

HIGH COURT RULING (INCOME TAX)

[2014-TIOL-880-HC-AHM-IT](#)

CIT Vs Kaypee Mechanical India Pvt Ltd (Dated: April 24, 2014)

Income Tax - Section 37(1) - service tax - business expenditure - primary liability - onus to collect - infraction of law - compensatory - penalty - Whether if a service provider fails to collect service tax from its clients but once pointed out by Audit, deposits the same with interest, such expenses can be claimed as eligible deduction u/s 37(1).

[Also see analysis of the Order](#)

[2014-TIOL-879-HC-DEL-IT](#)

CIT Vs Veena Anand (Dated: May 7, 2014)

Income Tax - Sections 2 (28)(A) - Interest - DDA - allottee - compensation - Whether the High Court can entertain a case in which the tax effect is below the prescribed monetary limit - Whether in case the High Court has rejected such a case for submission, would it remain open for consideration in an appropriate case.

[2014-TIOL-878-HC-ALL-IT](#)

CIT Vs Shri Prakash Agnihotri (Dated: May 23, 2014)

Income Tax - Sections 57(iii), 260A - interest - borrowed capital - rental income - property - business loss - Whether in case the business of the assessee has nothing to do with the renting of property and renting is an isolated transaction to earn property income, the mere fact that such income will result in reduction of business loss is enough to hold that it will fall under the head of business income - Whether the income realized by owners by way of rental income from a building, whether a commercial building or residential house, is assessable under the head "Income from house property" in every case - Whether in case interest free advances with the assessee were far in excess to the investment made in purchasing the share, it is proved that borrowed funds have been utilized in business.

[2014-TIOL-874-HC-DEL-IT](#)

CIT Vs M/s Flakes-N-Flavourz (Dated: May 22, 2014)

Income Tax - Writ Petition - Sections 80-IB & 245C(1) - Whether it cannot be said that the conclusion arrived at by the Settlement Commission that the Assessee was entitled to the deduction u/s 80-IB was arbitrary or perverse when the Revenue had not been able to produce any incriminating evidence which could substantiate their claim that the respondent was not entitled to the deduction u/s 80-IB.

[2014-TIOL-872-HC-P&H-IT](#)

M/s Vipin Kumar Sudesh Kumar, HUF Vs ITO (Dated: May 2, 2014)

Income Tax - Section 244 - Whether the amount paid to the assessee as interest can be withdrawn u/s 244 while giving effect to an appellate order which has led to variation of the amount.

[2014-TIOL-871-HC-KOL-IT](#)

Sunil Kumar Agarwal Vs CIT (Dated: March 13, 2014)

Income Tax - Sections 50C, 54EC - conveyance deed - recital - highest prevailing market price - stamp duty - valuation officer - purchaser - Whether seller of a property has anything to do with the valuation fixed by the District Sub Registrar(DSR) for the stamp duty - Whether it is the burden of seller or purchaser of property under consideration, the valuation of which is assessed by the DSR in case of a dispute on the price of the land - Whether value assessed by the DSR would be applicable and considered as the fair market value for the seller - Whether capital gain can be fixed merely on the basis of the valuation made by the DSR for the purpose of stamp duty.

[2014-TIOL-870-HC-MAD-IT](#)

CIT Vs Smt Sushila Devi (Dated: April 7, 2014)

Income Tax - Section 143(2) - Whether the burden of proof lies on the assessee to establish that the notice u/s 143(2) was not properly served on him, when the notice has been received by his regular authorized representative - Whether a photocopy of service of notice evidencing communication between the authorized representative and the assessee can be used as corroborative evidence to establish the validity of notice served u/s 143(2) - Whether such photocopy has no evidentiary value although the assessee has not challenged its authenticity

[2014-TIOL-869-HC-KOL-IT](#)

Anil Kumar Banerjee Vs UoI (Dated: March 3, 2014)

Income Tax - Writ - Sections 220(6) & 226(3) - Whether keeping the application for stay in abeyance, an order for attachment or any coercive measures taken by the Revenue are legally sustainable.

[2014-TIOL-868-HC-AHM-IT](#)

CIT Vs Vijay Kumar D Gupta (Dated : April 15, 2014)

Income Tax - Sections 69B & 132 - incriminating evidence - cross appeals - unexplained investment - Whether an addition made by the AO, after making reference to the DVO would be correct, even when there is no discrepancy in the books of the assessee and the same is accepted by the AO.

[2014-TIOL-867-HC-KERALA-IT](#)

CIT Vs Shri P D Abraham Alias Appachan (Dated : March 28, 2014)

Income Tax - Sections 40(a)(ia), 68, 72, 263 - Whether, in the absence of any satisfactory explanation regarding the source of creditor, it can be said that the credit is not a business income - Whether in case the explanation given by the assessee, as to how the amounts came to be received, is rejected as untenable, the credits were to be treated as business receipts which are chargeable to tax - Whether in such case, there is any reason for the Commissioner to have invoked Section 263 to arrive at a different finding - Whether in case it is already found that CIT could not have exercised jurisdiction to invoke Section 263, the assessment order made pursuant to the said order can be rejected by the appellate authorities and the Tribunal.

[2014-TIOL-866-HC-MUM-IT](#)

M/s Goodluck Kinetic Vs CIT (Dated : March 6, 2014)

Income Tax - Sections 43B, 44AF, 143(3), 144, 260A - condonation of delay - legal opinion - test for expression "sufficient cause" - well settled principles - legal test - Whether in case the assessee firm's senior and managing partner of the firm had died due to which the firm suffered and in order to seek a legal opinion, the delay has caused in filing an appeal, it can be condoned - Whether the ejection of the application of delay by the Tribunal on the ground of unsubstantial material on record, can be corrected by the High Court.

[2014-TIOL-865-HC-P&H-IT](#)

Thakur Dwara Shri Krishanji Maharaj Handiyaya Barnala Vs CIT (Dated : March 18, 2014)

Income Tax - Sections 45, 55(3), 260A - Cost of acquisition - Improvement Trust - Capital gain - Whether deduction of cost of acquisition from the capital gains will be allowed to an assessee when a capital asset, is acquired as a gift from a previous owner, who had not paid any cost of acquisition - Whether there is any applicable provision in law in order to ascertain cost of acquisition of such capital assets.

[2014-TIOL-864-HC-ALL-IT](#)

The Sunbeam Academy Educational Society Vs CCIT (Dated : May 21, 2014)

Income Tax - Writ - Sections 10 (23C)(vi), 12A, 80G(5) - society - Rule 2CA - CBDT circular No.7 of 2010 - extension of approval - period of validity - Whether a society, which has already been granted approval u/s 10(23C) for previous Assessment Years, would again require to apply for an extension of approval u/s 10(23C) for the following Assessment Years - Whether the rejection of the application for extension of approval by the CCIT, will have any effect in law.

[2014-TIOL-863-HC-RAJ-IT](#)

CIT Vs Satya Narain Patni (Dated : April 7, 2014)

Income Tax - Sections 132, 260A - Wealth Tax Act, 1957 - Section 2(ea) - asset - stridhan - jewellery - Whether in case of a wealth Tax assessee, whatever gold jewellery and ornaments have been found and declared in the wealth tax return, need not be seized - Whether it is in the discretion of the wealth tax officer to exclude a larger quantity of jewellery and ornaments from seizure, having regard to the status of the family, and the custom and practices of the community to which the family belongs - Whether jewellery found in the possession of a woman as 'Stridhan' can be considered as her personal wealth - Whether in case the AO did not seize certain jewellery items as they were in the tolerable limit or the limits prescribed by the Board, in that case subsequent addition on the part of AO is justifiable.

[2014-TIOL-860-HC-MAD-IT](#)

M/s Tube Investments of India Ltd Vs JCIT (Dated : March 21, 2014)

Income tax – Sections – 43A, 143 – Whether deduction in any event could be denied on the ground that the amounts spent by the assessee on acquisition of capital asset was from other sources of income and not from foreign exchange loan acquired for that purpose – Whether expenditure incurred by assessee towards fees paid to the ROC, printing and postage in respect of a bonus issue would result in an expansion of capital base .

[2014-TIOL-855-HC-DEL-IT](#)

Council For The Indian School Certificate Examinations Vs DGIT (Dated: May 23, 2014)

Income tax – Sections 10(22), 10(23C)(vi) – Whether when the assessee is a school certificate examination body, a mere hike in fees to general surplus would exclude it from the ambit of Sec 10(23)(vi) - Whether a provision of service in the nature of charity would not cease to be charitable only because it entails receiving a charge for the same – Whether merely because the funds of the assessee may not have been utilized in the best possible manner cannot lead to a conclusion that they have not been applied to the object for which the assessee has been established.

[Also see analysis of the Order](#)

[2014-TIOL-854-HC-P&H-IT](#)

CIT Vs Yoginder Mohan Sehgal (Dated: April 22, 2014)

Income Tax - Sections 54, 143(3), 260A, 263 - full value of consideration - capital gains - sales consideration - collaboration agreement - Whether in order to consider full value of consideration as mentioned in section 48, 'consideration in kind' also needs to be accounted for - Whether capital gain tax can be levied on a transaction even if there is no actual transfer of ownership .

