tax - Section 115JB - Whether the tax liability of another company merged with the assessee is also allowable - Whether the CIT(A) erred in deleting the addition in respect of diminution in value of investment made to the book profit u/s 115JB.

[2011-TIOL-777-ITAT-AHM](#)

Allure Investments & Finance Pvt Ltd Vs ACIT, Baroda (Dated: August 05, 2011)

Income Tax - Sections 45(2), 48, 50C - Whether expression full value of consideration as used in section 48 can be replaced with market value merely because section 50C says so - Whether sale of share is akin to sale of capital asset and hence full value of consideration is to be taken into account while computing capital gain and not the market value.

[2011-TIOL-776-ITAT-MUM](#)

De Beers India Prospecting Pvt Ltd Vs ITO, Mumbai (Dated: December 16, 2011)

Income Tax - Sections 35E, 37(1), 147 – Whether when the assessee obtains permission from FIPB for prospecting diamonds and other minerals, it can be said that its commercial operation began with the prospecting activities even without the mining activities - Whether it is not entitled to deduction for non-prospecting expenses like salary paid u/s 37(1) - Whether for claiming expenditure it is necessary for the assessee to earn income.

[Also see analysis of the Order](#)

[2011-TIOL-775-ITAT-MUM](#)

M/s Multi Commodity Exchange Of (India) Limited Vs DCIT, Mumbai (Dated: August 5, 2011)

Income tax – Section 14A, Rule 8D – Whether when the assessee makes the claim regarding the quantum of expenses to be disallowed in terms of section 14A of the Act, it is incumbent on part of the AO to consider the claim of the assessee and if the AO is not satisfied with the claim of the assessee then only he can take recourse to provisions of Rule 8D.

2011-TIOL-774-ITAT-DEL
M/s Natco Mahashakti Mining (P) Ltd Vs Addl.CIT, New Delhi (Dated: November 25, 2011)
Income Tax - Sections 269SS, 271D - Whether passing of journal entries in the books amounts to confirmation of debt - Whether penalty u/s 271D is leviable where the transactions are genuine and bona fide transactions.
2011-TIOL-773-ITAT-MAD
DCIT, Chennai Vs M/s Hyundai Motor India Ltd (Dated: August 18, 2011)
Income tax – Sections 32(1)(iia), 28, 145A – Whether assessee is entitled to claim additional depreciation on the actual cost of assets purchased during the year without making any adjustment for any increase or reduction in liability consequent to change in rate of exchange, on the loans raised to acquire such asset - Whether the amount of Duty Free Credit Entitlement accrued to assessee is taxable under sub-sections (iia) to (iv) of Section 28 as assessee had not received any cash assistance.
2011-TIOL-772-ITAT-BANG
Karnataka Power Transmission Corporation Ltd Vs ITO, Belgaum (Dated: March 17, 2011)
Income tax – Sections 133A, 194C, 201(1), 201(1A) – Whether when the contract is for supply of material and the installation, commissioning of equipment is only incidental to the contract, the contract cannot be regarded as 'contract for work' and it will not come under the ambit of section 194C – Whether when there was no obligation to deduct tax u/s 194C of the Act towards the payments made on supply portion, the assessee's case doesn't fall within the ambit of the provisions of s.201(1) of the Act and the assessee cannot be treated as an 'assessee in default' and there is no question of charging interest u/s 201(1A).
2011-TIOL-771-ITAT-DEL
DCIT, New Delhi Vs M/s Bharat Aluminium Company Ltd (Dated: December 9, 2011)
Income tax – Section 143(1), 154, 115JB, 234B, 234C – Whether the interest u/s 234C is to be levied on tax determined on book profits in terms of provisions of section 115JB of the Act on deferment of advance tax liability.
Also see analysis of the Order
2011-TIOL-770-ITAT-MUM
DCIT, Ahmedabad Vs M/s G K Patel & Co (Dated: October 21, 2011)
Income Tax - Sections 23(1)(a) & (c), 234A, B & C – Whether receipts from sale of rights on shares of foreign parent company received by the resident assessee as an employee under a Stock Option Grant, and claimed as long term capital gains, are

liable to be taxed as perquisites under the head salary - Whether the annual rateable value for the purpose of section 23(1)(a) has to be different from what was determined by the Municipal authorities for the purpose of imposing property tax.

