

**INCOME TAX APPELLATE TRIBUNAL  
ORDER**

[2010-TIOL-653-ITAT-MUM](#)

**Mrs Manghal Gaonkar Vs ITO, Mumbai (Dated: August 27, 2010)**

Income Tax – Sections 17, 143(3), 147 - Whether if employees lease out their premises to their employer against rent and occupy the same, they lose their HRA benefits - Whether obligation falls on the employer to compute the value of perquisite for accommodation after adjusting the lease amount paid and what is left over should be treated as HRA benefit.

[Also see analysis of the Order](#)

[2010-TIOL-652-ITAT-MUM](#)

**M/s International Gold Co Ltd Vs ITO, Mumbai (Dated: September 15, 2010)**

Income tax – Deduction u/s 10A - Whether disallowance made u/s 36(1)(va) r.w.s. 2(24)(x) is to be excluded from the profits eligible for deduction u/s 10A.

[2010-TIOL-651-ITAT-MUM](#)

**ACIT, Mumbai Vs M/s Lintas (I) Ltd (Dated: October 18, 2010)**

Income tax – Revenue vs Capital Expenditure - Whether the expenses incurred on account of repairs and maintenance are revenue or capital .

[2010-TIOL-650-ITAT-MUM](#)

**ITO, Mumbai Vs Shri Ramesh N Vora (Dated: August 6, 2010)**

Income Tax – Section 68 – Whether merely converting the loans received in the preceding assessment year into gifts through book entries in the current year can be treated as unexplained so as to make addition u/s 68 – Whether addition on account of loans u/s 68 has to be restricted to the loans taken during the year and not the opening balances which relate to other assessment years .

<a href="#">2010-TIOL-649-ITAT-MUM</a>
<b>Shri Suresj L Agarwal Vs ITO, Mumbai (Dated: August 6, 2010)</b>
Income Tax - Section 143(3) - Whether where the assessment records of the case reflects that the assessment order was passed well within the period of limitation the assessee was correct in urging that the assessment is barred by limitation.
<a href="#">2010-TIOL-648-ITAT-DEL</a>
<b>ADIT, New Delhi Vs Indian National Science Academy (Dated: September 10, 2010)</b>
Income Tax – Section 10(21), 12A, 35(1)(ii), 143(2) – Whether merely because the assessee has been granted approval in the category of 'Other institution' partly engaged in research activities, it cannot be said to have satisfied the condition of section 10(21) of the Act inasmuch as the income of the assessee is exempted u/s 10(21) of the act only in case of a scientific research association and not in the category of 'Other institutions'.
<a href="#">Also see analysis of the Order</a>
<a href="#">2010-TIOL-647-ITAT-BANG</a>
<b>ACIT, Bangalore Vs Shri Naresh Kumar J Shah (Dated: May 13, 2010)</b>
Income Tax - Section - 54F - Whether Sec 54F benefits are available only on a single residential unit.
<a href="#">2010-TIOL-646-ITAT-MUM</a>
<b>DCIT, Mumbai Vs M/s Darashaw Securities Pvt Ltd (Dated: August 17, 2010)</b>
Income Tax – Section 37(1) - Whether business facilitation expenses incurred by the assessee for obtaining of relevant information for procuring the business from the concerned parties involved any fraudulent or unfair trade practice and thus Explanation to section 37(1) was clearly attracted so as to disallow the expenses
<a href="#">2010-TIOL-645-ITAT-BANG</a>
<b>Canbank Financial Services Limited Vs DCIT, Bangalore (Dated: August 27, 2010)</b>

Income Tax - Sections 115JB, 154, 234C - Whether when Tribunal dismisses the appeal on the ground of lack of CoD approval, the CIT(A) subsequent order confirming the levy of interest is hit by the doctrine of merger.

[2010-TIOL-644-ITAT-COCHIN](#)

**DDIT, Ernakulam Vs Lissie Medical Institutions (Dated: October 26, 2010)**

Income Tax - Sections 11, 12A, 32(1) - Whether the AO is right in denying depreciation on capital assets whose costs were allowed as application of income by the assessee-society in the previous year - Whether allowance of depreciation would amount to double benefits.