[2014-TIOL-853-HC-UKHAND-IT](#)

Smt Kiran Lata Vs ITAT (Dated: April 28, 2008)

Income Tax – Sections 44A, 69 - Whether seeking a valuation report from the Department Valuation officer is illegal, once the fact has come to knowledge of the AO that there is low investment shown by the assessee whether it came through her admission on oath or otherwise.

[2014-TIOL-852-HC-P&H-IT](#)

CIT Vs M/s Speedways Tyre Ltd (Dated: April 22, 2014)

Income Tax - Sections 41(1), 44AB, 80IA, 115JB, 142(1), 143(2) & 260A - ceased - sundry creditors - liability outstanding - genuineness - Whether the Revenue's consideration of the assessee's creditors being an old or non-existent liability is correct, even if such liability is paid by the assessee in the subsequent Assessment Years.

[2014-TIOL-850-HC-DEL-IT](#)

Pawan Kumar Aggarwal Vs CIT (Dated: May 6, 2014)

Income Tax - Sections 88E, 143(1), 154 - rebate - STT - Whether assessee's claim for Securities Transaction Tax (STT) paid can be rejected, even in case, its proof was concededly attached to the return - Whether power of rectification u/s 154(1) includes rectification of an intimation or deemed intimation under Section 143 - Whether such power is extendable upto the Tribunal level - Whether "any mistake has a wider connotation than that of "an error".

[2014-TIOL-849-HC-KOL-IT](#)

CIT Vs M/s Rakshit Transport (Dated: February 28, 2014)

Income Tax - Sections 40a(ia), 133(6), 143(3), 194C - TDS - revision - re verification - power - survey - Whether investigation and verification of the claims and contentions of the assessee including examination of the evidence collected or produced by the assessee are all part of the assessment - Whether in order to pass an order, Tribunal has to consider the order passed by CIT(A) in its entirety - Whether in the event the order of Tribunal is set aside, the pending appeal by assessee against the order of assessment would automatically become nugatory.

[2014-TIOL-848-HC-KOL-IT](#)

Sri Saytasai Properties And Investment Pvt Ltd Vs CIT (Dated: February 10, 2014)

Income Tax - Sections 38(2), 56, 57(iii) - depreciation - motor car - interest - Whether assessee is not entitled to deduction u/s 57(iii) in respect of the interest expenses incurred on borrowed funds utilized for making investment in shares if no dividend was received - Whether the disallowance of 1/5th depreciation on motor cars hired out by the assessee by invoking Section 38(2) is justified in case such motor car has not been actually used for the business of the company.

[2014-TIOL-846-HC-P&H-IT](#)

M/s Liberty Enterprises Vs CIT (Dated: February 4, 2014)

Income Tax - Sections 37, 143(1), 143(2), 260A - evidence - depreciation on car - Whether the concurrent findings recorded by the CIT(A) and Tribunal based on material, can be contradicted by the assessee without reference to any material on record that the said findings were erroneous - Whether under the provisions of section 260A, only an effort made to re-appreciate the evidence so as to come to a different conclusion on the same set of evidence is permissible.

[2014-TIOL-845-HC-P&H-IT](#)

M/s Liberty Footwear Co Vs CIT (Dated: February 4, 2014)

Income Tax - Sections 37(1), 143(1), 143(2), 260A - leased out assets - property tax - buildings - Whether the concurrent findings recorded by the CIT(A) and Tribunal based on material, can be contradicted by the assessee without reference to any material on record that the said findings were erroneous - Whether under the provisions of section 260A, only an effort made to re-appreciate the evidence so as to come to a different conclusion on the same set of evidence is permissible.

[2014-TIOL-844-HC-P&H-IT](#)

M/s Liberty Group Marketing Division Vs CIT (Dated: February 4, 2014)

Income Tax - Sections 32, 37(1), 143(1), 143(2), 260A, - legal and establishment expenses - Whether the concurrent findings recorded by the CIT(A) and Tribunal based on material, can be contradicted by the assessee without reference to any material on record that the said findings were erroneous - Whether under the provisions of section 260A, only an effort made to re-appreciate the evidence so as to come to a different conclusion on the same set of evidence is permissible.

[2014-TIOL-843-HC-DEL-IT](#)

Emaar MGF Land Ltd Vs Tax Recovery Officer-2 (Dated: May 23, 2014)

Income tax – Writ - Section 226(3) – Whether the potential or possible cancellation of an existing debt, depending on the outcome of on-going litigation is too distant a contingency to make the dues unenforceable and therefore, the TRO is entitled to recover the amount due under section 226(3) of the Act.

[Also see analysis of the Order](#)

[2014-TIOL-842-HC-DEL-IT](#)

CIT Vs M/s Kultar Exports (Dated: May 23, 2014)

Income Tax - Sections 80HHC, 260A - Bombay Sales Tax Act, 1946 - Whether it is open to the assessee to belatedly claim refund of tax paid by him under orders that have become final, on the basis of having discovered a mistake in the law, as found in the decision of a court in another assessee's litigation.

[2014-TIOL-841-HC-DEL-IT](#)

CIT Vs V K Bhatnagar (Dated: May 19, 2014)

Income Tax - Sections 158BC, 260A - search - seizure - housing project - Whether in case details of payment made are not clear, and the accounts were only intermediary, an addition to assessee's income on such basis is justified - Whether addition in assessee's income can be made merely on the basis of entries without any narration - Whether adhoc addition made on account of bogus expenses as well as the amount accepted by the assessee as undisclosed income are sufficient to include the said additions.

[2014-TIOL-840-HC-MUM-IT](#)

CIT Vs Darashaw & Co Pvt Ltd (Dated: May 7, 2014)

Income Tax - Sections 36, 57 - loans - interest - allowance - borrowed funds - Whether the deduction by way of interest on borrowings, which is stated to be a liability, is not a permissible deduction - Whether the expenditure would disqualify for deduction, in case no income arises from such expenditure in a particular assessment year, but in case there is some income, howsoever small or meagre, the expenditure would be eligible for deduction - Whether a particular part of the business for which the loans had been obtained, had been transferred or closed down, did alter the fact that the loans had, when obtained, been for the purpose of the assessee's business.

[2014-TIOL-836-HC-MAD-IT](#)

CIT Vs Shri Madurai Chettiyar Karthikeyan (Dated: April 16, 2014)

Income Tax – Section 2(22)(e) – Whether the amount received towards a normal business transaction, for the purpose of executing the construction work would fall within the scope of "loans and advances" u/s 2(22)(e).

[2014-TIOL-835-HC-KOL-IT](#)

CIT Vs M/s Peerless Hospitex Hospital And Research Centre Ltd (Dated: April 30, 2014)

Income Tax - Section 40(a)(ia) - TDS - retrospective effect - Whether payment made by a Research Institute to another institute pursuant to an MOU, without deduction of TDS would attract the provisions of section 40(a)(ia).

[2014-TIOL-834-HC-DEL-IT](#)

CIT Vs Gian Gupta (Dated: May 8, 2014)

Income Tax - Section 69 - Whether deletion of addition in respect of unexplained investment in land is justified when the factum of transfer of a capital asset in favour of the assessee was not established.

[2014-TIOL-833-HC-ALL-IT](#)

CIT Vs Late Bhakt Mohan (Dated: May 2, 2014)

Income Tax - Sections 50C, 54F, 147, 148, 260-A, 263 - sold a portion of house - reframe the assessment denovo - valuation proceeding - prescribed security - substantiate - examine the record - Whether the AO's order for reopening the assessment on the basis of the DVO report is justified - Whether such DVO report would amount to be a material evidence if not filed along with the assessment order - Whether the DVO report is a valid evidence to invoke the provision of section 263.

[2014-TIOL-832-HC-MP-IT](#)

CIT Vs Astha Credit And Securities Pvt Ltd (Dated: April 3, 2014)

Income Tax - Sections 68, 260A - concurrent orders - unexplained income - Whether in case, the assessee had disclosed the particulars of the investors along with their mode of investment and bank particulars, to the AO, addition can be made merely on the basis of presumptions and assumptions.

[2014-TIOL-831-HC-KOL-IT](#)

CIT Vs M/s Glass Equipment (India) Ltd (Dated: May 16, 2014)

Income tax – Sections 145, 148, 149, 150 – Whether reassessment of the escaped income without any express finding or direction can be made under explanation (2) to Section 153(3) – Whether when the opening stock value is increased, the closing stock will necessarily be enhanced in the preceding year.