[Also see analysis of the Order](#)

[2011-TIOL-769-ITAT-AHM](#)

DCIT, Ahmedabad Vs M/s G K Patel & Co (Dated: August 5, 2011)

Income tax – Sections 37, 41(1), 68 – Whether when the assessee provides the necessary documents in support of the cash expenditure incurred, no disallowance can be made treating it as bogus expenses – Whether the AO has rightly made addition u/s 41(1) for the creditors outstanding for more than 3 years though there is no cessation or remission of liability – Whether the amounts received from the partners which is claimed by the partners as owned by them, cannot be treated as unexplained cash credits u/s 68 of the IT Act.

[2011-TIOL-768-ITAT-CUTTACK](#)

M/s Gridco Limited Vs ACIT, Bhubaneswar (Dated: November 17, 2011)

Income Tax - Sections 194C, 194I, Circular Nos 5 of 2002 & 736 of 1996 - Whether wheeling charges paid for transmission of electricity from point of generation to point of distribution can be construed as rental within the provisions of Sec 194I - Whether rigours of Sec 40(a)(ia) can be invoked in a case where the assessee has not claimed any expenditure.

[Also see analysis of the Order](#)

[2011-TIOL-767-ITAT-DEL](#)

M/s Aroma Chemicals Vs ACIT, Moradabad (Dated: November 30, 2011)

Income Tax - Section 80IB - Whether CENVAT provisions are different from DEPB - Whether the provisions of section 80HH, in the context of which judgment of liberty was rendered, are materially different from the provision of section 80IB in as much as the former requires that profits should be derived from industrial undertaking and the latter dealt with any business of industrial undertaking and hence deduction of 80IB is available in respect of CENVAT

[2011-TIOL-766-ITAT-JAIPUR](#)

ACIT, Jaipur Vs M/s Jai Drinks Pvt Ltd (Dated: September 30, 2011)

Income Tax - Sections 32(1)(ii), 263 - Whether when assessee purchases a running business in a slump sale with huge liabilities, the goodwill acquired in such a deal is of no value, and hence no depreciation is allowable on the same.

[Also see analysis of the Order](#)

[2011-TIOL-765-ITAT-PUNE](#)

<p>PCS Finance Pvt Ltd Vs Addl.CIT, Pune (Dated: October 14, 2011)</p> <p>Income Tax – Section 23(1)(a) & (c), Rule 46A – Whether when certain flats are leased out for certain period but tenant vacates some flats before contracted period, addition is warranted for the additional rental receivable.</p> <p>Also see analysis of the Order</p>
<p>2011-TIOL-764-ITAT-MAD</p>
<p>M/s NEPC Agro Foods Ltd Vs ACIT, Chennai (Dated: September 9, 2011)</p> <p>Income Tax - Section 271D - Whether penalty under section 271D is leviable where somebody accepts a loan or deposit without reasonable cause - Whether period of limitation for imposing penalty is to be reckoned from the notice of competent authority and not from the notice of any other authority.</p>
<p>2011-TIOL-763-ITAT-MAD</p>
<p>ITO, Cuddalore Vs Smt M Neela (Dated: October 4, 2011)</p> <p>Income tax – Sections 68, 133A - Whether the addition on account of cash credit u/s 68 is rightly deleted when the assessee explained the independent source of income from where the investment was made.</p>
<p>2011-TIOL-762-ITAT-MUM</p>
<p>DCIT, Thane Vs S V Developers (Dated: April 29, 2011)</p> <p>Income tax – Section 80IB(10) – Whether where the necessary approval from the various authorities such as the permission of non-agricultural use of the land was obtained after 1.4.2004, the sanction letter/commencement certificate approving of the housing project is deemed to be on the date when the plan of the housing project is for the first time approved by the authorities and the correspondence between the assessee and the Municipal Corporation prior to that approval of the building is not relevant to decide the date of approval as per the Explanation to section 80IB(10) – Whether the assessee will be entitled to deduction u/s 80IB(10) proportionately even though the residential units have the area exceeding 1000 sq. ft.</p>
<p>2011-TIOL-761-ITAT-DEL</p>
<p>Innovative Intex (P) Ltd Vs ITO, New Delhi (Dated: September 16, 2011)</p> <p>Income Tax - Sections 37, rule 29 - Whether additional evidence to support a fact, which fact is on record, deserves admission - Whether commission paid to party is allowable deduction when there is correspondence between the parties vis -à-vis rate of commission.</p>
<p>2011-TIOL-760-ITAT-CUTTACK</p>
<p>Chief Manager Branch III, LIC of India, BBSR Vs ACIT (TDS) (Dated: September, 23, 2011)</p>

Income Tax - Sections 192, 201, 201(1A) - Whether the CIT(A) is justified in confirming the demand raised u/s 201(1) and interest levied u/s 201(1A) in view of the bonafide doubt of the assessee on the CBDT Circular and also in view of the stay order of the Orissa High Court.