[Also see analysis of the Order](#)

[2010-TIOL-643-ITAT-MUM](#)

**Sri Adhikari Brothers Television Networks Ltd Vs ACIT, Mumbai (Dated: September 22, 2010)**

Income Tax – Section 80HHF – Whether, for computing Sec 80HHF benefits, profits derived from the business are to be calculated by multiplying 'export turnover' with the 'profits of the business' as divided by the 'total turnover of the business' - Whether the business of making TV software in the domestic market and also foreign markets constitutes a composite business.

[2010-TIOL-642-ITAT-DEL](#)

**M/s Vashti Management Services Pvt Ltd Vs ITO, New Delhi (Dated: August 13, 2010)**

Income Tax – Section 32, 41(2), 50, 73(1) – Whether the provision of section 41(2) can be applied for granting set off against brought forward losses – Whether loss on account of trading in shares constituted speculative loss – Whether depreciation on land can be claimed by the assessee on the argument that the value of land could not be ascertained because of composite purchase deed .

[Also see analysis of the Order](#)

[2010-TIOL-641-ITAT-DEL](#)

**Dy.CIT, New Delhi Vs M/s Living Media India Ltd (Dated: September 8, 2010)**

Income Tax - Section 14A, Rule 8D - Disallowance of interest - Whether provision of rule 8D read with section 14A are prospective and hence the order of the CIT (A) is liable to be set-aside to the file of the AO to examine whether the assessee has in fact incurred any expenses vis-à-vis earning of dividend income.

[2010-TIOL-640-ITAT-DEL](#)

**Hotz Industries Vs DCIT, New Delhi (Dated: September 01, 2010)**

Income Tax - Section 14A, Rule 8D - Whether provision of rule 8-D is retrospective in nature.

[2010-TIOL-639-ITAT-MUM](#)

**M/s Ogilvy & Mather Ltd Vs Dy. CIT, Mumbai (Dated: October 13, 2010)**

Income Tax - Sections 45, 54EC - Whether in view of the scheme of section 45, provision of this chapter will precede the other computational provisions such as setoff of brought forward losses.

[2010-TIOL-638-ITAT-MUM](#)

**ACIT, Mumbai Vs Shri Parag A Doshi (Dated: September 24, 2010)**

Income Tax – Section 269SS, 269T, 271D – Whether there is any time limit prescribed for initiating penal action u/s 271D in respect of acceptance and return of loan in cash infringing section 269SS and section 269T of the Act .

[2010-TIOL-637-ITAT-DEL](#)

**ITO, New Delhi Vs Shri Ashok Chadha (Dated: September 17, 2010 )**

Income Tax – Sections 143(2), 153A - Whether notice u/s 143(2) can command compliance only if it is issued in proforma ITNS-33 – Whether questionnaires amount to notice u/s 143(2).

[Also see analysis of the Order](#)

[2010-TIOL-636-ITAT-DEL](#)

**Jalvayu Sehkari Awas Samiti Ltd Vs CIT, Ghaziabad (Dated: June 11, 2010)**

Income Tax – Sections 12AA, 154 – Whether a controversial issue falls within the ambit of rectification jurisdiction u/s 154.

[2010-TIOL-635-ITAT-DEL](#)

**ITO, New Delhi Vs M/s Madhur Housing & Development Co (Dated: August 27, 2010)**

Income Tax - Section 2(22)(e) - Whether deemed dividend can be assessed only in the hands of a person who is a shareholder of the lender company and not in the hands of the borrowing concern in which such shareholder is member or partner having substantial interest.

[2010-TIOL-634-ITAT-MUM](#)

**M/s GIA Exports Vs ACIT, Mumbai (Dated: July 30, 2010)**

Income Tax - Sections 10A, 271(1)(c) - Whether limitation of time under Section 10A(3) also applies to an SEZ unit .