[Also see analysis of the Order](#)

[2014-TIOL-827-HC-KOL-IT](#)

CIT Vs The Ganga Rope Co Ltd (Dated: April 11, 2014)

Income Tax - Section 37(1) - retrenchment of workmen - Voluntary Separation scheme - cessation of business - commercial asset - rental income - letting out the factory - Whether in case of closure of manufacturing unit of a business concern, it would be presumed as if the business itself is closed - Whether in such a case, income

earned by the assessee from letting out its commercial assets would be treated as a business income - Whether deduction claimed of the retrenchment expenditure paid by the assessee can be disallowed.

[2014-TIOL-823-HC-BANG-IT](#)

CIT Vs IBM Global Services India Pvt Ltd (Dated: April 30, 2014)

Income tax – Capital or Revenue Expenditure – Whether the expenditure incurred by the assessee on acquisition of the business for domestic customer database and the skilled employees is revenue or capital in nature – Whether loss on account of foreign exchange fluctuation is for importing various consumable items is allowable as revenue expenditure or is to be included in the valuation of closing stock.

[Also see analysis of the Order](#)

[2014-TIOL-822-HC-MUM-IT](#)

CIT Vs Alfa Foam Ltd (Dated: April 23, 2014)

Income Tax - Section 80IB - promotion expenses - additional evidence - excessive or unreasonable - commission - directors - format - audit report - Whether the order passed by Tribunal for remanding the matter back to AO, after the AO refused to consider additional evidence filed by the assessee to claim deduction, raise any substantial question of law - Whether the Tribunal committed an error in restricting the payment made to the directors as commission, after being sure that payment earlier made was not unreasonable - Whether the Tribunal had failed in performing its duty by justifying the claim of assessee for deduction u/s 80IB.

[2014-TIOL-821-HC-MAD-IT](#)

CIT Vs M/s American Power Conversion (India) Pvt Ltd (Dated: April 4, 2014)

Whether the loss arising out of fluctuation in foreign exchange for restatement liabilities at the end of the financial year will be deemed as contingent liability - Whether the assessee's claim for adjustment u/s 263 on the ground of foreign exchange loss is valid in law.

[2014-TIOL-820-HC-BANG-IT](#)

CIT Vs M/s Information Technology Park Ltd (Dated: April 30, 2014)

Income Tax - Section 260A - rental income - intention behind the lease - facilities given along - inseparable - Whether the income earned from letting out building would always amount to rental income - Whether there are any conditions laid down by the court which can distinguish between that if the letting out of building for commercial purpose is a business income or income from house property.

[2014-TIOL-819-HC-ALL-IT](#)

Shri Chandra Prakash Jain Vs ACIT (Dated: May 22, 2014)

Income tax – Sections 2(47)(v) & (vi), 269UA – Whether in view of clause (vi) of section 2(47) read with section 269 UA (d) that capital gain would be taxable in the year in which the transaction is made in any manner which has the effect of transferring or enabling the enjoyment of any immovable property even if the transfer of property is not effected or completed under the general law.

[2014-TIOL-816-HC-MUM-IT](#)

CIT Vs Smt Deepika Mehta (Dated: May 9, 2014)

Income Tax - Sections 234A, 234B, 234C, 260A - notified person - Special Court Act, 1992 - attached - Whether a notified person is liable to pay interest u/s 234A, 234B and 234C as charged by the Assessing Officer during assessment - Whether interest will be chargeable on the demand, in case assessee's assets and properties are attached.

[2014-TIOL-815-HC-P&H-IT](#)

Miss Veena Vs CIT (Dated: January 24, 2014)

Income Tax - Section 69 - Whether addition made u/s 69 as unexplained investment is justified when it is clear from the orders passed by the CIT and the AO that in spite of opportunity having been provided to the assessee to appear before them she did not choose to appear.

[2014-TIOL-812-HC-DEL-IT](#)

CIT Vs M/s D&M Components Ltd (Dated : April 21, 2014)

Income Tax - Section 143(3) - Whether considering short duration of holding of the shares, and the lack of clarity in the account books, the sale and purchase of shares can be considered as short term capital gains - Whether any single test like volume, frequency, duration of holding of shares, intention to derive dividend, or existence of separate investment accounts, can prevail to determine the nature of capital gains -

Whether when the record disclosed that the transactions were few in numbers and the purchases were shown as investments in the balance sheets for several years, the same can be considered as long term capital gains.

[2014-TIOL-811-HC-P&H-IT](#)

O P Goel (Huf) Vs CIT (Dated: April 29, 2014)

Income Tax - Sections 80HHC, 80IB, 80IA(9) and 260A - Whether an exporter can claim any deductions u/s 80IB on export incentives and u/s 80HHC and 80IB, in case deduction u/s 80-I has already been claimed by such an individual.

[2014-TIOL-810-HC-P&H-IT](#)

CIT Vs Sh Subhash Chander (Dated: January 29, 2014)

Income Tax - Whether amount received from an unrelated NRI stranger having no love and affection can be treated as gift - Whether the onus lies on the assessee to establish that there was an occasion to make the gift.

[2014-TIOL-809-HC-JHARKHAND-IT](#)

CIT Vs M/s Tirupati Jewellers (Dated: January 20, 2014)

Income Tax - Section 132 - Whether the addition of cash found at the business premises was reflected in the cash book or not involves any substantial question of law.

[2014-TIOL-808-HC-RAJ-IT](#)

Vijay Solvex Ltd Vs CIT (Dated: January 6, 2014)

Income Tax - Sections 80HH & 80I - Whether the assessee is entitled to any deduction u/s 80HH & 80I when after allowing depreciation, unabsorbed loss and unabsorbed depreciation, there was no positive income.

[2014-TIOL-807-HC-P&H-IT](#)

CIT Vs Jagjit Singh Chahal (Dated: January 28, 2014)

Income Tax - Whether order of the Tribunal is justified when the order does not satisfy the requirements of being a reasoned order.

[2014-TIOL-806-HC-P&H-IT](#)

CIT Vs Stock Home India Ltd (Dated: January 28, 2014)

Income Tax - Sections 10(38), 115JB, 142(1), 143(2), 260A - penalty - amendment - Whether furnishing of inaccurate particulars mean details specified in return which are not exact or correct, not according to truth or erroneous - Whether in case the assessee furnishes details of income and expenditure in its return which details in themselves are not found to be inaccurate, can it be said that the assessee has concealed particulars of income merely because in relation to those particulars as claim for deduction was made which was not accepted - Whether the long time capital gains on shares is to be included while determining the book profits under Section 115JB of the Act.

[2014-TIOL-805-HC-P&H-IT](#)

CIT Vs Shri Shyam Raj Singh (Dated: March 21, 2014)

Income Tax - Sections 143(3), 260A , 271(1)(c) - initiation of penalty proceedings - cessation of liability - reconciled - intentional understatement of income - Whether a mere mention of difference in the basis of penalty held by the CIT(A) would amount to actual penalty proceedings being separately initiated - Whether an unintentional submission of inaccurate statements of income can be a ground to get a relief from the penalty levied by the AO, against the undisclosed income.

[2014-TIOL-804-HC-TRIPURA-IT](#)

Shri Ashutosh Bandopadhyay Vs CIT (Dated: February 25, 2014)

Income Tax - Sections 143(3), 263 - undisclosed Bank Account - illegal notice - proposal for revising - intention of the CIT - reasonable opportunity - transactions of the bank account - reflected in the books - Whether assessee can claim that the communication sent by the CIT is illegal and void - Whether the assessee's claim that the notice was invalid as reasonable opportunity was not given to him to put forth his case - Whether it is correct in holding the balance amount of an undisclosed bank account as undisclosed income without knowing the transactions which lead to the balance amount.

[2014-TIOL-802-HC-P&H-IT](#)

Raghubir Singh Vs ITO (Dated: April 21, 2014)

Income Tax - Sections 147, 234A, 243B and 264 - sale of land - indexed cost - total cost - sale deed - capital gain - revision petition - Whether an order passed by the Revenue is legally sustainable on the ground that the assessee had sold only a part of land, when in reality the facts submitted by the assessee himself in form of the sale deed and the stamp duty, showed that it was paid on the entire land.

[2014-TIOL-800-HC-MUM-IT](#)

Rosy Blue Securities Pvt Ltd Vs ACIT (Dated: April 25, 2014)

Income Tax - Sections 43(5)(b), 142(1), 143(3), 147, 148 - notice for reassessment - Whether in case, an assessee has disclosed complete information regarding derivative transactions in its return of income, which were exempted subsequently by way of an amendment notification, it can be said that the said assessee had concealed particulars of its income.

[2014-TIOL-799-HC-KOL-IT](#)

CIT Vs Satyabrata Dey (Dated: May 7, 2014)

Income Tax - Section 48(i) - sub lease - expenses incurred in connection with transfer - Whether amount paid by the assessee pursuant to the award passed in favour of the purchaser of a property can be treated as expenditure incurred with regard to the transfer under Section 48(i).

