

HIGH COURT RULING

[2011-TIOL-337-HC-DEL-IT](#)

CIT Vs Indair Carriers Pvt Ltd (Dated: December 1, 2010)

Income Tax – Sections 142(1), 143(2), 158B, 158BB – Whether merely on the plea that cheques were found entered in the diary, which was actually not received or recorded in regular book on subsequent date, can be made the basis for making additions.

[2011-TIOL-336-HC-DEL-IT](#)

CIT Vs M/s J K Synthetics Ltd (Dated: May 19, 2011)

Income tax – Capital vs Revenue Receipt - Section 37 – Whether the amount received as security deposit towards the "cops" given abngwith the yarn written off as not payable is a trading receipt or capital receipt – Whether where there is a direct nexus of the funds utilised for purchase of shares with the borrowed funds, the interest claimed on the borrowed funds is not allowable as business expenditure.

[2011-TIOL-335-HC-AHM-IT](#)

Chhaganlal S Uteriya Vs ITO (Dated: May 13, 2011)

Income tax – Sections 144, 148, 153(1), 264, 271(1)(c) – Whether mere non-filing of income tax return tantamounts to concealment of income – Whether where the notice u/s 148 was issued before the time limit mentioned in section 153(1) as per explanation 3 to section 271(1)(c), no penalty can be levied as the condition laid down by the explanation 3 was not satisfied.

[2011-TIOL-333-HC-DEL-IT](#)

CIT Vs Radhey Shyam Bansal (Dated: May 30, 2011)

Income Tax – Sections 69, 132, 158B, 158BC, 115BD – Whether recording of satisfaction by the AO of the searched person is a condition precedent for the AO of third person to initiate block assessment u/s 158BC if any part of undisclosed income of the assessee was said to have belonged to the third party - Whether mere use or mention of the word 'satisfaction' in the order/note of the AO of the searched person can be said to meet the requirement of concept of satisfaction as used in Section 158BD.

[Also see analysis of the Order](#)

2011-TIOL-332-HC-DEL-IT
CIT Vs Shri Harbir Singh (Dated: January 19, 2011)
Income Tax - Sections 68, 69, 133A, 145(3) - Whether when there is a decline in the gross profits, it warrants additions by rejecting the books of accounts without any evidence on record.
2011-TIOL-331-HC-MAD-IT
CIT Vs M/s Softlab Pvt Ltd (Dated: April 27, 2011)
Income Tax - Whether when assessee sells computers to another company at purchase price and then enters into a lease agreement at a rental 75% of the purchase price, Revenue is right in disallowing the expenses and allowing depreciation on such assets - Whether when the computers are not shifted out of the assessee's premises after the sale as lease agreement was signed, it can be construed under the circumstances that the sale is not complete without transfer of ownership as per the TP Act.
2011-TIOL-330-HC-MAD-IT
CIT, Chennai Vs Haritha Seating Systems Ltd (Dated: April 9, 2011)
Income Tax - Section 154 - Whether, the labour charges, miscellaneous income and sale of materials are part of business income for the purpose of deduction u/s 80HH - Whether the same can be decided in rectification proceedings u/s 154.
2011-TIOL-329-HC-KOL-IT
Goodricke Group Ltd Vs CIT, Kolkata (Dated: May 19, 2011)
Income tax – Sections 33AB, 80HHC, Rule 8 – Whether deduction under Sections 80HHC and 33AB is to be allowed before apportioning the composite income in the ratio of 60:40 as per Rule 8 or after such apportionment.
2011-TIOL-324-HC-MAD-IT
CIT, Chennai Vs M/s Apollo Hospital Enterprises (Dated: April 26, 2011)
Income Tax – Sections 32A, 115J, 143(1)(a), 143(2) – Whether 'hospital' is an industrial undertaking for the purpose of deduction u/s 32A – Whether deduction u/s 32A is available for investment allowance in respect of equipments such as X-ray, ultra sound, angiography, gamma camera, stress analysis equipment etc.
Also see analysis of the Order
2011-TIOL-323-HC-MAD-IT
CIT, Coimbatore Vs M/s Elgi Equipments Ltd (Dated: April 29, 2011)
Income tax – Section 80HHC, 28 – Whether the income from lease operations,

technical service charges and tyre retreading receipts are to be excluded while computing the deduction u/s 80HHC as these are not the main activities of the assessee and are covered under the expression any other receipt of a similar nature included in such profits under Clause (baa)(1) of section 80HHC.

[2011-TIOL-322-HC-DEL-IT](#)

Mohit Singh Vs ACIT (Dated: January 18, 2011)

Income tax – Sections 132B(4), 153A – Whether assessee is entitled to interest u/s 132B(4) for the period from the date of passing the order and till the date of refund received.

[2011-TIOL-321-HC-DEL-IT](#)

CIT Vs Padmini Technologies Ltd (Dated: December 21, 2010)

Income tax – Sections 68, 147 – Whether where the Central Excise & Customs Settlement Commission states that there is no overinvoicing of export, the addition made u/s 68 on the basis of the report of the DRI on the same issue is not sustainable particularly when there is no evidence that the Revenue has not accepted the order of settlement commission.

[2011-TIOL-320-HC-KOL-IT](#)

CIT, Kolkata Vs Rasoi Limited (Dated: May 19, 2011)

Income tax – Capital or Revenue Subsidy – Whether where the subsidy is given for expansion of capacities, modernization, and improving the marketing capabilities, it is capital in nature - Whether even if it is equivalent to 90% of the sales tax it cannot be considered as refund of sale tax paid.

[2011-TIOL-318-HC-DEL-IT](#)

CIT Vs M/s Pepsico India Holdings (P) Ltd (Dated: March 30, 2011)

Income Tax – Section 37(1) - Whether expenditure incurred on glow signs and neon signs is expenditure on advertisement and publicity or marketing, and if so, whether it qualifies for deduction as revenue expenditure under Section 37 of the Act.

[Also see analysis of the Order](#)

[2011-TIOL-317-HC-DEL-IT](#)

CIT Vs ECE Industries Limited (Dated: December 24, 2010)

Income Tax – Section 2(14), 45, 50, 50B – Whether capital gains arising on sale of an undertaking for a lump sum consideration as a going concern without attributing any part of the sale consideration to any particular capital assets can be charged to tax u/s 50(2) of the Act – Whether the provisions of section 50B is applicable in respect of the said transaction.

2011-TIOL-316-HC-DEL-IT
CIT Vs Petronet Lng Ltd (Dated: February 17, 2011)
Income Tax - Whether when share capital money contributed by promoters for purchase of machineries and setting up the business earns interest, it is to be treated as 'income from other sources'.
2011-TIOL-315-HC-DEL-IT
DIT Vs Shree Radha Krishan Charitable Trust (Dated: March 30, 2011)
Income tax – Section 13(1)(d)(iii) – Whether the value of the shares which are received as donation and are not disinvested within the time stipulated u/s 13, would be treated as the income of the trust for the A.Y. relevant to the financial year in which these shares were received as donation or in the A.Y. relevant to the financial year in which the time as stipulated is expired.
2011-TIOL-314-HC-KOL-IT
Peerless Financial Services Ltd Vs Commissioner of Interest Tax, Kolkata (Dated: May 19, 2011)
Interest Tax Act, 1974 – Section 2(5B), 2(7) - Whether assessee is liable to be assessed to tax for its erroneous submission of return under a wrong impression that it was an assessee under the Act, even though it was not taxable – Whether the recognition of the assessee by the RBI as a Non-banking Financial Institution renders it liable to the charge of interest tax, irrespective of the definition of a financial company u/s 2(5B) – Whether income of the assessee by way of syndication fees and brokerages, is in the nature of professional income and thus, do not form part of chargeable interest for the purpose of taxation under the Interest Tax Act.
2011-TIOL-313-HC-DEL-IT
CIT Vs M/s Samsung India Electronics Ltd (Dated: April 20, 2011)
Income Tax - Section 40A(2)(b) - Whether when assessee imports raw materials from its non-resident promoter, it can be presumed that the assessee pays exclusive price for the same - Whether AO is right in doubting the ALP and making 2% disallowance without any evidence on record - Whether when Customs assessment order is produced to establish the ALP of imported goods, it can be said that the assessee has discharged its liability in this connection - Whether onus to disprove it is cast on the AO in such a situation.
Also see analysis of the Order
2011-TIOL-312-HC-DEL-IT
CIT, New Delhi Vs Sahara India Mass Communication (Dated: May 10, 2011)
Income Tax - Whether Revenue can randomly make addition for excess wastage of newsprint when assessee has maintained detailed records relating to the wastage.