[2010-TIOL-633-ITAT-MUM](#)

**Sat Prakash Goyal Vs ITO, Mumbai (Dated: June 30, 2010)**

Income Tax - Section 2(22)(e)- Whether payments made by a company through a running account in discharge of its existing debts or against purchases or for availing services, in the ordinary course of business carried on by both the parties be treated as deemed dividend for the purpose of section 2(22)(e).

[2010-TIOL-632-ITAT-DEL](#)

**DCIT, New Delhi Vs Hindu Industries Ltd (Dated: August 13, 2010)**

Income Tax – Sections 36(1)(ii), 40A(3) – Whether Commission paid to Managing Director as part of remuneration, authorised by the AGM and also approved by Department of Company Affairs, falls within the ambit of Sec 36(1)(ii) and warrants disallowance.

[Also see analysis of the Order](#)

<a href="#">2010-TIOL-631-ITAT -DEL</a>
<b>DCIT, New Delhi Vs BMW Holdings P Ltd (Dated: September 10, 2010)</b>
Income Tax - Sections 28, 45 - Whether income accrued from sale of shares is taxable as short-term capital gains or business profits when the assessee has shown the same as investment.
<a href="#">2010-TIOL-630-ITAT -MUM</a>
<b>Dy.CIT, Mumbai Vs M/s Bank Of America Securities (India) Pvt Ltd (Dated: September 9, 2010)</b>
Income tax – Sec 37 - Capital vs Revenue - Whether expenditure incurred for payment of entrance fee for becoming a member of sports club is a capital or revenue expenditure .
<a href="#">2010-TIOL-629-ITAT -MUM</a>
<b>Deepak Classes Borivali Pvt Ltd Vs ITO, Mumbai (Dated: April 19, 2010)</b>
Income Tax - Section 271(1)(c) - Whether penalty is leviable where certain expenses which were paid by the earlier owner of the business and reimbursed by the assessee via account payee Cheques at the time of taking over of the business, however remained unsubstantiated due to non-cooperation of the actual recipients.
<a href="#">2010-TIOL-628-ITAT -MUM</a>
<b>Ambit Corporate Finance Pvt Ltd Vs DCIT, Mumbai (Dated: September 30, 2010)</b>
Income Tax - Section 40A(2) - Whether provisions of section 40A(2) can also be applied when assessee fails to make adequate profits in its business transactions with sister concern.
<a href="#">2010-TIOL-627-ITAT -MUM</a>
<b>M/s Gunnebo India Ltd Vs ITO, Mumbai (Dated: August 20, 2010)</b>
Income Tax - Section 36(1)(iii), 36(1)(vii), 145 - Whether non-recognition of interest income on the amount outstanding due from the subsidiary on account of poor

financial position of the subsidiary can be held that the borrowings, to the extent of the amounts due from the subsidiary, have not been utilised by the assessee for their business purposes and accordingly the interest needs to be disallowed - Whether the assessee can make adjustment in the value of opening stock for the purpose of section 145 - Whether in order to claim bad debt it is necessary for the assessee to establish that the debt has become irrecoverable though the bad debts are written off as irrecoverable in the accounts of the Assessee.

[2010-TIOL-626-ITAT -DEL](#)

**DCIT, New Delhi Vs M/s IAG Promoters & Developers Pvt Ltd (Dated: April 6, 2010)**

Income Tax - Sections 50C, 142A, 143(3) - Whether rent capitalization method can be applied to determine the fair market value of the property, ignoring the registered sale deed value of the property, for the purpose of computing business income, without any positive material.

[2010-TIOL-625-ITAT -MUM](#)

**Harlow Butter Merwanjee Forex Pvt Ltd Vs Addl.CIT, Mumbai (Dated: September 9, 2010)**

Income tax - capital vs revenue expenditure - Whether non-competee fee paid for taking over a running business concern is capital in nature.

[2010-TIOL-624-ITAT -MUM](#)

**ACIT, Mumbai Vs Tata Industries Limited (Dated: August 20, 2010)**

Income Tax - Capital Gains - Section 55(2) - Whether assessee is entitled to claim short term capital loss attributable to the fall in value of cum rights share on the record date on account of becoming ex rights shares immediately thereafter.