[2014-TIOL-798-HC-KOL-IT](#)

CIT Vs Strescon Industries Ltd (Dated: May 13, 2014)

Income Tax - Sections 9(1)(ii), 43B - loan - interest - retrospective amendment - Whether any statute if brought on the statute book retrospectively has the same effect like the statute when enacted prospectively - Whether any legislative change, if brought on the statute book while pendency of an issue have a material bearing over the controversy involved, has got to be taken into consideration for answering the question, as the case may be - Whether conversion of interest amount into loan shall be deemed to be regarded as "actually paid" amount within the meaning of section 43B.

[2014-TIOL-797-HC-MAD-IT](#)

CIT Vs The Lakshmi Vilas Bank Ltd (Dated : April 16, 2014)

Whether the assessee can claim deduction u/s 37(1), on the ex-gratia payment given in the form of an incentive made to employees who are not covered by the provisions of the Payment of Bonus Act.

[2014-TIOL-796-HC-MUM-IT](#)

M/s Asit C Mehta Investment Intermediates Ltd Vs DCIT (Dated: April 25, 2014)

Income Tax - Sections 40(a)(ia), 142(1), 143(3), 147, 148, 194C, 194J - arbitrage - Demat Charges - repair and maintenance - rebate - STT - TDS - Whether it can be alleged that the income had escaped tax on a deduction that had actually not been claimed - Whether payment of transaction charges to NSE can be considered as payment liable to TDS u/s 194J - Whether reopening on the basis of a change in opinion of the assessing authority is not permissible.

[2014-TIOL-794-HC-AHM-IT](#)

CIT Vs M/s Ambika Recycling (Dated: April 9, 2014)

Whether the process involved in segregation of metal scarp from cable scrap would amount to 'manufacture' u/s 80IA - Whether emergence of a new object completely distinct from its original composition was essential to term the process as manufacture.

[2014-TIOL-792-HC-KOL-IT](#)

CIT Vs M/s Trimline Vyapaar Pvt Ltd (Dated: March 24, 2014)

Income Tax - Sections 131, 133(6), 143(3), 147, 148, Rule 46A - interest - notices - cash deposits - Whether the documents relied upon by the assessee before the appellate authority are not the documents of the assessee - Whether it is open to any judicial or quasi-judicial authority to lightly assume that the contents of any judicial or quasi-judicial order or the observation or findings made therein are untrue - Whether the belief about the escapement of income is formed on the basis of an erroneous assumption of facts and therefore reopening of assessment is not valid.

[2014-TIOL-791-HC-RAJ-IT](#)

CIT Vs Shri Inder Kumar (Dated: March 19, 2014)

Income Tax - Sections 148, 260A - Whether addition can be made only on the basis of cash deposits in the bank account of an alleged payee without allowing the assessee to cross examine him - Whether with mere reference to the entries made by a third party, conclusion could be drawn against the assessee, when the procedure and system of accounting of a third party is not a matter within the control of the assessee.

[2014-TIOL-790-HC-KOL-IT](#)

CIT Vs M/s J L Morrison (India) Ltd (Dated: May 15, 2014)

Income Tax – Sections 28, 56, 154, 263 – Indian Evidence Act 1872 – Section 114(e) - Whether a gratuitous one-time settlement amount paid by licensor to the licensee out of goodwill gesture, at the time of termination of the agreement, but not under any contractual obligation can be treated as revenue receipts - Whether when the licensee receives payments from the licensor for agreeing to provide a NOC and assistance in setting up 100 % subsidiary in India falls within the scope of section 28 or 56 of the Income Tax Act - Whether royalty paid in excess of 1% of net sales is in breach of Guidelines of 2003, when RBI has specifically approved payment of royalty at the rate of 5% of the net sales – Whether 25% of the royalty paid to the licensor can be disallowed as capital expenditure, although the assessee was not entitled to use the technical knowhow immediately after expiry of the contract – Whether it is an erroneous exercise on the part of the CIT to match the amount appearing in the P/L account with the amount appearing in the notes on accounts, when the later is prepared as per the requirements of Companies Act - Whether Commissioner can exercise power u/s 263 even in a case where the issue is debatable – Whether it has to be shown unmistakably that the order of the AO is unsustainable before exercising revisionary jurisdiction – Whether anything short of that would not clothe the CIT with jurisdiction to exercise power u/s 263 - Whether when all requisite papers were summoned and thereafter the matter was heard from time to time, the assessment order can be said to be passed without application of mind - Whether further when the Tribunal has not found the view of the AO as erroneous, it strengthens the presumption under Clause (e) of Section 114 of the Evidence Act that the AO has duly applied his mind - Whether when the AO is satisfied that the return, filed by the assessee, is in accordance with law, he is still under obligation to justify as to why is he satisfied – Whether the principles applicable to a proceeding before a judicial or a quasi-judicial authority where there are two contesting parties can be made applicable to the proceedings before an AO – Whether if the AO cannot be shown to have violated any form prescribed for writing an assessment order, it cannot be said that he acted illegally or without applying his mind - Whether there can be perversity in the order of the Tribunal, when it has been passed after examining all the issues and AO had taken one of the possible views

[Also see analysis of the Order](#)

[2014-TIOL-789-HC-KOL-IT](#)

CIT Vs M/s J E Enterprises Pvt Ltd (Dated: May 2, 2014)

Income Tax - Sections 10B - export - exemption - trading - EOU - Whether the Tribunal can rewrite the law or could accept anything on its own in lieu of what is required by the statute - Whether an assessee is entitled to any benefit under the Income Tax Act on the basis all the profits were earned from exports.

[2014-TIOL-788-HC-KOL-IT](#)

CIT Vs Ritesh Kumar Boyed (Dated: April 4, 2014)

Income Tax - Sections 143(3), 263 - Whether impounded books after the survey can be kept for a subsequent finding - Whether sales converted to debtors as income received in bank, could be reconciled by verifying the purchases and the closing stock which is on the basis of cost of sales.

[2014-TIOL-787-HC-MP-IT](#)

J P Tobacco Product Pvt Ltd Vs CIT (Dated: April 16, 2014)

Income Tax - Sections 80G, 80HU, 80HH, 80HHA, 80I, 256(1) - unit - deduction - Whether an assessee cannot be simultaneously entitled for deduction u/s 80-HHA as well as Section HH - Whether deduction under Section 80HH has to be computed with reference to a particular unit i.e. undertaking and not with reference to total profit of the Assessee.

[2014-TIOL-786-HC-MUM-IT](#)

M/s Avias Corporate Services P Ltd Vs CIT (Dated: May 5, 2014)

Income Tax - brokerage - raising finances - privy of contract - confronted - genuineness - Whether the appellate authority or Tribunal committed an error in asking assessee to furnish evidence about the payments made to the parties as brokerage - Whether it is the duty of the department to cross examine the facts submitted by the assessee in order to check its genuineness - Whether the assessee can complain about the evidence collected after such cross examine - Whether the amount incurred by the assessee for car hire expenditure can be disallowed, for the amount which is in excess with the prevailing market price.

[2014-TIOL-785-HC-ALL-IT](#)

Rakesh Kumar Gupta Vs UoI (Dated: May 6, 2014)

Income Tax - Sections 154, 237, 243(1) - Central Processing Unit - interest - POA - TDS - credit - Whether there is a presumption that the deductor has deposited TDS amount in the government account especially when the deductor is a government department - Whether by denying the benefit of TDS to the deductee, in case the fault was of the deductor only would cause harassment and inconvenience - Whether the mismatching of TDS certificate figure and Form 26AS amount can be attributable to the assessee only.

[2014-TIOL-782-HC-MUM-IT](#)

CIT Vs Bharati Vidyapeeth (Dated: March 07, 2014)

Income Tax Act - Appeal to High Court - Advocate on Record who filed the appeals, later becomes Senior Advocate - In these circumstances, it was expected that the department would replace his vakalatnama on file. Even if the department expects Mr. Gupta to argue these cases as a Senior Advocate and on the part of the revenue the least that is expected is that he is instructed by an Advocate on record. Department directed to do the needful in two weeks.

[2014-TIOL-781-HC-UKHAND-IT](#)

Ramesh Batta Vs DCIT (Dated: April 25, 2014)

Income tax - Section 263 - stay order - pendency - knowledge - competent - deliberately violated - personal affidavits - Whether the AO and ACIT are competent enough to proceed with assessment order when a stay is granted by the Tribunal - Whether any remedy is available to the assessee if such violation has taken place.

[2014-TIOL-779-HC-AHM-IT](#)

Gul Gopaldas Daryani Vs ITO (Dated: April 29, 2014)

Income Tax – Sections 156, 179, 220(4). - Whether provisions of Section 179 can be applied to a case where the Directors of the company pointed out to the Tax Recovery Officer that the entire project ran into heavy losses due to devastating earthquake and the financial institutions restructured the debts and permitted sale of its property and out of the sale proceeds, the creditors were paid off proportionately and when such payments were made, assessment order was still not passed and the insurance claim was not passed by the insurance company and civil disputes were still pending.