2011-TIOL-311-HC-DEL-IT
CIT Vs New Palace Store (Dated: April 4, 2011)
Income Tax - Sec 133A - Whether the tag price or the discounted price at which ready-made garments are normally sold, should be taken as the standard price for assessing the value of stock - Whether the margin of profit is to be taken at 10% as decided by the Survey Party or 20% as claimed by the assessee for the purpose of arriving at the cost price.
2011-TIOL-310-HC-DEL-IT
CIT Vs Delhi Golf Club Ltd (Dated: March 30, 2011)
Income Tax – Sections 11, 12A – Whether assessee registered u/s 12A can be said to be carrying on commercial activities merely on the ground that the golf course was allowed to be used by casual members or non-members on a higher fee and hence, casual membership fee charged from them is to be construed as business.
2011-TIOL-309-HC-DEL-IT
CIT Vs CITI Financialconsumer Finance Ltd (Dated: March 30, 2011)
Income Tax – Sections 35D, 37(1) – Whether expenditure incurred on publicity and advertisement can be said to be of enduring nature, and that the benefit accrued from the same cannot be confined to the year when the expenditure is incurred, hence it is not allowable in full in the year in which the same is incurred – Whether the entire expenditure incurred by the assessee on commission, stamping fee and direct selling is to be allowed in the year in which it is incurred.
2011-TIOL-307-HC-DEL-IT
CIT Vs Bharat Aluminium Co Ltd (Dated: May 11, 2011)
Income tax – Sections 115JAA, 244A – Whether assessee is entitled to interest u/s 244A on the amount which became refundable to the assessee due to the adjustment of MAT credit u/s 115JAA.
Also see analysis of the Order
2011-TIOL-306-HC-DEL-IT
CIT Vs Continental Construction Ltd (Dated: March 30, 2011)
Income tax – Sec 260A - Ceiling for filing of appeal by Revenue – Whether when CBDT Circular clarifies that the connotation of 'tax effect' also takes in its ambit the 'notional tax effect' in case of losses, it would also be operative prospectively - Whether it would also apply to the cases where appeals were filed before the date of Circular and have been pending.

[2011-TIOL-305-HC-DEL-IT](#)

Ravina & Associates Pvt Ltd Vs CIT, Delhi (Dated: April 20, 2011)

Income tax – Sections 139(5), 147, 148, 220(7) – Whether where assessee declares illegal income in the revised return filed after investigation, the taxes due can be recovered from the amount which did not belong to the assessee and was the subject matter of the restraint order passed by the court of the third country – Whether the assessee is rightly treated as “an assessee in default” because the assessee could not prove u/s 220(7) that it was prevented or prohibited from bringing the proceeds to India as there was no bar or restriction on transfer of that income and remittance thereof from Russia to India.

[2011-TIOL-304-HC-DEL-IT](#)

CIT Vs M/s United Hotels Ltd (Dated: March 30, 2011)

Income Tax - Section-40A(2)(b) - Whether when the Revenue has allowed deduction for payments made to an associate enterprise for providing air taxi service to the assessee's clients in previous years and the decision of the High Court has attained finality, AO is right in again disallowing the same expenditure in the impugned year.

[2011-TIOL-303-HC-KOL-IT](#)

Goodricke Group Ltd Vs CIT, Kolkata (Dated: May 18, 2011)

Income tax – Section 41(1) – Whether where assessee has written off a liability, payable to the creditors in the books of account, due to expiry of the limitation period of the cheques issued to them, which remained unclaimed, the amount written off can be treated as taxable u/s 41(1) though the creditors have not confirmed any remission or cessation of liability.

[2011-TIOL-300-HC-KOL-IT](#)

M/s Dheeraj Associates Pvt Ltd Vs CIT, West Bengal (Dated: May 13, 2011)

Income tax – Section 37 – Loss on account of theft – Whether, if assessee claims expenses incurred with respect to theft of goods, onus to disprove the same lies on the AO before it disallows the same - Whether the principle of preponderance of probability favours assessee if such a claim is made - Whether, if assessee made similar claims in the past, and the same were allowed, it can be presumed that there cannot be further theft in subsequent year - Whether, if police failed to recover goods stolen in the past, the non-performance of the Police can go against the assessee's claim in the impugned year.

[Also see analysis of the Order](#)

[2011-TIOL-299-HC-DEL-IT](#)

CIT Vs Ashok Logani (Dated: May 11, 2011)

Income tax – Section 263 – Whether when AO fails to make a proper enquiry and has

not recorded its satisfaction regarding accepting the claim of the assessee for not disclosing the surrendered income at the time of search in the income tax return filed, the CIT is right in initiating proceedings u/s 263.

[2011-TIOL-298-HC-DEL-IT](#)

CIT Vs Tulip Star Hotels Ltd (Dated: May 11, 2011)

Income tax – Sections 36(1)(vii), 36(2), 37 – Whether when bank guarantee given by the assessee in the case of a loan taken by the co-promoter under an agreement is adjusted by the bank against the loan in the case of co-promoter's failure to repay the loan, assessee can treat such BG written off as bad debt.

[2011-TIOL-297-HC-DEL-IT](#)

CIT Vs NHK Japan Broadcasting Corporation (Dated: May 11, 2011)

Income Tax - Sections 192, 201(1), 201(1A) - Whether when TDS issue is debatable, AO is right in holding the assessee in default u/s 192 - Whether when Revenue files appeals for 11 AYs together, Tribunal's order holding the same as time-barred is sustainable.

[2011-TIOL-296-HC-ALL-IT](#)

CIT Vs Atma Ram Tulsyan (Dated: May 10, 2011)

Income Tax - Section 45 - Whether AO can doubt the share transactions declared by assessee merely on ground that shares were of lesser known companies and their value cannot appreciate to the level claimed by the assessee.

[2011-TIOL-294-HC-DEL-IT](#)

CIT Vs M/s Nalwa Investments Ltd (Dated: May 11, 2011)

Income tax – Sections 14, 56, 72(1), 263 – Whether when assessee lends colour of business income to dividend income declared as 'income from other sources' in the previous year and AO allows set off of brought forward losses against such income, it is a fit ground for CIT to invoke revisionary powers u/s 263.

[Also see analysis of the Order](#)

[2011-TIOL-293-HC-DEL-IT](#)

CIT Vs The Simbhaoli Sugar Mills Ltd (Dated: March 9, 2011)

Income tax – Sections 147, 148 – Whether when the assessment was completed u/s 143(3) and the assessee made full and complete disclosure of facts, the reassessment proceedings initiated beyond the expiry of 4 years on the basis of an opinion formed by the internal auditor of the department, cannot be treated valid as it amounts to change of opinion.

2011-TIOL-291-HC-DEL-IT
CIT Vs M/s SAS Pharmaceuticals (Dated: April 8, 2011)
Income tax – Section 271(1)(c) – Whether penalty can be levied u/s 271(1)(c) on the amount surrendered by the assessee during survey though the amount was declared by the assessee in the return filed by it after survey but before the due date of filing of return – Whether for levying penalty u/s 271(1)(c), the satisfaction for concealment of income should be examined by the AO in the income tax return filed.
2011-TIOL-290-HC-DEL-IT
CIT Vs Ankitech Pvt Ltd (Dated: May 11, 2011)
Income tax – Sections 2(22)(e), 115JB – Whether loan and advances received by the assessee company cannot be treated as deemed dividend in the hands of the assessee as it was not a shareholder of the lender company in which the shareholders having substantial interest in the assessee company were also having 10% of the voting power.
2011-TIOL-289-HC-KAR-IT
CIT, Haryana Vs M/s Motorola India Pvt Ltd (Dated: March 22, 2011)
Income tax - Sections 37(1) - Whether foreign exchange loss suffered due to devaluation of rupee is notional or actual loss - Whether such loss is allowable under Sec 37 - Whether, before such loss is allowed, five tests laid down by the Apex Court in Woodward Governor case must be satisfied.
Also see analysis of the Order
2011-TIOL-288-HC-KAR-IT
CIT, Bangalore Vs M/s Sami Labs Limited (Dated: February 14, 2011)
Income tax – Section 115JAA, 263, 244A – Whether MAT credit is to be first adjusted and then TDS and pre paid taxed should be set off against the total tax liability – Whether assessee is entitled to interest u/s 244A against the MAT credit.
2011-TIOL-287-HC-DEL-IT
CIT Vs ITC Ltd (Dated: May 11, 2011)
Income Tax – Section 2(24), 15, 17(3)(iii), 133A, 192, 201(1), 201(1A) – Whether tips paid by the customers to the employees in the restaurants of the assessee-hotel constitute salary within the meaning of Section 15 and Section 17 of the Act - Whether assessee is liable to deduct tax at source on such payments under Section 192 of the Act.
Also see analysis of the Order
2011-TIOL-286-HC-DEL-IT

Mohan Meakin Limited Vs CIT, Delhi (Dated: May 11, 2011)

Income tax – Sections 36(1)(vii), 37 – Whether assessee is entitled to deduction u/s 37 for the amount of advance given to its supplier which remained unrecovered after suspension of business with it as it was laid out or expended wholly and exclusively for the purposes of the business – Whether assessee cannot be debarred to raise question of deduction under some other section as it was not raised before the authorities below.