[2010-TIOL-623-ITAT -MUM](#)

**Late Vijendra M Shenai Vs DCIT, Mumbai (Dated: August 31, 2010)**

Income Tax – Sections 37(1), 194A - Whether income earned on CDs is assessable in the hand of the assessee or in the hands of M/s. Manmala Exhibitors, a firm in which the assessee was a partner – Whether the interest accrued on the unmatured CD can be brought to tax even though the CD matured subsequently during the later financial year .

[2010-TIOL-622-ITAT-BANG](#)

**M/s Jindal Aluminium Ltd Vs ACIT, Bangalore (Dated: August 20, 2010)**

Income Tax - Sections 80IA, 80HHC, 147 - Whether benefit of Sec 80IA is to be deducted from profits of the business before deduction of Sec 80HHC is allowed.

[2010-TIOL-621-ITAT-MUM](#)

**M/s India Exports Vs ACIT, Mumbai (Dated: January 29, 2010)**

Income Tax - Sections 80HHC, 147 - Whether reopening can be done on the basis of subsequent amendment after four year of the relevant assessment year.

[2010-TIOL-620-ITAT-MUM](#)

**Industrial Development Bank Of India Limited Vs DCIT, Mumbai (Dated: September 30, 2010)**

Income Tax - Section 271(1)(c) – Whether merely because an assessee has made a legal claim, and even if it has been found to be unsustainable in law, penalty cannot be imposed, particularly when all the relevant facts have been disclosed by the assessee .

[2010-TIOL-619-ITAT-BANG](#)

**M/s SJR Builders Vs ACIT, Bangalore (Dated: August 21, 2009)**

Income Tax - Section 80IB (10): - Whether when certain flats exceed the prescribed built-up area, the assessee loses Sec 80IB(10) benefits in its entirety or proportional benefits can be allowed.

[2010-TIOL-618-ITAT-MUM](#)

**ACIT, Mumbai Vs Accenture Services P Ltd (Dated: October 20, 2010)**

Income Tax – Sections 133, 194-C, 194-I, 201(1), 201(1A) – Whether the contract entered into by the assessee with the transporter for transportation of its employees should be covered under the provisions of section 194-C or 194-I of the Act .

[Also see analysis of the Order](#)



<a href="#">2010-TIOL-617-ITAT -MUM</a>
<b>Dr Bhavin B Jankharia Vs ACIT, Mumbai (Dated: September 30, 2010)</b>
Income Tax – Section 14A, Rule 8D – Whether no disallowance u/s 14A is warranted to the extent of borrowed funds utilized for the purpose of investment in firm as the same is allowable deduction from the remuneration and interest received by the assessee from the partnership firm.
<a href="#">2010-TIOL-616-ITAT -MUM</a>
<b>M/s Godrej Agrovet Ltd Vs ACIT, Mumbai (Dated: September 17, 2010)</b>
Income Tax – Sections 14A, 32, 43(6), Rule 8D - Whether claim of depreciation on goodwill and non compete fee is allowable – Whether Rule 8D is applicable only prospectively i.e. from A.Y. 2008-09 – Whether AO is justified in disallowing the interest and administrative expenses incurred by the assessee by attributing it to the exempt income earned in the form of dividend on shares as per the provisions of section 14A
<a href="#">2010-TIOL-615-ITAT -MUM</a>
<b>M/s Golden Oil Industries Pvt Ltd Vs ACIT, Mumbai (Dated: February 4, 2010)</b>
Income Tax - Section 41(1) - Whether, when assessee denies its liability to pay but the creditor has initiated recovery suit, the AO is right in making additions u/s 41(1).
<a href="#">2010-TIOL-614-ITAT -MAD</a>
<b>Sakthi Sugars Ltd Vs ACIT, Coimbatore (Dated: June 24, 2010)</b>
Income Tax - Section 263 - Whether CIT can set-aside the order the of the AO expressing his view as if he was acting as CIT(A) - Whether AO is right in accepting the books of accounts of the assessee if it is found to be in conformity with the provisions of Companies Act for the purpose of Sec 115JB.
<a href="#">2010-TIOL-613-ITAT -MUM</a>
<b>Lupin Limited Vs ACIT, Mumbai (Dated: September 3, 2010)</b>