[Also see analysis of the Order](#)

2014-TIOL-778-HC-MUM-IT
CIT Vs M/s Jet Airways (I) Ltd (Dated: May 6, 2014)
Income Tax - Sections 260A, CBDT Circular No 9 of 1943 - spare obsolescence - interest - aircraft redelivery charges - Whether the delay could have been condoned by applying a liberal principle, in case there are malafides attributed to the Revenue - Whether the deletion of the disallowance on account of Aircraft redelivery charges, Aircraft heavy maintenance and major engine repairs, which are in the nature of contingent expenditure and not on actual basis, is justified - Whether the provisions made for expenses in respect of frequent flyer programme can be allowed although the same were contingent in nature.
2014-TIOL-777-HC-MAD-IT
S Balasubramanian Adityan Vs DCIT (Dated: May 8, 2014)
Income Tax - Section 147 - assessable - irregular - limitation - protective assessment - taxable nature - Whether an assessment order passed by the Revenue as a protective assessment can be made appealable even after the four years of limitation period - Whether in such a case any alternative remedy is provided by the HC to the assessee.
2014-TIOL-776-HC-KOL-IT
CIT Vs M/s Trade Apartments Ltd (Dated: March 10, 2014)
Income Tax - shares - investments - stock - valuation report - inventory - Whether an Assessing officer could adopt diametrically opposite standards in relation to identical transactions which were carried out simultaneously and all essential attributes of both the transactions were the same and identical.
2014-TIOL-775-HC-KAR-IT
CIT Vs Mr M J Siwani (Dated: April 11, 2014)
Income tax – Sections 132, 132A, 139(1) & (4), 158BC, 158BB, 54, 54F – Whether the income that has been disclosed by the assessee in the returns of income, other than the income unearthed as a result of search, can be treated as undisclosed income while assessing the income during the block period – Whether when the assessee had transferred their undivided share in the land and not the land plus residential house/apartments, it is not entitled to deduction u/s 54 of the Act – Whether benefit of section 54F can be denied merely because, the words residential house are preceded by article 'a' and it would not exclude a house shared with any

other person.
2014-TIOL-774-HC-P&H-IT
Shri Ravinder Pal Singh Vs CIT (Dated: February 18, 2014)
Income Tax - Sections 68, 143(1), 260A - donations - affidavit - evidence - onus to prove - Whether in case the party fails to produce the deponent for cross-examination despite the order of the Court, affidavit of the deponent filed in the Court has to be ignored - Whether an affidavit can be considered as an evidence - Whether under the provisions of the Income-tax Act, the onus is upon the assessee to establish the nature of entries in his books of account including the bank account, expenditure and sources of the same with evidence.
2014-TIOL-773-HC-P&H-IT
Pramod Kumar Prop Vs CIT (Dated: January 28, 2014)
Income Tax - Section 260A - commission agent - paddy - books of account - bonus to farmers - Whether the books of account could be rejected merely on the premises that separate record of Government paddy and own paddy was not maintained by the assessee manufacturer - Whether the addition on account of low yield of rice is sustainable without having any comparable stance and by disapproving the results of the assessee in earlier years - Whether addition can be made on account of paddy milled outside books of account by taking the yield of bye product as benchmark to calculate the yield of main product.
2014-TIOL-772-HC-AHM-CUS
Rodex International Vs UoI (Dated: March 20, 2014)
Customs - Provisional release of seized goods under Section 110A of the Customs Act 1962 - memory cards smuggled in refrigerators intercepted; entire consignment seized and proceedings initiated; duty demands, confiscation of seizure and RF, apart from penalties adjudged - provisional release of part consignment (memory cards and four fridges) sought prior to confiscation and imposition of RF is under dispute herein. Held: Specific order of releasing the impugned items provisionally not mentioned in the previous Court order, which had only provided that it would be open for the petitioner to press for application under Section 110A and if such an application is already made, or may be made within two weeks, the authorities shall take a final decision thereon expeditiously - Court order not flouted - ambiguity about receipt and inwarding of application dated 21st September 2011 - If the application was actually made and inwarded, it is a matter of serious concern why the same did not reach the Commissioner and disowned in the affidavit - Commissioner to hold an inquiry in this respect and if found that the letter was actually received by the Department but not placed before him, to take necessary steps departmentally as found appropriate; to

ensure that in future, such cases do not recur.

First approach by the petitioner after initial letter dated 21st September 2011 was a letter dated 18th April 2012 - meanwhile, hearing of the notice proceedings had also commenced - No reason to stay impugned order at this stage, the question of provisional release of the goods ignoring the final conclusion of the Commissioner in his order-in-original, in the facts of the case, are not warranted - Tribunal requested to grant expeditious hearing of the appeal and make an attempt to dispose of the same as early as possible.

[2014-TIOL-768-HC-ALL-IT](#)

CIT Vs Kisan Sahkari Chini Mill Ltd (Dated : May 1, 2014)

Income Tax - Sections 40(a)(ia), 194J, 260A - technical services - federation - fees for professional services - TDS - Whether a restrictive meaning can be given to the terms "fee for professional" and "fee for technical services" when the services provided by the Federation to the assessee are covered under these terms and are also covered u/s 194J - Whether services provided by the Federation to the assessee are professional or technical services as provided u/s 194J.

[2014-TIOL-767-HC-KOL-IT](#)

Zigma Commodities Private Ltd Vs ITO (Dated : May 8, 2014)

Income Tax - Sections 263 & 253 (1)(c) – Whether it would render the show cause notice legal and valid when there is no separate recording of the satisfaction before issuance of the show cause notice but it was clearly discernible from the facts narrated in the show cause notice that the order of the AO appears to be erroneous and a prejudice was caused to the revenue.

[2014-TIOL-766-HC-KAR-IT](#)

CIT Vs M/s MBA Nahata Charitable Trust (Dated : February 14, 2014)

Income Tax - Sections 11, 11(1)(a), 12A, 68, 139, 142(1), 143(2), 143(3), 147, 148, 260A - trust - donations - building fund - exemption - unexplained credit - Whether when the assessee-Trust fails to produce any of the donors contributing to building fund, such sums are to be treated as unexplained credit u/s 68 - Whether the exemption u/s.11(1)(a) is allowable only on income derived from property held under Trust wholly for charitable or religious purposes - Whether in case the amounts received from the third party has been accounted and utilized for charitable purposes by the assessee trust, but the assessee has failed to disclose the names and addresses of the donors as well as the mode of payment, it is entitled for deduction u/s 11.

[Also see analysis of the Order](#)

2014-TIOL-765-HC-AHM-IT
India Gelatine And Chemicals Ltd Vs ACIT (Dated : April 23, 2014)
Income Tax - Sections 37(1), 43A, 143(1), 143(3), 147 & 148(2) - scrutiny - liability incurred in foreign currency - acquisition of fixed assets - allowance of exchange loss - underassessment - fluctuation - depreciation - loan - Whether the assessee is correct in adjusting the actual cost of the acquired fixed assets, incurred in foreign currency, on account of fluctuation in the rate of exchange in the AY - Whether an AO can include such an amount in the income chargeable to tax which has escaped assessment.
2014-TIOL-764-HC-MAD-IT
Super Auto Forge Ltd Vs Addl.CIT (Dated : April 15, 2014)
Income Tax – Sections 10A, 10B, 80I, 133A - Whether there is a transfer or a creation of a new business to attract Clause (iii) to sub-section (2) of Section 10B of the Income Tax Act, when a DTA unit is converted into 100% EOU unit - Whether there is any specific prohibition to an industrial unit formed by transfer of entire business – Whether the status granted to a DTA unit as a 100% EOU unit result in a transfer or splitting up or re-construction of a business already in existence.
2014-TIOL-761-HC-MUM-IT
CIT Vs M/s Dukle Construction (Dated : April 28, 2014)
Income Tax - Section 80IB(10) - change of opinion - plot of land - Whether the AO after passing an order of assessment can reopen the same without furnishing any new material of evidence - Whether a construction company is eligible for deduction u/s 80IB(10) in case plot of land undertaken for the housing project is more than one acre in area.
2014-TIOL-760-HC-KOL-IT
CIT Vs Dilip Kumar Roy (Dated : April 28, 2014)
Income Tax - Sections 54EC, 268A(1), CBDT Instruction No. 3/2011 - partnership - capital assets - benefit - depreciation - tax effect - Whether a Tribunal order can be challenged before the HC in case the tax effect is less than Rs 10 lakhs.

[2014-TIOL-757-HC-P&H-IT](#)

CIT Vs Shri Suraj Dev Dada (Dated : February 11, 2014)

Income Tax - Sections 2(22)(e), 14A, 36(1)(iii), 143(3), 260A - advance - interest - loan - commission - deeming provision - Whether if an assessee has not charged any interest on amount advanced to a third party as the amount advanced was not returned for which a civil suit was filed and the same was recovered, a notional disallowance for the said interest can be made u/s 36(1)(iii) - Whether provisions of Section 2(22) (e) can be invoked, in case there is a genuine business transaction between two entities and funds of the appellant director were infact lying with the company for most of the time and no profit is derived out of the said loan transaction - Whether in that case such a transaction would be considered as of business expediency.