[2011-TIOL-285-HC-DEL-IT](#)

CIT Vs Modi Xerox (Dated: May 11, 2011)

Income tax – Section 10B, 37, 40A(2)(b), 115JA, 143(3) – Whether assessee is entitled to exemption u/s 10B merely because the assessee was permitted to establish a new industrial undertaking for the manufacture of computer software as 100% EOU under the STP scheme though it is not recorded that the said unit had in fact been established – Whether an adhoc disallowance can be made for commission expenses though full details of dealers commission were furnished and the dealers were not in any manner related to assessee as per section 40A(2)(b).

[2011-TIOL-284-HC-DEL-IT](#)

CIT, Delhi Vs Modi Stone Ltd (Dated: May 6, 2011)

Income Tax - Whether claim of commission paid by assessee engaged in exports can be allowed merely on the basis of past records and without any evidence on record for the impugned year.

[2011-TIOL-283-HC-DEL-IT](#)

CIT, Delhi Vs M/s HLS india ltd (Dated: May 11, 2011)

Income Tax – Sections 32, 32A, 80IA, Rule 5 - Whether when assessee provides wireline logging services to clients engaged in exploration of hydrocarbons, the production of log amounts production of an article or thing - Whether assessee can be treated as an 'industrial undertaking' eligible for various tx incentives.

[2011-TIOL-282-HC-MP-IT](#)

CIT, Jabalpur Vs M/s Vindhya Telelinks Ltd (Dated: February 22, 2011)

Income tax – Section 32AB – Whether, if assessee gives certain amount as advance towards purchase of machinery but the machinery is not installed during the year, even then deduction u/s 32AB cannot be denied.

[2011-TIOL-280-HC-MAD-IT](#)

CIT, Chennai Vs Shasun Chemicals & Drugs Ltd (Dated: April 25, 2011)

Income tax – Section 143(3), 35D, 35(2AB), 36(1)(v), 40A(9), 43B - Whether where the assessee fails to show that the expenditure for public issue of shares was made

for the expansion, no deduction can be allowed u/s 35D – Whether section 40A(9) has no relevance after the insertion of Section 43B w.e.f.1.4.1984 and deduction cannot be allowed for the bonus amount paid before the due date of filing of income tax return to the trust u/s 40A(9).

[2011-TIOL-279-HC-KAR-IT](#)

M/s Varun Developers Vs CIT, Bangalore (Dated: February 14, 2011)

Income Tax - Sections 80IB(10), 143(3) - Whether AO can deny exemption u/s 80IB(10) without commenting on assessee's claim.

[2011-TIOL-278-HC-KAR-IT](#)

CIT, Shimoga Vs Deshiya Vidya Shala Samithi (Dated: February 8, 2011)

Income Tax - Sections 10 (23C)(iii) & (iv), 12A - Whether a government-aided institution can be debarred from availing Sec 10(23C) benefits merely because it is not registered u/s 12A.

[2011-TIOL-275-HC-DEL-WT](#)

CWT Vs Chelsford Club Ltd (Dated: May 6, 2011)

Wealth Tax Act – Sections 7(1) - Whether value of land situated in a village which was declared surplus under the Urban Land Ceiling Act, 1976, can be treated as wealth of the assessee

[Also see analysis of the Order](#)

[2011-TIOL-274-HC-DEL-IT](#)

CIT Vs Dalmia Dairy Industries Ltd (Dated: May 6, 2011)

Income tax – Capital or Revenue Receipt – Rule 115 – Whether, if assessee receives a sum on account of non-performance of the terms of the agreement by the purchaser under an arbitration award and keep it in the capital account, the surplus arising on account of fluctuation in foreign exchange is taxable as revenue receipt or should be considered as capital receipt – Whether profit and loss arising on account of appreciation or depreciation in the value of foreign currency is taxable only when there is actual conversion of foreign currency.

[2011-TIOL-273-HC-DEL-IT](#)

Simla Automobiles Vs CIT (Dated: April 29, 2011)

Income Tax - Section 43B - Whether disallowance is warranted u/s 43B even if assessee pays up sales tax within the prescribed period.

[2011-TIOL-272-HC-KOL-IT](#)

EIH Limited Vs CIT, Kolkata (Dated: May 4, 2011)

Income Tax – Section 271(1)(c) – Whether penalty provision is attracted in a case where the claim made by the assessee was not tenable in the eye of law – Whether merely because the assessee claimed benefit of deduction having been encouraged by the decision of the appellate authorities in the case of other assessee, such fact can lead to penalty u/s 271(1)(c) even when there is no false or inaccurate particular submitted by the assessee.

[2011-TIOL-271-HC-ALL-IT](#)

Dr V S Chauhan Vs Director of Income Tax Investigations (Dated: May 2, 2011)

Income Tax – Sections 131(1A), 132 - Whether a writ petition is liable to be dismissed on the ground of laches where it is not within reasonable period of time – Whether a futile exercise made by the Department by issuing a notice u/s 131 (1A) of the Act can be said to have any effect on the search operation validly carried on within the four corners of section 132 of the Act .

[2011-TIOL-269-HC-J&K-IT](#)

M/s Shree Balaji Alloys Vs CIT (Dated: January 31, 2011)

Income Tax – Sec 80IB - Whether excise refunds and interest subsidies received from the State Govt's new Industrial Policy are to be treated as revenue receipts - Whether purpose behind the incentives is determinative test - Whether any public purpose is served by such incentives so as to change the nature of subsidies.

[Also see analysis of the Order](#)

[2011-TIOL-268-HC-KAR-IT](#)

CIT, Bangalore Vs M/s Bharati Bt Ltd (Dated: February 8, 2011)

Income Tax - Sections 194I, 201, 271C, 273B - Whether penalty u/s 273B is warranted even if no rent is paid but merely an entry is made in the books for the rent waiver granted by the Group company.

[2011-TIOL-267-HC-AHM-IT](#)

Dy.CIT(ASSTT) Vs Farmson Pharmaceuticals Guj Ltd (Dated: April 7, 2011)

Income tax – Sections 115J, 234B, 234C – Whether while computing the book profit, AO has no jurisdiction to exclude the excess depreciation claimed by the assessee during the year due to the change in method of accounting from SLM to WDV – Whether interest u/s 234B & 234C can be levied where the tax is payable under MAT i.e. u/s 115J.

[2011-TIOL-266-HC-KOL-IT](#)

Bridge & Roof Co (India) Ltd Vs CIT, West Bengal (Dated: April 29, 2011)

Income Tax – Section 3, 4, 145, 154 – Whether merely because in the original return, there is a mistake on the part of the assessee, such fact can be taken to be a ground for refusing the prayer of rectification, when the mistake is apparent from the record.

[2011-TIOL-265-HC-KOL-IT](#)

M/s Pannalal Jejriwal Vs CIT (Dated: April 19, 2011)

Income tax – Taxability of income in the hands of firm or partners – Whether profit on sale of such shares of various companies, which were earlier purchased by the partners of the firm by debiting their capital accounts, paying brokerage and service charges to the firm and there was no restrictive clause in the partnership agreement for not doing such sale and purchase of shares by the partners individually, is taxable in the hands of the partners only and cannot be considered as income of the firm.

[2011-TIOL-263-HC-AHM-IT](#)

Chandrakantbhai Amratlal Thakkar Vs DCIT (Dated: April 15, 2011)

Income tax – Section 158BD – Whether, if no satisfaction is recorded by the AO of the person searched, notice issued u/s 158BD, is to be held as bad in law.

[Also see analysis of the Order](#)

[2011-TIOL-262-HC-KOL-IT](#)

Goodricke Group Ltd Vs CIT, Kolkata (Dated: April 29, 2011)

Income Tax – Section 33AB – Whether profit arising out of any amount of tea purchased by the assessee from outside which was required for the purpose of blending with the tea grown in his own garden, should be deducted for the purpose of arriving at the figure of profit of such business of growing and manufacturing tea for the purpose of claiming deduction u/s 33AB.

[2011-TIOL-261-HC-KOL-IT](#)

Modern Malleables Ltd Vs CIT, Kolkata (Dated: April 29, 2011)

Income Tax – Section 2(11), 32(1), 43(6), 43B, 50 - Whether, without any evidence, AO can attribute higher income of the assessee to a deliberate wrong entry - Whether when assessee constructs a building for its running business but fails to put it to use for some reasons, it can even then claim depreciation on the same.

[2011-TIOL-258-HC-DEL-IT](#)

DIT Vs M/s Mool Chand Khairati Ram Trust (Dated: April 4, 2011)

Income Tax - Sections 11, 12A(a), 12AA(3) - Whether once Sec 12A registration is granted, the Revenue cannot cancel the same u/s 12AA(3).