Income Tax – Sections 37(1), 80HHC, 80IA - Whether by paying the lease premium for a period of 99 years, the assessee acquired the lease rights, which were enduring benefits and, is therefore, a capital expenditure not allowable as deduction under the Act - Whether deduction u/s 80HHC has to be claimed on the basis of company as a whole or on the basis of each business unit separately - Whether the expenditure incurred on account of issue of partly convertible debenture issue allowable u/s 37(1) – Whether interest on bank deposits and provision written back has direct nexus with the profits of the industrial undertaking so as to be allowable as deduction u/s 80IA

[2010-TIOL-612-ITAT-MUM](#)

**Jewel Enterprises Vs ITO, Thane (Dated: May 31, 2010)**

Income Tax - Sections 28, 80HHC, 263 - Whether AO's decision to talk about the amendment in the relevant law but not to apply the same calls for invocation of Sec 263.

[2010-TIOL-611-ITAT-MUM](#)

**M/s Mafatlal Denim Ltd Vs DCIT, Mumbai (Dated: September 24, 2010)**

Income Tax – Section 37(1) – Whether the loss on account of foreign exchange currency loans utilized for working capital requirements is allowable deduction u/s 37(1) .

[2010-TIOL-610-ITAT-MUM](#)

**DCIT, Mumbai Vs M/s Pavi L Le Fashion Pvt Ltd (Dated: June 25, 2010)**

Income Tax Act, 1961 - Sections 36(1)(vii), 40A (2) - Whether AO is right in disallowing the expenditure u/s 40A (2)(b) on the ground that excessive interest on loan was paid against the market rate which was calculated on unreasonable grounds - Whether mere writing off a debt in the books of accounts would be sufficient compliance for claiming deduction - Whether it is justified to appropriate the part of expenses incurred for the purpose of earning rental income on the basis of quantum of rental receipts vis-à-vis business turnover.

[2010-TIOL-609-ITAT-MUM](#)

**M/s Royal Engineering Works Vs ITO, Mumbai (Dated: September 17, 2010)**

Income Tax - Section 40(a)(i) - Whether non-deduction of TDS on payments made towards labour charges calls for disallowance u/s 40(a)(i).

[2010-TIOL-608-ITAT -MUM](#)

**DCIT, Mumbai Vs M/s Greaves Cotton Ltd (Dated: September 9, 2010)**

Income Tax – Sections 14A, 35D, Rule 8D – Whether the expenditure incurred for restructuring of the business is allowable as revenue expense or to be amortised as per the provisions of section 35D - Whether the AO was duty bound to determine the expenditure which had been incurred in relation to exempt income adopting a reasonable basis or method consistent with all the relevant facts and circumstances and not to disallow on ad hoc basis – Whether Rule 8D has retrospective application.

[Also see analysis of the Order](#)

[2010-TIOL-607-ITAT -MAD](#)

**ACIT, Chennai Vs Smt Sarada Velu (Dated: June 24, 2010)**

Income Tax - Sections 143(3), 199 - Whether CIT (A)'s order holding that the AO was not correct in construing, on the basis of memorandum of accounts, that the system of accounting of assessee is mercantile and the assessee has suppressed his receipts - Whether the credit of TDS should be given in the year in which the corresponding income is offered for taxation.

[2010-TIOL-606-ITAT -MUM](#)

**ACIT, Mumbai Vs M/s Wockhardt Ltd (Dated: August 27, 2010)**

Income Tax – Section 35(2AB), 80IB – Whether the deduction u/s 35(2AB) has to be computed on the total expenditure incurred by the assessee on the concerned R&D and not after netting off of income – Whether R&D expenses on which the assessee has claimed deduction u/s 35(2AB) are to be allocated on the basis of turnover of the qualifying units for .