[Also see analysis of the Order](#)

[2014-TIOL-756-HC-MUM-IT](#)

CIT Vs Thermax Ltd (Dated : April 30, 2014)

Income Tax - Sections 143(3), 147 & 148 - reframing the question of law - reopening of assessment - undisputed facts - change of opinion - Whether a mere change of opinion of the AO, that the assessee has furnished inaccurate statement of income is enough to pass an order for reopening of assessment - Whether the Counsel after filing an appeal against an order of the Tribunal raises substantial question of law, has the liberty to reframe such question of law after the appeal is filed.

[2014-TIOL-755-HC-ALL-IT](#)

Jagran Prakashan Ltd Vs DCIT (Dated : May 12, 2014)

Income Tax - Sections 40(a)(ia), 142(1), 147, 148, 194H - Whether the notice of reassessment has to be quashed when a matter involving similar facts in assessee's own case has been decided by the Supreme Court against the Revenue.

[2014-TIOL-754-HC-ALL-IT](#)

CIT Vs M/s Shivam Motors Pvt Ltd (Dated : May 6, 2014)

Income Tax – Sections 37, 260A - Whether interest payment arising from disputed contractual liability has to be provided in the books, although the liability crystallized only when the settlement agreement was executed.

[2014-TIOL-748-HC-MUM-IT](#)

CIT Vs Kirloskar Oil Engines Ltd (Dated : April 17, 2014)

Income Tax - Whether the form of subsidy in which it was granted is material for ascertaining its nature - Whether if the object of the assistance under the subsidy scheme is to enable the assessee to set up a new unit, then, the receipt of subsidy is on the capital account - Whether loan offered by the State Government for setting up new industries which was although later converted into capital incentive cannot be treated as capital receipt - Whether the Revenue should bear in mind that in every such case and whenever the funds or receipts are from the schemes and packages devised by the State, it should note the object and purpose of the same.

[2014-TIOL-747-HC-MAD-IT](#)

The Coimbatore District Central Co-Operative Bank Ltd Vs ITO (Dated : May 8, 2014)

Income Tax - Sections 131(1A), 194A (3)(v) , 201(1), 201(1A), 246A - writ - appeal remedy - TDS - interest - Whether in case an appeal remedy is available to an assessee, it can still directly file a writ before the High Court - Whether such a writ petition filed is maintainable in a court of law.

[2014-TIOL-746-HC-RAJ-IT-LB](#)

CIT Vs Shri Maharao Bhim Singh of Kota (Dated: March 26, 2014)

Income tax - Sections 2(2), 22, 23, 10(19A) - Wealth Tax Act, 1957 - Section 2(e), 5(1) - owner - occupier - ruler - palace - house - occupation - possession - ambiguity - exemption - building - rule of estoppel - annual value.

Whether there can be any estoppel on the statute - Whether mere fact that an earlier judgment of High Court was allowed to attain finality, would cast an impediment on the Revenue to take correct interpretation of that provision qua the same assessee - Whether the jurisdiction to interpret a Statute can be invoked, even when the same is not ambiguous - Whether occupation of Ruler in the palace is a precondition for claiming exemption u/s 10(14) - Whether a 'palace' cannot be taken as synonymous of the 'house - Whether exemption u/s 10(14) can be granted in case the property under consideration is either under 'possession' or 'occupation' of the ruler assessee - Whether the word "occupy" is synonymous with legal possession in technical sense - Whether in case of any ambiguity regarding interpretation of ordinary tax statute, the relevant provision has to be construed in favour of assessee - Whether such position would also holds good in case of doubt regarding any provision or notification granting exemption to the assessee - Whether the words of a statute are first to be understood in their natural, ordinary or popular sense, unless there is something in the context or in the object of the statute to suggest to the contrary.

[Also see analysis of the Order](#)

[2014-TIOL-745-HC-DEL-IT](#)

CIT Vs Television Eighteen India Ltd (Dated: April 30, 2014)

Income Tax - Sections - 37 and 37(1). -Whether any expenditure incurred on creation of news archive by a broadcaster is to be construed as revenue expenditure - Whether when a special project is undertaken to enhance the capacity and expand the work relating to the existing business where a major part of expenditure is incurred on heads like salary, professional and hire chares, it can be said that no advantage of enduring nature is reaped by the assessee - Whether such expenditure has to be revenue in nature.

[2014-TIOL-742-HC-MUM-IT](#)

CIT Vs M/s Smart Link Network Systems Pvt Ltd (Dated: April 2, 2014)

Income Tax - Sections 28(va)(b), 80IB - Transfer of Business Agreement - transfer of motherboards sales - capital receipts - perversity - revenue receipts - Whether consideration recieved from transfer of a product department to a subsidiary of a company, in compliance with the Transfer of Business Agreement would amount to be a business income - Whether the assessee's claim for deduction u/s 80IB against expenditure on research and development on a product which is no more commercialized, is tenable as per law.

[2014-TIOL-741-HC-MAD-IT](#)

CIT Vs M/s Flothern Engineers Pvt Ltd (Dated: April 10, 2014)

Income Tax - Sections 80IB, 143(3), 147 & 148 - job work - designing - carry forward - unabsorbed depreciation - relief granted - Whether an assessing officer can appeal for a revision of its own order of assessment, which has been given effect to by the Tribunal under a different order - Whether a decision by the Supreme Court on a certain issue, reversing the High Court decision can be a ground to reopen an order of assessment.

[2014-TIOL-740-HC-KOL-IT](#)

M/s Flender Ltd Vs CIT (Dated: February 20, 2014)

Income Tax - Sections 80HHC(3), 80HHE(3) - Computer Aided Design Software - export - turnover - Whether the provisions of sections 80HHE and 80HHC are identical and can be used interchangeably - Whether while answering a question arising out of section 80HHE, in case the judgments rendered in the cases arises out of section 80HHC are applied, it would produce wrong results - Whether the turnover of business which can be taken into account for computation of deduction u/s 80HHE, is only the turnover of computer software or in respect of providing technical service - Whether any reference to Section 80HHC for the purpose of understanding the mechanism of

sub-Section (3) of Section 80HHE is likely to lead to wrong conclusion.

[2014-TIOL-731-HC-MUM-IT](#)

Lupin Ltd Vs ACIT (Dated: May 7, 2014)

Income tax - Sections 35(2AB), 142(1), 143(2), 143(3), 147, 148 - reassessment - weighted deduction - change of opinion - Whether the reasons for reopening an assessment has to be based on evidence so that in the event of a challenge, the Assessing Officer must be able to justify the same based on the material available on record - Whether an assessment can be reopened on the basis of a bald assertion - Whether in case during assessment, an AO has accepted the contentions of the assessee on an issue, it can later contradict it, without any justifiable basis - Whether when no new tangible material is brought to the notice of the AO, which led him to believe that income had escaped assessment, reassessment cannot be done - Whether in case during the original assessment order, an expenditure was allowed as a revenue expenditure, Revenue's further contention to treat the same as a capital expenditure, would be considered as "change of opinion".

[Also see analysis of the Order](#)

[2014-TIOL-730-HC-MUM-IT](#)

CIT Vs M/s Bharat Bijlee Ltd (Dated: May 9, 2014)

Income tax – Section 2(24C), 50B – Whether when there is a transfer under the Scheme of Arrangement but is not a sale and the scheme of arrangement is sanctioned by the High Court, Section 50B has no application as the Scheme of Arrangement is not a slump sale.

[2014-TIOL-729-HC-MUM-IT](#)

Ghodawat Energy Pvt Ltd Vs DCIT (Dated: May 5, 2014)

Income Tax - Section 80IA - industrial undertaking - Whether deduction u/s 80IA can be allowed in relation to the undertakings which are engaged in infrastructure development, even if no manufacturing activity has been carried out during the relevant year.

[2014-TIOL-728-HC-MUM-IT](#)

Kansai Nerolac Paints Ltd Vs DCIT (Dated : May 6, 2014)

Income Tax - Section 271(1)(c) - Indian Companies Act, 1956 - Sections 391 to 394 - penalty - capital gains - revised return - Whether an Assessing Officer can sit in judgment over his own order and decide whether or not the order passed by him is a nullity or whether it is necessary that an appellate authority should take such a decision - Whether the additional evidence pertaining to the merits of the case can also be admitted and would have to be taken into account while deciding an issue by the Tribunal.

[2014-TIOL-727-HC-MUM-IT](#)

CIT Vs M/s Miraj Enterprises (Dated: May 5, 2014)

Income Tax - Section 80IB - Whether a manufacturer of residential units has control over the construction pattern followed by the purchasers - Whether in that case the said manufacturer can be denied deduction - Whether in all the cases where the construction as per the plan denotes the residential units of maximum built up area, however on the site the position is different, still the deduction u/s 80IB can be claimed.