2011-TIOL-257-HC-AHM-IT
Parle Sales & Services Pvt Ltd Vs ITO (Dated: April 22, 2011)
Income Tax - Sections 143(3), 147, 148 - Whether, if the assessee's income is underassessed on account of an error of judgement by the AO, powers u/s 147 can be resorted to even after expiry of four years in such a case.
2011-TIOL-254-HC-KOL-IT
ICI India Limited Vs CIT, Kolkata (Dated: April 25, 2011)
Income Tax – Sections 32A(5), 155(A) - Whether slump sale without separately fixing the price of different items comes within the purview of “sale” or “otherwise transfer” of the plant and machinery as mentioned in Section 32A(5) of the Act - Whether having regard to the object and scheme of Section 32A(5) of the Act if the plant & machinery is not separately transferred out of the business but such plant & machinery remains fully in the business or the undertaking which has been transferred, the provisions of Section 32A(5) is applicable.
Also see analysis of the Order
2011-TIOL-252-HC-ALL-IT
M/s Triveni Sheets Glass Ltd Vs CCIT, Lucknow (Dated: April 18, 2011)
Income tax – Section 32AB – Whether assessee is entitled to deduction u/s 32AB on the amount of dividend income which is not the business income and the same is not applied for any business purposes – Whether deduction available u/s 32AB is allowable only on the profit from “business or profession” and not from the income from other sources.
Also see analysis of the Order
2011-TIOL-251-HC-KOL-IT
M/s Laxmi Business & Cement Company Pvt Ltd Vs CIT (Dated: April 25, 2011)
Income Tax - Sec 132 - Whether addition can be made by presuming certain GP rate without any evidence on record.

2011-TIOL-250-HC-KOL-IT
Chevoit Company Ltd Vs CIT, Calcutta (Dated: April 25, 2011)
Income Tax - Whether disallowance by the AO and the decision to restrict the disallowance by the Tribunal are sustainable when there is no material on record to do so.
2011-TIOL-248-HC-KOL-IT

M/s Dhanuka & Sons Vs CIT (Dated: April 19, 2011)
Income Tax - Section 10(34), 14A - Whether there should be a nexus between the disproportionate sum disallowed and the income from the exempted source.
2011-TIOL-247-HC-KOL-IT
Balaram Saha Vs CIT, Kolkata (Dated: April 19, 2011)
Income Tax - Sections 131, 133A, 148 - Whether assessee is eligible for set off of intangible additions made in the past on account of suppressed sales with the excess stock detected at the time of survey.
2011-TIOL-243-HC-ALL-IT
CIT, Meerut Vs The District Excise Officer (Dated: March 31, 2011)
Income tax – Sections 154, 206C, 246A, 263 – Whether an order passed under sub-section (6) or (7) of Sec 206C is appealable u/s 246 of the Income tax Act.
2011-TIOL-238-HC-MUM-IT
CIT, Mumbai Vs Shri Bharat R Ruia (Dated: April 18, 2011)
Income Tax – Sections 43(5), 143(3) - Whether the loss incurred from the derivative transactions carried on, on a recognized stock exchange during the year 2003-04 would constitute loss from speculative transaction as contemplated u/s 43(5) of the Act – Whether the clause (d) inserted to the proviso to Section 43(5) has retrospective effect.
Also see analysis of the Order
2011-TIOL-237-HC-KAR-IT
M/s International Sufi Centre Vs DIT, Bangalore (Dated: January 25, 2011)
Income Tax - Section 80-G - Whether when assessee preaches Sufism, a part of Islam religion, it can even then claim Sec 80G benefits as a charitable organisation.
Also see analysis of the Order
2011-TIOL-236-HC-KAR-IT
CIT, Bangalore Vs M/s Expert Outsource (P) Ltd (Dated: March 1, 2011)
Income Tax - Sections 10A, 143(3) - Whether Sec 10A benefits are available even after an existing unit is converted into STPI Unit.
2011-TIOL-235-HC-KAR-IT

<p>CIT, Bangalore Vs M/s Deccan Creations Pvt Ltd (Dated: January 31, 2011)</p> <p>Income Tax - Section 115JAA& 234B, 234C - Whether MAT credit can be given before charging interest u/s 234B and 234C.</p>
<p>2011-TIOL-234-HC-DEL-IT</p>
<p>Praveen Soni Vs CIT (Dated: March 29, 2011)</p> <p>Income tax – Section 80IB – Whether, if the assessee does not claim Sec 80IB benefits in the first year of production, it loses right to avail such benefits in subsequent years as well - Whether it is necessary for the assessee to be registered under Industries Act as SSI to avail such benefits.</p>
<p>Also see analysis of the Order</p>
<p>2011-TIOL-233-HC-KAR-IT</p>
<p>B Gajendra Kumar Vs CCIT, Panjim (Dated: January 28, 2011)</p> <p>Income Tax - Sections 119(2)(a), 133A, 148, 234A, 234B, 234C - Whether when assessee seeks waiver of interest under Ss 234A, B & C, it is obligatory for the CCIT to assign reasons while rejecting the petition.</p>
<p>2011-TIOL-232-HC-MUM-IT</p>
<p>Atlas Copco (India) Limited Vs DCIT, Pune (Dated: March 22, 2011)</p> <p>Income Tax - Sections 143(3), 148 - Whether prior to initiating reassessment, an allegation of suppression of facts or non-disclosures of particulars of income is sine qua non.</p>
<p>2011-TIOL-230-HC-AHM-IT</p>
<p>National Dairy Development Board Vs DCIT (Dated: March 24, 2011)</p> <p>Income tax – Sections 44, 142(1), 143(3), 148 – Whether where assessee discloses fully and truly all material facts necessary for assessment, AO has no jurisdiction to issue notice u/s 148 after expiry of four years – Whether where the ground for reopening the assessment is the subject matter of appeal, it will not fall within the ambit of section 147 and the AO will have no jurisdiction on the said ground.</p>
<p>2011-TIOL-229-HC-DEL-IT</p>
<p>CIT, Ghaziabad Vs Krishna Gupta & Ors (Dated: March 31, 2011)</p> <p>Income tax – Section 254(2) – Whether Tribunal can re-hear a case in the garb of rectification of a mistake apparent.</p>
<p>2011-TIOL-228-HC-AHM-IT</p>

Shayama Sanjay Shah Vs CIT (Dated: March 25, 2011)

Income tax – Sections 139, 215, 271(1)(a), 273A – Waiver of Interest and Penalty – Whether the CIT had rightly rejected the application of the assessee for waiver of interest and penalty without recording his satisfaction as required under section 273A and on the ground that the assessee could not explain the reason for not filing the return and the assessee paid the penalty and interest on the taxes payable therefore there was nothing to waive

[2011-TIOL-224-HC-DEL-IT](#)

CIT Vs Shri Vibhu Talwar (Dated: April 6, 2011)

Income tax – Sections 55, 271(1)(c) - Whether, if the assessee is paid non-competee fee for its manufacturing and trading activities, and a professional firm makes allocation of the sum towards both the activities based on a detailed study before the sum is returned to tax, AO is entitled to substitute the studied view of the experts and make additions - Whether it is necessary for the AO to seek the views of other experts before it rejects the study furnished with the return.

[Also see analysis of the Order](#)

[2011-TIOL-220-HC-DEL-IT](#)

CIT, Delhi Vs Jubilant Securities Pvt Ltd (Dated: March 31, 2011)

Income tax – Long Term capital gain or business income – Whether income earned on sale of shares held under investment portfolio with an intention to earn dividend and most of the shares sold were received on account of bonus, is taxable as long term capital gain.

[2011-TIOL-219-HC-AHM-IT](#)

CIT, Gandhinagar Vs Gujarat Power Corporation Ltd (Dated: March 28, 2011)

Income tax – Section 14A – When there is no evidence that the borrowed amount is utilised for investment in tax free security, and the major investment was made before the date of borrowings, whether disallowance made by the AO u/s 14A for interest on borrowed funds is rightly deleted.

[2011-TIOL-217-HC-KOL-WT](#)

I K Agencies Pvt Ltd Vs CWT, Kolkata (Dated: March 11, 2011)

Wealth Tax – Sections 2m, 16(4), 17, 42C, Rule 4 - Whether a reassessment notice issued to a non-existent company which amalgamated with the appellant is valid in law - Whether appellant which had taken over the assessee company is under obligation to respond to reassessment notice.