[2011-TIOL-759-ITAT-MUM](#)

M/s Bharti Airtel Limited Vs DCIT, Mumbai (Dated: June 24, 2011)

Income tax - Sections 36(1)(iii), 37(1) - Whether disallowance is warranted for the interest paid on the borrowed funds considering the same as given on loan without interest to its subsidiary company even if the assessee was having sufficient non-interest bearing funds - Whether the lease rent paid in respect of assets taken on financial lease is an allowable expenditure - Whether the CIT (A) has rightly rejected the claim of the assessee in respect of additional evidence submitted before him observing that the assessee had submitted the details required by the AO after passing the order without appreciating that no proper opportunity was given by the AO to submit the details - Whether the expenses incurred as DoT licence fee and space segment charges are allowable as revenue expenditure and cannot be amortised over the period of license.

[2011-TIOL-758-ITAT-MUM](#)

DCIT, Mumbai Vs Colgate Palmolive India Limited (Dated: October 25, 2011)

Income Tax - Section 28 - Whether where a company grants loans to its subsidiary on account of commercial expediency and obtained certain shares in lieu of such loans then whether loss incurred on such shares is revenue and hence allowable as business loss.

[2011-TIOL-757-ITAT-MUM](#)

Chattisgarh State Electricity Board Vs ITO, Raipur (Dated: November 30, 2011)

Income Tax - Sections 194I, 201, 201(A) - Whether when State Electricity Board pays for transmission of electricity from point of generation to end-users, such payment constitutes rent within the meaning of Sec 194I - Whether the expressions 'use of an asset' and benefit from an asset carry two different meanings, and thus TDS obligation arises in the former but not in the latter.

[Also see analysis of the Order](#)

[2011-TIOL-756-ITAT-MUM](#)

M/s Atul Paints & Chemical Co Vs Addl.CIT, Mumbai (Dated: October 31, 2011)

Income Tax - Sections 50C, 263 - Whether an order computing the capital gain after taking into consideration the registered valuer report and the stamp valuation authority rate can be said to be erroneous and prejudicial to the interest of revenue, and if not, then whether the CIT can revise such an order on the basis of material collected subsequent to the assessment proceedings.

2011-TIOL-755-ITAT-MUM
DCIT, Mumbai Vs M/s Bombay Dyeing & MFG Co Limited (Dated: September 14, 2011)
Income Tax - Sections 37(1), 115JA - Whether VRS payments made by assessee are revenue expenses - Whether premium paid on redemption of debenture is revenue expenditure when the amount collected via debentures is employed in modernization of the industry - Whether consultancy charges paid to foreign entity for restructuring the business is revenue expenditure - Whether lease equalization charges are required to be excluded from the ambit of book profit u/s 115JA.
2011-TIOL-754-ITAT-MAD
Socio Economic Development Association Vs ITO, Madurai (Dated: October 13, 2011)
Income tax - Section 12AA - Whether when the CIT granted registration u/s 12AA but later on observed that the purpose of the society was to do business activities and not to utilize the amount for charitable purpose, the CIT has rightly cancelled the registration.
2011-TIOL-753-ITAT-MAD
M/s Sterling Agro Products Processing Pvt Ltd Vs ACIT, Chennai (Dated: August 26, 2011)
Income Tax - Section 10B - Whether conversion of gherkins into gherkins pickle amounts to manufacturing in the light of explanation given under section 10B prior to its omission - Whether a decision of coordinate bench which omits to consider the purport of explanation of a given section is binding in another year.
2011-TIOL-752-ITAT-MUM
DCIT, Mumbai Vs Sweet Solutions Ltd (Dated: November 30, 2011)
Income Tax - Sections 10(38), 22(2), 111A, 143(1) & (3), CBDT Circular No. 4 of 2007 - Whether profit from sale of shares intended as an investment in the books of the assessee and supported by the resolution of its board of directors, and treated as short term capital gains, can be treated as business income on the basis of frequency and magnitude of the transactions - Whether assessee's intention at the time of making the share purchase and the treatment given by the assessee to these transactions in its books of account, would overrule the facts of frequency and volume of the transaction to determine the nature of the transaction as investment or trade.
Also see analysis of the Order
2011-TIOL-751-ITAT-MUM
DCIT, Mumbai Vs Mahindra Gesco Developers Ltd (Dated: June 30, 2011)
Income Tax – Sections 22, 27, 37 – Whether lease charges earned from exploitation