[2014-TIOL-726-HC-AHM-IT](#)

Rajendra Kantibhai Patel (Huf) Vs ACIT (Dated: April 15, 2014)

Income Tax - Sections 133A, 148 - framed after scrutiny - undisclosed stock - HUF - reopen assessment - Whether reassessment can be made on the basis that the AO has a doubt pertaining to valuation of the undisclosed stock - Whether such a ground is material enough to reopen an assessment, beyond a period of four years from the end of relevant assessment year.

[2014-TIOL-724-HC-AHM-IT](#)

Soham Securities Ltd Vs ACIT (Dated : May 5, 2014)

Income Tax - frozen illegally - high handed manner - levelling allegations of mala fide - coercive tax recovery - Whether when the representative of the company agrees to pay tax due from him in his personal capacity the Revenue is justified in freezing the bank account of the company - Whether it is within the powers of a High court to decide the matters of personal allegations of mala fide.

[2014-TIOL-723-HC-KOL-IT](#)

CIT Vs Ramesh Kumar Singhania (Dated : April 23, 2014)

Income Tax - veracity of purchase of tins - shortage - misappreciation - re-examine - Whether it is justified by the Tribunal and CIT(A), to reverse the order of the AO, without giving sufficient reason or evidence to rely upon the claim of the assessee.

[2014-TIOL-722-HC-AHM-IT](#)

Surat Textile Mills Ltd Vs ITO (Dated : May 6/7, 2014)

Income Tax - Writ Petition - Sections 32(1), 147, 148 - Whether the AO is justified in reopening the assessment on the ground that the assessee did not claim depreciation of the current year while seeking set off of the unabsorbed business loss of earlier years.

[2014-TIOL-721-HC-UKHAND-IT](#)

DIT Vs M/s Seacor Offshore Dubai LLC (Dated : March 20, 2014)

Income Tax - Sections 254 - stay - demand - Whether the Tribunal has power to extend stay of demand beyond the period of 365 days even after insertion of third proviso to sub-section (2A) of Section 254 - Whether a statutory authority can exercise its power within the four corners of the statute granting such power even if it was withdrawn by inserting the proviso in question in the statute.

[2014-TIOL-720-HC-AHM-IT](#)

Gujarat State Financial Services Ltd Vs JCIT (Dated: February 4, 2014)

Income Tax - Section 14A, Rule 8D - earning tax free income - retrospective effect - Non Banking Finance Company - Whether the proviso to rule 8D can be applied retrospectively - Whether an issue regarding disallowance of expenditure u/s 14A by the AO in the assessment is a substantial question of law to be raised in an appeal before the High Court.

[2014-TIOL-719-HC-RAJ-IT](#)

CIT Vs M/s Rajasthan Fasteners Pvt Ltd (Dated: January 2, 2014)

Income Tax - Sections 10B, 80HHC, 80IB, 251(1)(a), 260A - export oriented unit - manufacturing - deduction - exemption - Whether an appellate authority, while hearing an appeal against the order of a subordinate authority, has the powers which the original authority might have in deciding the question before it - Whether in case a claim for special deduction is made by the assessee in the course of the assessment proceedings and the AO failed to consider the same, is it open for the appellate authority to entertain the claim - Whether in case the assessee is found eligible for an

exemption u/s 10B, it having been allowed such exemption in the past, and merely because a typographical error crept in while e-filing the return, can come in the way by disallowing the otherwise allowable exemption.

[2014-TIOL-717-HC-KERALA-IT](#)

M/s Ilahia Trust Vs DDIT (Dated: March 12, 2014)

Income tax – Sections 11 - Whether writ petition to challenge the validity of an assessment order can be allowed, although there is an effective alternative remedy available in the manner of appeal .

[2014-TIOL-712-HC-AHM-IT](#)

CIT Vs Citi Tiles Ltd (Dated: April 23, 2014)

Income Tax - Sections 115JB & 271(1)(c) - Whether when once the income of the assessee is assessed u/s 115JB, no penalty is imposable even if concealed income is unearthed by the Revenue.

[Also see analysis of the Order](#)

[2014-TIOL-711-HC-AHM-IT](#)

Synbiotics Ltd Vs ACIT (Dated: May 6, 2014)

Income Tax - Sections 32(2), 147 & 148 - Whether assessment can be reopened on the ground that the assessee set off the brought forward depreciation loss pertaining to earlier years against the income of the current year.

[2014-TIOL-710-HC-AHM-IT](#)

CIT Vs National Dairy Development Board (Dated: May 6, 2014)

Income Tax - Section 41(1) - provision - Whether section 41(1) could apply in case of a provision for a possible expenditure or liability - Whether addition made u/s 41(1) can be deleted without appreciating that the entire entity was exempt from tax, thus claiming such deduction by way of excess provision written back of earlier years amounts to double deduction - Whether in case any amount of provision is found allowed, for the said years to that extent, the provision on written back is to be taxed under Section 41 (1) .

2014-TIOL-709-HC-P&H-IT
M/s Charan Dass Ashok Kumar Moga Vs CIT (Dated: March 14, 2014)
Income tax – Sections 269SS, 273B, 271D, 269SS – Whether when assessee had failed to establish that there existed reasonable cause in taking or accepting any loan or deposit otherwise than by an account payee cheque or account payee bank draft, the penalty is warranted for violation of provisions of section 269SS.
2014-TIOL-703-HC-ALL-IT
M/s J N Sharma Vs ACIT (Dated: May 2, 2014)
Income tax - Sections 2(24), 56(2)(ib), 68, 115BB, 145(2) - Whether income arising to a stockiest by winning the prize on unsold lottery tickets is business income or income from other sources u/s 56(2)(ib).
Also see analysis of the Order
2014-TIOL-702-HC-MUM-IT
CIT Vs Cello Stationery Products (Dated: April 8, 2014)
Income Tax - Section 80IB - manufacturing unit - absence of marketing concern - higher deduction - Whether deduction u/s 80IB is to be denied even in case an assessee has fulfilled the pre-requisite to claim for such deduction - Whether a mere worry of the Tribunal that the assessee has claimed higher deduction u/s 80IB due to an absense of a marketing concern, is a valid ground for such disallowance.
2014-TIOL-700-HC-MAD-IT
CIT Vs M/s Mysore Premier Investment Co Ltd (Dated: May 2, 2014)
Income Tax - MOU - Joint Venture - development of property - business only in insurance - Whether the money used by the assessee for development of its business in a joint venture, would amount to be a business income.
2014-TIOL-697-HC-MUM-IT

CIT Vs Franklin Templeton Asset Management (India) Pvt Ltd (Dated: April 22, 2014)

Income Tax - Regulation 52(2) of SEBI Regulations, 1996 - investment advisory fees - peripheral devices - identical controversy - components are ancillary - Whether the depreciation on components used in computer can be allowed as the one on Plant and Machinery - Whether the addition made by the AO of investment advisory fees paid by the assessee, according to the SEBI guidelines, is justified in nature.

[2014-TIOL-685-HC-AHM-IT](#)

Rajhans Builders Vs DCIT (Dated: May 5, 2014)

Income Tax - Sections 132, 133A, 132(4), 140, 153C, 158BD, Rule 12 - District Valuation officer - Whether for the purpose of section 158BD, a satisfaction note must be prepared by the Assessing Officer before he transmits the records to the other Assessing Officer who has jurisdiction over such other person - Whether a High Court will have to entertain a writ, even if an effective alternative remedy is available to the aggrieved person.

[2014-TIOL-684-HC-AHM-IT](#)

CIT Vs Jay Enterprises (Dated: March 4, 2014)

Income Tax - Section 43(5) - loss in MCX transaction - Head Office - non-interest bearing activities - smallness of assessment - Whether an amount transferred by the head office under the head of unsecured loan against a loss in a division is to be disallowed - Whether penalty expenses are a part of expenditure levied on business transactions - Whether a claim raised before the High court can be left unnoticed because of the smallness of the amount.

[2014-TIOL-681-HC-MUM-IT](#)

CIT Vs Capgemini India Ltd (Dated : April 30, 2014)

Income Tax - Section 10A - export turnover - data line cost - Whether the expenses which were not incurred in relation to export, can be termed as deductions permissible from export turnover - Whether the charges, which are claimed to have incurred are in relation to the business of software development within India, could be said to be costs deductible from export turnover for the purposes of Section 10A.

[2014-TIOL-680-HC-RAJ-IT](#)

CIT Vs Shri Kailash Chand Methi (Dated: January 2, 2014)

Income Tax - Sections 143(3), 154, 260A, 263 - jurisdiction - lacunae - dropped proceedings - Whether u/s 263, CIT has un-fettered and un-chequered discretion to revise the order passed by an AO - Whether a CIT can invoke the powers to correct each and every mistake or error committed by the AO - Whether there is any provision either u/s 154 or u/s 263(1) to inform the CIT to issue show cause notice u/s 263 by the lower authorities as the Commissioner only has the jurisdiction to issue show cause notice u/s 263 if he himself is satisfied after examining the records of the assessment order passed by the AO which falls under his jurisdiction - Whether the CIT gets power of revision, in case the twin conditions are satisfied that the order passed by the AO is erroneous in so far as it is prejudicial to the interest of the revenue - What is to be considered as prejudicial to the interest of revenue.