[Also see analysis of the Order](#)

[2011-TIOL-211-HC-DEL-IT](#)

CIT Vs Cadbury India Limited (Dated: March 28, 2011)
Income Tax – Sections 133A, 194C, 194I, 194J, 201(1), 201(1A), 271C – Tax Deduction At Source - Whether, even if findings of AO are not conclusive but the assessee accepts quantum proceedings, it warrants imposition of penalty for deducting tax at source under wrong Sections of the Act.
Also see analysis of the Order
2011-TIOL-210-HC-DEL-IT
CIT, Delhi Vs M/s Hydrocarbons India Ltd (Dated: March 30, 2011)
Income Tax – Whether additional ground raised by the assessee, even though bona fide can be rejected on the ground that while raising the additional ground the assessee fails to demonstrate good reasons as to why the ground was not raised earlier.
2011-TIOL-209-HC-KOL-IT
The Estate Of Sree Sree Radha Kishan Jew Vs CIT, Kolkata (Dated: March 31, 2011)
Income Tax - Section 24(1)(iv) - Whether right of Shebait is heritable right and has some limitation over the property of the deity - Whether remuneration paid to Shebait is a charge over the property of trust within the meaning of section 24 and hence allowable as deduction from the income from House property.
2011-TIOL-208-HC-KOL-IT
CIT, West Bengal Vs M/s Eih Limited (Dated: March 31, 2011)
Income Tax – Sections 32, 37(2) & (3), 80HHD, Rule 6B – Whether the expenditure incurred on account of gifts can be allowed as deduction when tax audit report of the assessee itself states that the same is disallowable under Rule 6B – Whether the expenditure incurred on account of gifts is covered by Section 37(2) of the Act - Whether for computing deduction u/s 80HHD of the Act “receivables” are to be included in the total turnover.
Also see analysis of the Order
2011-TIOL-207-HC-DEL-IT
CIT Vs Pepsico India Holdings Pvt Ltd (Dated: March 25, 2011)
Income Tax – Section 32 - Whether valuation of assets acquired by the assessee and duly supported by the relevant agreement as well as report of the registered valuer can be tinkered with by the Assessing Officer merely on the assumption of certain things which were non-existing.
2011-TIOL-206-HC-DEL-IT

CIT Vs Eli Lilly & Co. India Pvt Ltd (Dated: March 25, 2011)

Income Tax - Sections 115JA, 154 - Whether adjustment made by the AO against the intimation issued u/s 143 (1) by way of a rectification order in respect of unabsorbed depreciation is beyond the scope of Section 154.

[2011-TIOL-205-HC-KOL-IT](#)

CIT, West Bengal Vs Norplex Oak India (Dated: March 31, 2011)

Income Tax - Section 32 - Whether depreciation is allowable even if assessee suspends its business for the entire year due to bad law and order situation in the State.

[2011-TIOL-204-HC-KOL-IT](#)

DIT Vs Sahu Jain Trust (Dated: March 31, 2011)

Income Tax - Section 11(4A), 12A - Whether subletting of tenanted property by the assessee which is a charitable trust amounts to carrying of business - Whether principle of res-judicata are applicable to income tax proceedings irrespective of change in facts and circumstances of the case.

[2011-TIOL-202-HC-MAD-IT](#)

Chandragiri Construction Company Vs Income-Tax Settlement Commission, Chennai (Dated: March 16, 2011)

Income Tax – Sections 158BC, 245D – Whether writ is maintainable challenging the issue of show cause notice by the Income Tax Settlement Commission after the settlement has been concluded – Whether the Commission can issue SCN to the assessee after the settlement has been concluded on the mere ground that the AO filed an application before the commission for revoking the earlier settlement for the reason that the genuineness of the documents produced by the assessee during the course of hearing has been doubted.

[2011-TIOL-201-HC-MUM-IT](#)

Jayant Agro Chemicals Ltd Vs ITO, Mumbai (Dated: March 14, 2011)

Income tax - Sections 10B, 143(3), 147 - Whether reassessment can be initiated on the ground that certain value addition was not achieved by the assessee even though the licensing authority does not prescribe such a condition.

[2011-TIOL-150-HC-MAD-IT](#)

CIT Vs D Rathinam (Dated: February 1, 2011)

Income Tax - Sections 40(a)(ia), 194C, 194I - Whether when Sec 194I came into being only from 2007, putting TDS liability on hiring of machinery, Revenue is right in insisting on tax deduction at source on miller and road roller charges for the prior

period.
2011-TIOL-145-HC-P&H-IT-LB
CIT, Ludhiana Vs M/s Varindera Construction Co, Baghapurana (Dated: February 4, 2011)
Income Tax – Section 268A - Whether CBDT circular prescribing revision of the monetary limit for filing of appeals by the Department is applicable to appeals already filed prior to the date of the issuance of the circular, irrespective of prescribed monetary limit applicable at the time of filing of that appeal.
Also see analysis of the Order
2011-TIOL-142-HC-DEL-IT
CIT Vs Goyal M G Gases Pvt Ltd (Dated: February 23, 2011)
Income tax – Sections 153(3)(ii), 263 – Whether where CIT directed the AO to pass the consequential order within three months but the AO failed to do so and passed an order after expiry of almost four years, the consequential order is beyond a reasonable period of limitation and is bad in law though there was no period of limitation prescribed u/s 153(3)(ii).
2011-TIOL-141-HC-DEL-IT
ITO Vs M/s Delhi Iron Works (Pvt) Ltd (Dated: February 8, 2011)
Income Tax - Sections 2(35), 194A, 204, 276, 278B - Whether when Directors are acquitted in Sec 276B proceedings, the assessee company is also entitled to acquittal on the ground that it is merely a legal entity managed by the same set of Directors.
2011-TIOL-138-HC-DEL-IT
CIT, New Delhi Vs Shri Narender Anand (Dated: February 24, 2011)
Income Tax – Sections 43B, 80, 139(1) - Whether when the time for filing return is extended in terms of proviso to Section 139 (1), it automatically means extension of the due date for the purpose of Section 43B of the Act.
Also see analysis of the Order
2011-TIOL-137-HC-DEL-IT
CIT, New Delhi Vs Gitwako Farma (I) Pvt Ltd (Dated: February 18, 2011)
Income tax – Sections 80IB, 144A – Whether the activity undertaken to convert raw fish into tinned fish is only a 'processing' or 'manufacturing' - Whether assessee can claim Sec 80IB benefits on such activity - Whether assessee can claim refund if it has been paying Central Excise duty on such activity.
Also see analysis of the Order

2011-TIOL-136-HC-KAR-IT
Shri Mahesh G Shetty Vs CIT, Bangalore (Dated: December 24, 2010)
Income tax – Sections 14A, 143(3), 263 – Whether when AO allows the interest expenditure incurred for availing borrowed capital which was also utilised for earning non-taxable income, CIT is right in invoking powers u/s 263 as proviso to Sec 14A was brought into from 11.5.2001 but section 14A was brought in by Finance Act 2001 with retrospective effect from 1/4/1962.
2011-TIOL-133-HC-DEL-IT
CIT Vs Sandan Vikas (India) Ltd (Dated: February 24, 2011)
Income Tax - Section 35(2AB) - Whether the cut-off date mentioned in the certificate issued by the DSIR would be sufficient to hold that the assessee fulfills the conditions laid down in section 35 (2AB).
2011-TIOL-132-HC-DEL-IT
Rishabh Buildcon Pvt Ltd Vs CIT, New Delhi (Dated: February 14, 2011)
Income Tax - Writ - Section 127(1) - Whether Revenue is justified in transferring assessee's case from one place to another without ensuring any nexus to the facts of the case.
2011-TIOL-131-HC-DEL-IT
Motor General Finance Ltd Vs CIT (Dated: February 18, 2011)
Income tax - Revenue or Capital Receipt - Whether when assessee receives excess insurance premium from its customers and the same remains unclaimed, such surplus fund can be taxed as revenue receipt.
2011-TIOL-130-HC-DEL-IT
CIT Vs Khaitan Chemicals And Fertilizers Ltd (Dated: February 8, 2010)
Income Tax - Sections 36(1)(vii), 37(1) - Whether assessee is entitled to claim subsidy not received as a bad debt or as an expenditure u/s 37(1).
2011-TIOL-129-HC-KERALA-IT-LB
CIT Vs Packworth Udyog Ltd (Dated: November 30, 2010)
Income Tax – Section 80HHC, 115JB - Whether deduction u/s 80HHC is available in the computation of book profit u/s 115JB of the Act .
Also see analysis of the Order