of commercial complex and business center are assessable as income from business in view of the fact that the assessee is also providing certain services and amenities to the uses of the premises - Whether amount invested in joint venture for starting the new project can be claimed as revenue expenses upon abandonment of such project particularly when the amount invested has been converted into share application money - Whether income once treated as accrued can be nullified unilaterally on notional basis and that to by making mere provisions in the profit and loss account.

[2011-TIOL-750-ITAT-MUM](#)

DCIT, Mumbai Vs M/s Petrocon India Ltd (Dated: July 29, 2011)

Income tax – Sections 14A, 36(1)(iii), 37 – Whether when the assessee advanced the money under its normal course of business but did not receive interest due on advance, no disallowance can be made for the proportionate interest expenditure on borrowed funds – Whether the AO has wrongly made disallowance of huge amount for proportionate interest expenditure u/s 14A though no borrowed funds were utilized for earning the exempted income and Rule 8D cannot be applied as it is not retrospective.

[2011-TIOL-749-ITAT-MUM](#)

Pidilite Industries Ltd Vs Addl,CIT, Mumbai(Dated: October 5, 2011)

Income tax – Sections 32(1), 80IB, 32(1) – Whether while computing the deduction u/s 80IB, the DEPB benefit is to be excluded – Whether the expenses incurred relating to trademark expenses are revenue in nature.

[2011-TIOL-748-ITAT-MUM](#)

ITO, Mumbai Vs M/s Taj Services Pvt Ltd (Dated: September 16, 2011)

Income Tax - Sections 37(1), 48(1) - Whether amount paid to a lessee for termination of lease to obtain possession of property is cost of improvement and eligible for deduction while computing capital gain - Whether expenses incurred on behalf of third party are allowable if they are incurred wholly and exclusively for the purpose of business.

[2011-TIOL-747-ITAT-BANG](#)

M/s Sansera Engineering Pvt Ltd Vs CIT, Bangalore (Dated: September 21, 2011)

Income tax - Sections 14A, 263, Rule 8D - Whether when the AO has not considered the applicability of section 14A, the CIT has rightly initiated the proceedings u/s 263 - Whether when Rule 8D is held by the High Court as applicable w.e.f. AY 2008-09, it cannot be directed to the AO by the CIT in proceedings u/s 263 to apply the said rule for the A.Y. 2007-08.

[2011-TIOL-746-ITAT-MUM](#)

DCIT, Mumbai Vs Tropicate Textiles (P) Ltd (Dated: November 4, 2011)

Income Tax - Sections 10B, 143(3) - Whether extended period of tax holiday is available to an assessee who is already enjoying the holidays and is just to complete the period as envisaged in earlier provisions.

[2011-TIOL-745-ITAT-DEL](#)

Plus Electronics Associates (P) Limited Vs ITO, New Delhi (Dated: June 17, 2011)

Income Tax - Section 37(1) - Whether for claiming an expense as business expenditure the onus is on assessee to prove that the expense is genuine and has been incurred for the purpose of business.

[2011-TIOL-744-ITAT-DEL](#)

M/s D Paul Capital Ltd Vs ITO, New Delhi (Dated: October 31, 2011)

Income Tax - Section 37(1) - Whether Revenue cannot question the reasonableness of expenses in view of the settled legal position that reasonableness of an expense has to be judged from the point of view of a businessman and not from the point of view of revenue.

[2011-TIOL-743-ITAT-BANG](#)

DCIT, Bangalore Vs M/s Mphasis Ltd (Dated: October 18, 2011)

Income Tax - Sections 10A, 10B - Whether amounts which are not includable in export turnover are also not includable in total turnover - Whether parity has to be maintained between numerator and denominator.