[2014-TIOL-679-HC-MUM-IT](#)

Maharashtra Cricket Association Vs ITO (Dated: April 8, 2014)

Income Tax - Sections 11, 12A, 12AA, 143(1), 143(3), 148 - reopening - reasons - Whether reasons to reopen an assessment can be considered as an order of assessment, against which an appeal is possible - Whether in case there is no tangible material on the basis of which assessment is sought to be reopened, reasons to reopen an assessment can be challenged.

[2014-TIOL-672-HC-DEL-IT](#)

CIT Vs Uniword Telecom Ltd (Dated: February 25, 2014)

Income tax - Sections 40(a)(ia), 133(6) - TDS - Finance Act, 2008 - CENVAT Credit - bogus purchase bills - fictitious vendors - Whether if the assessee fails to ensure the presence of its vendors during the assessment proceedings, it warrants rejection of books of accounts - Whether assessee's books can be rejected merely on the basis of the suspicion that the vendors withdrew cash which may have found its way back to the assessee.

[Also see analysis of the Order](#)

[2014-TIOL-671-HC-DEL-IT](#)

CIT Vs M/s R K And Sons (HUF) (Dated: April 17, 2014)

Income Tax - Section 111A - short term capital gain - sale of shares - trading transactions - HUF - Whether the income earned by the karta of the HUF apart from his business, from indulging in trading of shares merely for 45 days, would be taxable as business income.

[2014-TIOL-670-HC-DEL-IT](#)

CIT Vs Maina Devi Karnani (Dated: April 1, 2014)

Income Tax - Section 111A - short term capital gains - solitary transactions - Whether in case, an assessee, has entered into a single transaction, it can be considered as the business income - Whether a solitary transaction, an expression which had wide connotations implying its continuance, could be termed as assessee's business income.

[2014-TIOL-669-HC-AHM-IT](#)

CIT Vs Jasubhai Somabhai Patel (Dated: March 24, 2014)

Income Tax - Sections 10(37), 45(5) - land - personal cultivation - Whether in case the assessee is staying away from the agricultural land and that he was otherwise engaged in a business, it is sufficient to hold that such land is not being used for agricultural purposes by the assessee.

[2014-TIOL-668-HC-AHM-IT](#)

CIT Vs Gruh Finance Ltd (Dated: April 22, 2014)

Income Tax - Sections 35, 36(1)(vii), 143(3) - condonation of delay - Whether mere failure on part of the concerned Revenue officer to handover the charge to his successor, can be a ground to ignore inordinate delay in filing appeal - Whether Condonation of delay can be treated as an anticipated benefit for government departments - Whether in case there is no proper explanation offered by the Department for the delay except mentioning of various dates, it can be assumed that the Department has miserably failed to give any acceptable and cogent reasons sufficient to condone such delay.

[2014-TIOL-667-HC-KAR-IT](#)

Sri V S Balasubramanyam Vs ITO (Dated: April 22, 2014)

Income Tax - Sections 143(1), 147, 148 - property - partnership firm - reopening - Whether if an assessee has created a partnership firm merely for the purpose of avoiding capital gains arising on transfer of non agricultural land, is there any such possibility of avoiding gains by filing an appeal before the High Court and creating a special purpose vehicle.

[2014-TIOL-666-HC-P&H-IT](#)

Kanav Khanna Vs CIT (Dated: March 26, 2014)

Income Tax - Sections 2(14), 10(37), 143(1), 143(2), 194LA - agricultural income - compulsory acquisition of land - compensation - Whether benefit of exemption in respect of compensation received from compulsory acquisition of land, is available in case of a "non-capital asset" - Whether in case it is not proved that the agricultural activities were carried out on agricultural land, such an exemption can be granted to the assessee.

[2014-TIOL-663-HC-ALL-IT](#)

CIT Vs M/s Jindal Polyester And Steel Ltd (Dated: April 7, 2014)

Income Tax - Sections 115J, 271(1)(c) - penalty - MAT - book profits - depreciation - Whether if the computation of book profits has been done u/s 115JB, the concealment of income has no role to play and it is totally irrelevant - Whether in such a case penalty for concealment cannot be levied even in respect of the false claim of depreciation made by the assessee.

[Also see analysis of the Order](#)

[2014-TIOL-662-HC-MUM-IT](#)

CIT Vs M/s Mahindra & Mahindra Ltd (Dated: April 15, 2014)

Income Tax - Sections 35D, 37(1), 40A(9) - question of law - equity shares - maintenance - Whether in case Tribunal has decided an issue in the light of its own decision of the previous year, the appeal arising out of that decision of the Tribunal gives rise to a substantial question of law - Whether in case, factual matters have to be verified and examined in the light of the legal principles and that matter has been remitted back to the AO, it would constitute a substantial question of law - Whether a question can be accepted a substantial question of law in case, there was no judgment of the High Court on that issue - Whether when there is nothing contrary to an issue, then the settled principle, would have to be applied - Whether development expenses incurred for improving the performance of existing product can be allowed as a revenue expenditure u/s 37(1).

[2014-TIOL-661-HC-AHM-IT](#)

CIT Vs Corrtch Energy Pvt Ltd (Dated: March 24, 2014)

Income Tax - Section 14A, 36(1)(iii), Rule 8D - loan - interest - disallowance - Whether deduction for interest is permissible, in case loan is taken for business purpose and not for diverting the same to sister concern without having nexus with the business - Whether the provisions of section 14A can apply in case of an assessee, even if the assessee has not claimed any deduction.

2014-TIOL-660-HC-KAR-IT
CIT Vs M/s Chamundi Industrial Estate (Dated: April 11, 2014)
Income Tax - commercial buildings - income from house property - business income - lease - facilities - Whether mere proof of purchase of properties and rental receipts is sufficient to prove that the assessee is in the business of letting out commercial properties.
2014-TIOL-659-HC-KOL-IT
CIT Vs M/s Chanakya Finvest Pvt Ltd (Dated : April 11, 2014)
Income Tax - Sections 144, 147, 234B, 260A, 268A - Whether an appeal filed can be dismissed merely on the basis that it has been filed in violation of the Instructions issued by the CBDT, which were binding on the Revenue in view of the provisions contained in Section 268A.
2014-TIOL-658-HC-KOL-IT
CIT Vs M/s Humdoldt Wedag India Pvt Ltd (Dated: April 8, 2014)
Income Tax - Sections 143(2), 143(3), 147, 292BB - prospective operation - essentiality of notice - the effect of waiving - notice - retrospective effect - Whether issuing of a notice u/s 143(3) is a matter of mere provision of prospective operation or a necessary step of a procedural matter need to be abided with - Whether an order passed by the AO u/s 147 can be nullified on the basis that a notice u/s 143(3) is not issued.
2014-TIOL-657-HC-MP-IT
Dr Subodh Varshney Vs CIT (Dated: April 22, 2014)
Income Tax - Writ - interim relief - infructuous - specific challenge - Whether the writ petition filed by assessee against an interim order and appeal pending before the CIT(A), is maintainable - Whether the HC has any jurisdiction to pass any other interim order against the order of the appellate authority.
2014-TIOL-654-HC-DEL-IT

Yama Finance Ltd Vs ACIT (Dated: April 1, 2014)

Income Tax - Section 11(5) - stock-in-trade - surplus - mutual funds - demarcated as investments - volume - frequency - continuity - regularity - Whether if an assessee has kept certain amounts separately in an investment account and held mutual funds for about two years, the gains arising out of the sale of such mutual funds can be taxed as business income - Whether trading in shares and investment in mutual funds can be clubbed with sale of shares or commodities during assessment.

[2014-TIOL-653-HC-MUM-IT](#)

CIT Vs M/s Weizmann Ltd (Dated: April 15, 2014)

Income Tax - Section 41(1) - lease rental - sister concern - loan at lower rate - interest free funds - Whether an assessing officer can disallow expenditure incurred on account of payment made for lease rentals to a sister concern - Whether an assessee could give advances at a rate lower than the rate on which borrowings are made.

[2014-TIOL-652-HC-KAR-IT](#)

CCIT Vs M/s Sarva Equity Pvt Ltd (Dated: January 8, 2014)

Income Tax - Sections 2(22)(e), 132, 142, 143(2), 153C - deemed dividend - search - interest - Whether the fact that the Directors and share holders of two companies, are members of one and the same family and they have substantial holding in sister concern of the assessee company, is sufficient to treat the amounts advanced to such sister concern as deemed dividend within the meaning of Section 2(22)(e) - Whether by providing an inclusive definition of the expression "dividend", Clause (e) of Section 2(22) of the Act brings within its purview attempts which may not ordinarily constitute the payment of dividend - Whether a beneficial owner of shares whose name does not appear in the Register of shareholders of the Company cannot be stated to be a shareholder, in context of taxation of deemed dividend u/s 2(22)(e).