2011-TIOL-126-HC-DEL-IT
Honda Siel Power Products Limited Vs DCIT (Dated: February 14, 2011)
Income Tax – AY 2000-01 - Writ - Sections 10(33), 14A, 41, 147, 148, 154 – Whether reassessment notice u/s 148 calls for quashment merely because evidence lies embedded in materials furnished by assessee and AO could have uncovered the same but it failed to do so - Whether provisions of Section 154 can be said to be a substitute for Section 147/148 .
Also see analysis of the Order
2011-TIOL-125-HC-MUM-IT
CIT, Pune Vs M/s Brahma Associates (Dated: February 22, 2011)
Income Tax – Section 80-IB - Whether deduction under Section 80IB(10) as it stood prior to 1/4/2005 is allowable to a housing project approved by a local authority with commercial user to the extent permitted under the development under the Development Control Rules framed by the local authority - Whether the expression 'housing projects' in Section 80IB(10) applies to projects being commercial user .
2011-TIOL-124-HC-DEL-IT
Logitronics Pvt Ltd Vs CIT (Dated: February 18, 2011)
Income tax – Sections 28, 41(1) – Whether where the repayment of principal amount of loan was waived by the bank, the said amount can be treated as taxable u/s 28 or 41(1) or be treated as capital receipt.
2011-TIOL-123-HC-ALL-IT
M/s M D Overseas Ltd Vs DGIT (Dated: February 4, 2011)
Income Tax - Sections 132, - Indian Evidence Act - Sections 123, 124 - Whether when assessee makes a prima facie case against validity of search, Revenue is obliged to share information relating to 'reasons to believe' for authorising search except the source of information - Whether Income tax can conduct search in SEZ area without taking prior approval of Development Commissioner.
Also see analysis of the Order
2011-TIOL-119-HC-DEL-IT
CIT Vs Bindals Apparels (Dated: February 18, 2011)
Income tax – Section 145 – Whether when books are produced for examination and no adverse observations are made about the entries in books, AO is right in making additions on GP basis by rejecting the books merely because of its absence.

2011-TIOL-118-HC-AHM-IT
CIT Vs Jaishu Shipping Company Private Limited (Dated: January 10, 2011)
Income Tax - Section 37 - Whether when assessee is engaged in shipping business, entertainment expenses are incidental to the vocation of the assessee - Whether AO is right in disallowing the same.
2011-TIOL-117-HC-KOL-IT
Paharpur Cooling Towers Ltd Vs CIT, Calcutta (Dated: October 5, 2010)
Income tax – Sections 28, 43(5), 70, 71, 73 – Whether explanation to Section 73 which is a statutory fiction introduced for treating the loss arising from the business of purchasing and selling of shares as loss from speculation business is confined and restricted only for the purpose of Section 73 or can also be extended or applied to other provisions of the Act – Whether the loss arising from transfer of shares through actual delivery is speculation in nature as per explanation to section 73 though it was not speculation u/s 43(5) of the Act.
2011-TIOL-116-HC-MAD-IT
CIT Vs M/s Zainab Trading Pvt Ltd (Dated: February 7, 2011)
Income Tax - Section 80IB - Whether production of corrugated boxes from kraft sheets amounts to 'manufacture' and thus benefit of Sec 80IB is admissible
2011-TIOL-115-HC-ALL-IT
Mrs Neera Yadav Vs CIT, Lucknow (Dated: February 18, 2011)
Income Tax - Writ - Sections 147, 148 - Whether the notice issued u/s 148 be quashed for the A.Y'S 1992-93 to 1995-96? Whether the assessee is a Benaami owner of the property in question.
2011-TIOL-113-HC-DEL-IT
CIT Vs Virgin Securities & Credits Pvt Ltd (Dated: February 18, 2011)
Income tax – Section 41(1), Rule 46A – Whether where assessee furnishes evidence for its claim of loss before CIT (A) and in the remand report, the AO does not object to the additional evidence submitted, the CIT (A) is entitled to accept the additional evidence which is critical for disposal of the appeal and has a direct bearing on the quantum of claim made by the assessee– Whether AO is wrong in making disallowance when the explanation offered raises a question of law.
2011-TIOL-112-HC-KERALA-IT
Sheel Kudiyirippil Vs ADIT (Dated: January 6, 2011)
Income Tax - Whether when assessee's gold is seized from its agent, HC is within its jurisdiction to direct the Revenue to wrap up proceedings within four months and

release the seized gold.
2011-TIOL-111-HC-P&H-IT
CIT, Karnal Vs M/s OM Overseas (Dated: January 31, 2011)
Income tax – Rule 46A – Whether additional evidence can be admitted by the CIT (A) where the documents received as additional evidence are duly sent to the AO for his comments.
2011-TIOL-110-HC-P-H-IT
CIT, Karnal Vs M/s OM Overseas (Dated: January 31, 2011)
Income tax – Sections 37, 145 – Whether AO is right in making disallowance on ad hoc basis by rejecting the books of the assessee and without recording reasons that the books do not correctly reflect the true income of the assessee.
2011-TIOL-107-HC-MP-IT
Suman Singhai Vs DIT, Bhopal (Dated: November 8, 2010)
Income Tax – Section 132A – Whether when Revenue receives police information about seizure of cash and silver, it is justified in issuing search warrant, treating seizure as undisclosed assets.
Also see analysis of the Order
2011-TIOL-105-HC-DEL-IT
St Lawrence Educational Society (Regd) & Another Vs CIT, Delhi (Dated: February 4, 2011)
Income Tax - Sections 10(23C)(vi) - Whether when an educational institution generates surplus fund, it loses claim to exemption u/s 10(23C)(vi).
2011-TIOL-104-HC-DEL-IT
S K Bahadur Vs UOI (Dated: January 31, 2011)
Income tax – Whether where the assessee's wife had given a statement on oath and submitted the evidence in the form of wealth tax return filed before the date of search that she owned the properties mentioned in the documents seized, the AO wrongly made addition in the hands of the assessee on the basis of surmises and presumptions – whether when the evidences substantiated that the money belonged to the wife, especially when these were reflected in the wealth tax return, no addition is warranted in the hands of husband.
2011-TIOL-103-HC-P&H-IT

CIT, Faridabad Vs M/s Nuchem Limited, Faridabad (Dated: February 1, 2011)

Income tax – Section 80 – Whether where assessee has legitimate reason for delay on account of audit being incomplete, AO is unfair in not allowing the extension of time for filing return and disallowing the carry forward of losses u/s 80 of the Act – Whether where the assessee claims refund of duty on the basis of a decision of Apex Court which is not accepted by the excise department, no addition can be made u/s 41(1) for the said amount.

[2011-TIOL-102-HC-P&H-IT](#)

CIT, Faridabad Vs Shri Naveen Verma (Dated: February 1, 2011)

Income tax – Sections 144, 158BC, 158BD, 292B - Whether notice issued u/s 158BD to file return in less than 15 days vitiates the assessment made u/s 158BD r.w.s. 158BC - Whether the flaws in the notice for allowing less than 15 days to file the return is curable u/s 292B of the Act.

[2011-TIOL-101-HC-DEL-IT](#)

DDIT Vs Shanti Devi Progressive Education Society (Dated: February 10, 2011)

Income tax – Section 12A, 10(22) – Whether assessee is entitled to exemption u/s 10(22) so long as the profits are utilized for promotion of objects of the institution and the provisions of DSC Act prohibiting to accept donations is not applicable to unaided institutions – Whether where the Society was registered u/s 12A on the basis of its Memorandum of Association with the object of running of schools which had not changed, the principle of consistency would be applicable.

[2011-TIOL-150-HC-MAD-IT](#)

CIT Vs D Rathinam (Dated: February 1, 2011)

Income Tax - Sections 40(a)(ia), 194C, 194I - Whether when Sec 194I came into being only from 2007, putting TDS liability on hiring of machinery, Revenue is right in insisting on tax deduction at source on miller and road roller charges for the prior period.

[2011-TIOL-145-HC-P&H-IT-LB](#)

CIT, Ludhiana Vs M/s Varindera Construction Co, Baghapurana (Dated: February 4, 2011)

Income Tax – Section 268A - Whether CBDT circular prescribing revision of the monetary limit for filing of appeals by the Department is applicable to appeals already filed prior to the date of the issuance of the circular, irrespective of prescribed monetary limit applicable at the time of filing of that appeal.

[Also see analysis of the Order](#)

[2011-TIOL-142-HC-DEL-IT](#)

CIT Vs Goyal M G Gases Pvt Ltd (Dated: February 23, 2011)

Income tax – Sections 153(3)(ii), 263 – Whether where CIT directed the AO to pass the consequential order within three months but the AO failed to do so and passed an order after expiry of almost four years, the consequential order is beyond a reasonable period of limitation and is bad in law though there was no period of limitation prescribed u/s 153(3)(ii).

[2011-TIOL-141-HC-DEL-IT](#)

ITO Vs M/s Delhi Iron Works (Pvt) Ltd (Dated: February 8, 2011)

Income Tax - Sections 2(35), 194A, 204, 276, 278B - Whether when Directors are acquitted in Sec 276B proceedings, the assessee company is also entitled to acquittal on the ground that it is merely a legal entity managed by the same set of Directors.

[2011-TIOL-138-HC-DEL-IT](#)

CIT, New Delhi Vs Shri Narender Anand (Dated: February 24, 2011)

Income Tax – Sections 43B, 80, 139(1) - Whether when the time for filing return is extended in terms of proviso to Section 139 (1), it automatically means extension of the due date for the purpose of Section 43B of the Act.