[2011-TIOL-742-ITAT-DEL](#)

ACIT, New Delhi Vs Siddhomal Air Products Ltd (Dated: July 29, 2011)

Income Tax - Whether when assessee is able to show that it had purchased shares of a non-resident company, even then disallowance of foreign travel expenses is warranted - Whether legal and professional expenses are not allowable even if the assessee submits vouchers and bills.

[2011-TIOL-741-ITAT-MAD](#)

ITO, Chennai Vs M/s Shanmuga Arts (Dated : July 20, 2011)

Income Tax - Sections 11, 12AA, 13, 80G - Whether making of donation to other trust possessing 80-G certificate is also charitable object - Whether benefit of section 11 can be denied merely because certain payments were made at the directions of the trustee who in turn returned the money to the trust within same assessment year, whether minor discrepancies in the accounts

[Also see analysis of the Order](#)

[2011-TIOL-740-ITAT-BANG](#)

M/s Diksha Technologies Pvt Ltd Vs DCIT, Bangalore (Dated : August 5, 2011)

Income tax – Sections 10B, 155 - Whether the amount of the consultancy services rendered outside India which is only with regard to design developed by the assessee in India and it is not for any independent consultancy services rendered outside India and thus the same will be excluded while computing the total turnover for the purpose of section 10B.

[2011-TIOL-739-ITAT-DEL](#)

DCIT, New Delhi Vs M/s Interra Information Technologies India (P) Ltd (Dated : January 14, 2011)

Income Tax - Sections 10A, 80HHE - Whether when assessee once claims deduction u/s 80HHE in respect of profits of an eligible business, it gets debarred for all times to claim deduction under any other Section.

[2011-TIOL-738-ITAT-MUM](#)

Monga Strayfield Ltd Vs DCIT, Mumbai (Dated : November 9, 2011)

Income Tax - Sections 37, 55(2)(aa) – Whether investment made by the assessee company in the shares of its foreign subsidiary company, and expenses incurred for this purpose, are revenue in nature.

[2011-TIOL-737-ITAT-MUM](#)

ACIT, Mumbai Vs Lawkim Ltd (Dated : July 15, 2011)

Income Tax – Section 37, 36(1)(vii) of the Act – Whether corporate film making charges are akin to sales promotion and hence the same are allowable as revenue expenses, whether for claiming an amount as bad debt it is necessary to establish that such an amount is of revenue character.

[Also see analysis of the Order](#)

[2011-TIOL-736-ITAT-MUM](#)

M/s United Phosphorous Ltd Vs DCIT, Mumbai (Dated : September 28, 2011)

Income Tax - Sections 132, 158BC – Whether expenses in relation to which no material is unearthed during the search and which are duly recorded in the books of assessee can be scrutinized in the block assessment - Whether scope of block assessment proceedings is different from regular assessment, if yes, then, whether the items in relation to which no evidence has been found in the search can be assessed under Chapter XIV B, solely on the basis of statement in which no admission is made - Whether debtors can be assessed as income of the assessee, when the amount attributable to debtors which had already been offered as income in previous year can be taxed again - Whether disclosure, which is made by way of abundant caution and under protest is binding up and assessee, if no, then whether the amount disclosed in the block Return will supersede the amount arrived after giving appeal effect.

2011-TIOL-735-ITAT-PUNE
Glaxosmithkline Pharmaceuticals Limited Vs ITO, Nasik (Dated : October 7, 2011)
Income Tax - Sections 9(1), 194C, 194J – Whether security services are technical or professional services, and hence payment made in lieu of such services is covered under Section 194J.
2011-TIOL-734-ITAT-MAD
M/s Seshasayee Steels Pvt Ltd Vs ACIT, Chennai (Dated : June 24, 2011)
Income Tax - Sections 2(47), 45 - Transfer of property Act - Section 53A - Whether when assessee gives revocable power of attorney, and the provisions of Transfer of Property Act are not fully complied with, it can be said that no transfer has taken place in this case - Whether the definition of transfer in section 2(47) is inclusive and has to be read with section 53A of the Transfer of Properties Act.
Also see analysis of the Order
2011-TIOL-733-ITAT-MUM
ACIT, Mumbai Vs Tata Steel Ltd (Dated : July 22, 2011)
Income Tax - Sections 115JB, 234B, 234D - Whether MAT credit is to be taken into consideration before charging interest u/s 234B - Whether provisions of section 234D are prospective - Whether provisions of section 234D are applicable in a case where the refund has been given after 01.06.2003.
2011-TIOL-732-ITAT-MUM
M/s Solares Therapeutic (P) Ltd Vs ITO, Mumbai (Dated : April 29, 2011)
Income Tax - Whether CIT(A) is justified in confirming the Order of the AO regarding disallowance on account of LTA when the assessee has paid the LTA at the time of full and final settlement of the claim of the employees because the assessee was in the process of closing down the business.
2011-TIOL-731-ITAT-MUM
M/s Powerful Impex Pvt Ltd Vs ITO, Mumbai (Dated : October 5, 2011)
Income tax – Sections 80HHC, 132, 147, 148, 158BC - Whether assessment can be reopened even when undisclosed income has been assessed in block assessment proceedings.
2011-TIOL-730-ITAT-MUM
M/s Oscar Freight Pvt Ltd Vs ITO, Mumbai (Dated : August 24, 2011)