[Also see analysis of the Order](#)

[2011-TIOL-137-HC-DEL-IT](#)

CIT, New Delhi Vs Gitwako Farma (I) Pvt Ltd (Dated: February 18, 2011)

Income tax – Sections 80IB, 144A – Whether the activity undertaken to convert raw fish into tinned fish is only a 'processing' or 'manufacturing' - Whether assessee can claim Sec 80IB benefits on such activity - Whether assessee can claim refund if it has been paying Central Excise duty on such activity.

[Also see analysis of the Order](#)

[2011-TIOL-136-HC-KAR-IT](#)

Shri Mahesh G Shetty Vs CIT, Bangalore (Dated: December 24, 2010)

Income tax – Sections 14A, 143(3), 263 – Whether when AO allows the interest expenditure incurred for availing borrowed capital which was also utilised for earning non-taxable income, CIT is right in invoking powers u/s 263 as proviso to Sec 14A was brought into from 11.5.2001 but section 14A was brought in by Finance Act 2001 with retrospective effect from 1/4/1962.

[2011-TIOL-133-HC-DEL-IT](#)

CIT Vs Sandan Vikas (India) Ltd (Dated: February 24, 2011)

Income Tax - Section 35(2AB) - Whether the cut-off date mentioned in the certificate issued by the DSIR would be sufficient to hold that the assessee fulfills the conditions laid down in section 35 (2AB).

[2011-TIOL-132-HC-DEL-IT](#)

Rishabh Buildcon Pvt Ltd Vs CIT, New Delhi (Dated: February 14, 2011)

Income Tax - Writ - Section 127(1) - Whether Revenue is justified in transferring assessee's case from one place to another without ensuring any nexus to the facts of the case.

[2011-TIOL-131-HC-DEL-IT](#)

Motor General Finance Ltd Vs CIT (Dated: February 18, 2011)

Income tax - Revenue or Capital Receipt - Whether when assessee receives excess insurance premium from its customers and the same remains unclaimed, such surplus fund can be taxed as revenue receipt.

[2011-TIOL-130-HC-DEL-IT](#)

CIT Vs Khaitan Chemicals And Fertilizers Ltd (Dated: February 8, 2010)

Income Tax - Sections 36(1)(vii), 37(1) - Whether assessee is entitled to claim subsidy not received as a bad debt or as an expenditure u/s 37(1).

[2011-TIOL-129-HC-KERALA-IT-LB](#)

CIT Vs Packworth Udyog Ltd (Dated: November 30, 2010)

Income Tax – Section 80HHC, 115JB - Whether deduction u/s 80HHC is available in the computation of book profit u/s 115JB of the Act .

[Also see analysis of the Order](#)

[2011-TIOL-126-HC-DEL-IT](#)

Honda Siel Power Products Limited Vs DCIT (Dated: February 14, 2011)

Income Tax – AY 2000-01 - Writ - Sections 10(33), 14A, 41, 147, 148, 154 – Whether reassessment notice u/s 148 calls for quashment merely because evidence lies embedded in materials furnished by assessee and AO could have uncovered the same but it failed to do so - Whether provisions of Section 154 can be said to be a substitute for Section 147/148 .

[Also see analysis of the Order](#)

[2011-TIOL-125-HC-MUM-IT](#)

CIT, Pune Vs M/s Brahma Associates (Dated: February 22, 2011)

Income Tax – Section 80-IB - Whether deduction under Section 80IB(10) as it stood prior to 1/4/2005 is allowable to a housing project approved by a local authority with commercial user to the extent permitted under the development under the Development Control Rules framed by the local authority - Whether the expression 'housing projects' in Section 80IB(10) applies to projects being commercial user .

[2011-TIOL-124-HC-DEL-IT](#)

Logitronics Pvt Ltd Vs CIT (Dated: February 18, 2011)

Income tax – Sections 28, 41(1) – Whether where the repayment of principal amount of loan was waived by the bank, the said amount can be treated as taxable u/s 28 or 41(1) or be treated as capital receipt.

[2011-TIOL-123-HC-ALL-IT](#)

M/s M D Overseas Ltd Vs DGIT (Dated: February 4, 2011)

Income Tax - Sections 132, - Indian Evidence Act - Sections 123, 124 - Whether when assessee makes a prima facie case against validity of search, Revenue is obliged to share information relating to 'reasons to believe' for authorising search except the source of information - Whether Income tax can conduct search in SEZ area without taking prior approval of Development Commissioner.

[Also see analysis of the Order](#)

[2011-TIOL-119-HC-DEL-IT](#)

CIT Vs Bindals Apparels (Dated: February 18, 2011)

Income tax – Section 145 – Whether when books are produced for examination and no adverse observations are made about the entries in books, AO is right in making additions on GP basis by rejecting the books merely because of its absence.

[2011-TIOL-118-HC-AHM-IT](#)

CIT Vs Jaishu Shipping Company Private Limited (Dated: January 10, 2011)

Income Tax - Section 37 - Whether when assessee is engaged in shipping business, entertainment expenses are incidental to the vocation of the assessee - Whether AO is right in disallowing the same.

[2011-TIOL-117-HC-KOL-IT](#)

Paharpur Cooling Towers Ltd Vs CIT, Calcutta (Dated: October 5, 2010)

Income tax – Sections 28, 43(5), 70, 71, 73 – Whether explanation to Section 73 which is a statutory fiction introduced for treating the loss arising from the business of purchasing and selling of shares as loss from speculation business is confined and restricted only for the purpose of Section 73 or can also be extended or applied to

other provisions of the Act – Whether the loss arising from transfer of shares through actual delivery is speculation in nature as per explanation to section 73 though it was not speculation u/s 43(5) of the Act.

[2011-TIOL-116-HC-MAD-IT](#)

CIT Vs M/s Zainab Trading Pvt Ltd (Dated: February 7, 2011)

Income Tax - Section 80IB - Whether production of corrugated boxes from kraft sheets amounts to 'manufacture' and thus benefit of Sec 80IB is admissible

[2011-TIOL-115-HC-ALL-IT](#)

Mrs Neera Yadav Vs CIT, Lucknow (Dated: February 18, 2011)

Income Tax - Writ - Sections 147, 148 - Whether the notice issued u/s 148 be quashed for the A.Y'S 1992-93 to 1995-96? Whether the assessee is a Benaami owner of the property in question.

[2011-TIOL-113-HC-DEL-IT](#)

CIT Vs Virgin Securities & Credits Pvt Ltd (Dated: February 18, 2011)

Income tax – Section 41(1), Rule 46A – Whether where assessee furnishes evidence for its claim of loss before CIT (A) and in the remand report, the AO does not object to the additional evidence submitted, the CIT (A) is entitled to accept the additional evidence which is critical for disposal of the appeal and has a direct bearing on the quantum of claim made by the assessee– Whether AO is wrong in making disallowance when the explanation offered raises a question of law.

[2011-TIOL-112-HC-KERALA-IT](#)

Sheel Kudiyirippil Vs ADIT (Dated: January 6, 2011)

Income Tax - Whether when assessee's gold is seized from its agent, HC is within its jurisdiction to direct the Revenue to wrap up proceedings within four months and release the seized gold.

[2011-TIOL-111-HC-P&H-IT](#)

CIT, Karnal Vs M/s OM Overseas (Dated: January 31, 2011)

Income tax – Rule 46A – Whether additional evidence can be admitted by the CIT (A) where the documents received as additional evidence are duly sent to the AO for his comments.

[2011-TIOL-110-HC-P-H-IT](#)

CIT, Karnal Vs M/s OM Overseas (Dated: January 31, 2011)

Income tax – Sections 37, 145 – Whether AO is right in making disallowance on ad hoc basis by rejecting the books of the assessee and without recording reasons that the books do not correctly reflect the true income of the assessee.
2011-TIOL-107-HC-MP-IT
Suman Singhai Vs DIT, Bhopal (Dated: November 8, 2010)
Income Tax – Section 132A – Whether when Revenue receives police information about seizure of cash and silver, it is justified in issuing search warrant, treating seizure as undisclosed assets.
Also see analysis of the Order
2011-TIOL-105-HC-DEL-IT
St Lawrence Educational Society (Regd) & Another Vs CIT, Delhi (Dated: February 4, 2011)
Income Tax - Sections 10(23C)(vi) - Whether when an educational institution generates surplus fund, it loses claim to exemption u/s 10(23C)(vi).
2011-TIOL-104-HC-DEL-IT
S K Bahadur Vs UoI (Dated: January 31, 2011)
Income tax – Whether where the assessee's wife had given a statement on oath and submitted the evidence in the form of wealth tax return filed before the date of search that she owned the properties mentioned in the documents seized, the AO wrongly made addition in the hands of the assessee on the basis of surmises and presumptions – whether when the evidences substantiated that the money belonged to the wife, especially when these were reflected in the wealth tax return, no addition is warranted in the hands of husband.
2011-TIOL-103-HC-P&H-IT
CIT, Faridabad Vs M/s Nuchem Limited, Faridabad (Dated: February 1, 2011)
Income tax – Section 80 – Whether where assessee has legitimate reason for delay on account of audit being incomplete, AO is unfair in not allowing the extension of time for filing return and disallowing the carry forward of losses u/s 80 of the Act – Whether where the assessee claims refund of duty on the basis of a decision of Apex Court which is not accepted by the excise department, no addition can be made u/s 41(1) for the said amount.
2011-TIOL-102-HC-P&H-IT
CIT, Faridabad Vs Shri Naveen Verma (Dated: February 1, 2011)
Income tax – Sections 144, 158BC, 158BD, 292B - Whether notice issued u/s 158BD to file return in less than 15 days vitiates the assessment made u/s 158BD r.w.s. 158BC - Whether the flaws in the notice for allowing less than 15 days to file the

return is curable u/s 292B of the Act.
2011-TIOL-101-HC-DEL-IT
DDIT Vs Shanti Devi Progressive Education Society (Dated: February 10, 2011)
Income tax – Section 12A, 10(22) – Whether assessee is entitled to exemption u/s 10(22) so long as the profits are utilized for promotion of objects of the institution and the provisions of DSC Act prohibiting to accept donations is not applicable to unaided institutions – Whether where the Society was registered u/s 12A on the basis of its Memorandum of Association with the object of running of schools which had not changed, the principle of consistency would be applicable.

2011-TIOL-97-HC-KOL-IT
M/s Jasmine Commercials Ltd Vs CIT, Kolkata (Dated: February 4, 2011)
Income Tax – Sections 45, 254 - Whether sum paid as compensation for occupation of a premises after the expiry of the lease and for repair or damage to the premises by the tenant can be treated as an amount received by way of consideration for transfer of any tenancy right - Whether Tribunal exceeded its jurisdiction in enhancing the scope of the appeal although the appellant did not raise any such point .
Also see analysis of the Order
2011-TIOL-96-HC-KOL-IT
Mukti Properties Pvt Ltd Vs CIT, Kolkata (Dated: October 5, 2010)
Income tax – Sections 24, 143(1), 148 - Whether the question of legality of notice issued u/s 148 can be raised for the first time before the High Court though the assessee itself invited AO, CIT (Appeals) to decide the matter on merit waiving its right to question the validity and legality of the notice and action of reassessment.
2011-TIOL-95-HC-KOL-IT
Kailash Prasad Jain Vs CIT, Kolkata (Dated: November 12, 2010)
Income tax – Sections 158B, 260A, 263 – Whether where the assessee has preferred an appeal against the order of the ITAT approving the jurisdiction of the CIT for initiating proceedings u/s 263, the appeal made separately questioning the jurisdiction is infructuous since the question of jurisdiction can be raised in the regular appeal filed against the order of the ITAT.
2011-TIOL-94-HC-KOL-IT
CIT, Calcutta Vs J K Corporation Ltd (Dated: October 5, 2010)
Income tax – Sections 72A, 80, 139, 143(2), Circular 583 of 1994 – Whether

assessee is entitled to losses of the sick company amalgamated with the assessee company in the A.Y. from which the order of BIFR is effective and retrospective – whether the scheme which is sanctioned under the SICA Act is having overriding effect over the provisions of Income tax Act – Whether the sanctioned scheme shall be conclusive evidence of fulfilling of requirements regarding consent of Central Government/CBDT Circular No. 583 dated 8.5.94.

[2011-TIOL-93-HC-KOL-IT](#)

Hindustan Lever Ltd Vs CIT (Dated: February 4, 2011)

Income Tax - Section 263, Rule 8 – Whether the amount of cess paid by an assessee under the Assam Agricultural Income Tax Act on green tea leaf is allowable as a “business expenditure” in computing the composite income under Rule 8 of I-T Act.

[2011-TIOL-92-HC-KERALA-IT-LB](#)

M/s Midas Polymer Compounds(P) Ltd Vs ACIT (Dated: December 21, 2010)

Income tax - Sections 32A, 80IB - Whether only finished products are eligible for Sec 80IB benefits - Whether manufacture of rubber compound on jobwork basis for tyre companies as intermediate product is eligible for deduction u/s 80IB - Whether interest on delayed payment by tyre manufacturers to jobworker is admissible deduction under Sec 80IB only if it is treated as business income for the undertaking.

[Also see analysis of the Order](#)

[2011-TIOL-91-HC-MAD-IT](#)

CIT, Coimbatore Vs Chiranjeevi Wind Energy Ltd (Dated: January 10, 2011)

Income Tax - Section 80IB - Whether assembling of different parts and thereby facilitating the bringing of the windmill into existence would amount to 'manufacture,' in order to entitle the assessee for deduction as provided u/s 80IB.

[2011-TIOL-88-HC-P&H-IT-LB](#)

CIT, Ludhiana Vs Rockman Cycle Industries Pvt Ltd (Dated: February 1, 2011)

Income Tax – Sections 36(1)(iii), 37(1), 57(iii) - Whether when assessee borrows funds at high interest rate from sister concern and invest the same in another sister concern which yields low dividend, AO is right in questioning the wisdom of assessee's decision and, therefore, is justified in disallowing the interest expenditure.

[Also see analysis of the Order](#)

[2011-TIOL-87-HC-P&H-IT](#)

Rameshwar Singh Lilly Vs Chairman, CBDT (Income Tax), New Delhi (Dated: February 3, 2011)

Income tax - Sec 276CC - Whether even if a case is eligible to avail benefit of compounding, CBDT is right in rejecting the same merely because there are chances of conviction of the assessee.

[2011-TIOL-86-HC-MUM-IT](#)

Shri Sagar Sharma Vs Addl.CIT (Dated: February 4, 2011)

Income Tax – Writ - Section 159 - Transfer of Property Act - Sections 44, 45 - Whether petition before the court is liable to be rejected at the threshold for nonjoinder of necessary parties – Whether the court can entertain the petition even if alternate remedy is available to the petitioners .

[2011-TIOL-85-HC-DEL-IT](#)

CIT Vs Shri Naresh Kumar Aggarwala (Dated: February 7, 2011)

Income Tax – Section 132(4A) - Whether document in the form of fax message is admissible under Section 132(4A) of the Act when assessee fails to rebut the correctness of the contents of that document .

[2011-TIOL-84-HC-KOL-IT](#)

Kwality Ice Creams India Ltd Vs CIT, Calcutta (Dated: January 21, 2011)

Income Tax – Sections 45, 50(1) - Whether amount received by appellant for transfer of its entire marketing undertaking by way of slump sale in terms of the agreement is a capital receipt to which the provisions of Section 50(1) of the Act had no application and hence, no capital gains can be taxed.

[2011-TIOL-81-HC-DEL-IT](#)

Cyber Media (India) Ltd Vs CIT (Dated: February 7, 2011)

Income Tax – Section 145 – Whether income accrued but not received can be disallowed on the background of absence of corresponding amendment in the Income Tax Act vis -à-vis Section 209 of the Companies Act, 1956.

[2011-TIOL-80-HC-DEL-IT](#)

CIT Vs M/s Escorts Ltd (Dated: February 1, 2011)

Income Tax – Section 263 - Whether when transactions in UTI units were carried out in the past and also being accepted by the Revenue consistently for several years, Revenue is right in reopening the assessment by dubbing the same as erroneous.

[2011-TIOL-79-HC-DEL-IT](#)

M/s Titanor Components Ltd Vs CIT (Dated: February 4, 2011)

Income Tax – Section 80-IA – Whether coating with oxides of Noble Metals on Titanium Metal Electrode / Anode bringing about a change in its character and user for making it fit for use in the production of chlorine and caustic soda in an electrolytic process is “manufacture” or “production” of “article” or “thing” within the meaning of section 80-IA of the Act .

[2011-TIOL-77-HC-AP-IT](#)

M/s Priyadarshini Educational Academy Vs DGIT, Hyderabad (Dated: December 22, 2010)

Income tax – Section 10(23C)(iv), 11(5) – Whether where the assessee violated the conditions as to the mode or form of investment/deposit, as prescribed in Section 11(5) of the Act in any of the previous three financial years, the application, seeking approval under Section 10(23C)(vi) of the Act was rightly rejected.

[2011-TIOL-76-HC-KAR-IT](#)

CIT, Bangalore Vs Smt Jyothi K Mehta (Dated: January 5, 2011)

Income Tax - Section 54, 54F - Whether when assessee utilises capital gains by purchasing two flats to be used as one residence, assessee is entitled to the benefit of Section 54.