Income Tax - section 271(1)(c) - Whether penalty u /s 271(1)(c) can be levied only on the ground that the depreciation claim of the assessee was not allowed in toto.

[2011-TIOL-729-ITAT-HYD](#)

Shri Goutham Siddhardhudu Vs DCIT, Hyderabad (Dated : September 23, 2011)

Income tax – Sections 24(1)(v), 57(iii), 147, 148 – Whether when the AO has reason to believe that income had escaped assessment as the assessee made a wrong claim of payment of housing loan interest paid to Bank as allowable u/s 57(iii) of the Act, notice was correctly issued u/s 148 - Whether the assessee is entitled to claim the interest paid on housing loan against the interest income earned on the loan advanced by it to some other person out of the housing loan received from the bank u/s 57(iii) or can be claimed as interest payment on housing loan u/s 24(iv) – Whether the AO can also assess or reassess any other income which has escaped assessment and comes to his notice during the course of reassessment proceedings though the said issue was not originally mentioned in the notice issued u/s 148.

[Also see analysis of the Order](#)

[2011-TIOL-728-ITAT-MAD](#)

DCIT, Mumbai Vs M/s Sterlite Industries (India) Ltd (Dated : July 8, 2011)

Income tax – Sections 132, 143(3), 158BB – Whether when the search proceedings were concluded by a prohibitory order and the officer left the premises, the period of limitation for completing the assessment will begin from that date and not from the date of panchnamas recorded after conclusion of the search – Whether where two warrants of authorization were issued, the Assessing officer is required to make two separate assessment orders.

[Also see analysis of the Order](#)

[2011-TIOL-727-ITAT-MAD](#)

M/s Lavanyaa Property Developers Pvt Ltd Vs ACIT, Trichy (Dated : September 16, 2011)

Income tax – Section 80IB – Whether when assessee sells off a part of approved plots of land for constructing flats, deduction u/s 80IB is to be denied in such a case - Whether when the assessee maintains separate account, it is entitled to claim Sec 80IB benefits on undivided share in the land.

[2011-TIOL-726-ITAT-BANG](#)

M/s Mouse Systrain Pvt Ltd Vs DCIT, Hubli (Dated : May 13, 2011)

Income tax – Whether the amount received against a work order in advance before the commencement of the business is to be treated as business income after deducting expenses incurred which had no direct nexus to the income or is rightly treated as income from other sources and no expenses are allowed.

[2011-TIOL-725-ITAT-BANG](#)

ITO, Bangalore Vs M/s Sepit Soft Tech Pvt Ltd (Dated : August 16, 2011)

Income Tax - Section 10A - Whether telecommunication charges attributable to export of software and expenses incurred in foreign currency for rendering technical services outside India are to be excluded from the total turnover while calculating deduction u/s 10A.

[2011-TIOL-724-ITAT-AHM](#)

ACIT, Ahmedabad Vs Medical Technologies Pvt Ltd (Dated : October 20, 2011)

Income Tax – Sections 2(22)(e), 28 – Whether any addition on account of deemed dividend can be made, when admittedly the share holding is less than 10% - Whether service tax collected from the customers can be set-off against service tax receivable and hence it is not correct to add the amount of service tax as income of the assessee - Whether for claiming an amount as bad debt it is incumbent on assessee to be established that such amount has been taken into consideration while computing the income of earlier years.