[2010-TIOL-605-ITAT -BANG](#)

**M/s Horizon Capital Limited Vs ITO, Bangalore (Dated: July 16, 2010)**

Income Tax - Section 115JB – Whether section 115JB is a self-contained code - Whether assessee is entitled to claim deduction of the amount equal to the STT paid by him in respect of the taxable Securities Transactions entered into in the course of business during the previous year.

[Also see analysis of the Order](#)

[2010-TIOL-604-ITAT-DEL](#)

**Cheil India Private Ltd Vs ACIT, New Delhi (Dated: August 6, 2010)**

Income Tax – Section 37(1) – Whether expenditure incurred on Media Research, Market Research and Project Development Fees provided enduring benefit to the assessee, which is engaged in the business of advertising, publicity and consultancy services and accordingly, is capital in nature, not allowable as deduction u/s 37(1).

[2010-TIOL-603-ITAT-MUM](#)

**DCIT, Mumbai Vs M/s Grishma Securities Pvt Ltd (Dated: September 17, 2010)**

Income Tax – Sections 36(2), 43(5) - Whether the claim of bad debt was justified on account of amount receivable by the assessee from his clients against the purchase of shares made on their behalf in the capacity of a share broker .

[2010-TIOL-602-ITAT-DEL](#)

**M/s Frick India Ltd Vs DCIT, New Delhi (Dated: September 30, 2010)**

Income Tax - Sections 32, 263 - Whether invocation of powers u/s 263 is legitimate on the ground of lack of compliance with the principle of consistency in allowing certain expenses as revenue expenditure.

[2010-TIOL-601-ITAT-BANG](#)

**M/s GE Medical Systems (India) Pvt Ltd Vs DCIT, Bangalore (Dated: June 25, 2010)**

Income Tax - Section 234C - Whether, for levying interest u/s 234C, the date of presentation of cheque is to be reckoned or the date of credit in the Govt Account.

[2010-TIOL-600-ITAT-MUM](#)

**Indian Products Trading Co Pvt Ltd Vs ITO, Mumbai (Dated: September 30, 2010)**

Income Tax - Section 36(1)(vii) - Whether TDS deducted but not deposited in government account by the payer can be treated as debt by the payee - Whether payee which is entitled to credit for TDS deposited, can write it off such bad debt if payer fails to deposit the same in the treasury.

[Also see analysis of the Order](#)

[2010-TIOL-599-ITAT-MUM](#)

**M/s Babubhai Pranalal & Brothers Vs ACIT, Mumbai (Dated: January 29, 2010)**

Income Tax - Section 4 - Whether AO is right in making addition on the basis of lack of reliable stock register - Whether in the absence of stock register AO is legally empowered to resort to estimate basis to compute taxable income.

[2010-TIOL-598-ITAT-MUM](#)

**Mr Ashok D Shrimali Vs ITO, Mumbai (Dated: January 7, 2010)**

Income Tax – Sections 133(6) - Whether the CIT(A) was justified in sustaining the additions made by the AO on account of the discrepancies in the outstanding balance of the creditors of the assessee.

[2010-TIOL-597-ITAT-MUM](#)

**M/s Apsara Art Materials Pvt Ltd Vs ACIT, Mumbai (Dated: January 19, 2010)**

Income Tax - Sections 4, 80IA, 80IB - Estimated addition - Whether substantial sales to sister concerns which are eligible for Sec 80IA/80IB benefits give rise to presumption that the assessee has transferred profits to sister concerns.

[2010-TIOL-596-ITAT-MUM](#)

**Golden Stables Lifestyle Center Pvt Ltd Vs CIT, Mumbai (Dated: September 30, 2010)**

Income tax – Sections 40(a)(ia), 40(a)(2)(b) – Whether disallowance u/s 40(a)(ia) is warranted if TDS is deposited before the due date of filing of ITR - Whether the AO is right in making the comparison between the freelance agents and the director to disallow the commission payable to directors u/s 40A(2)(b) of the Act and holding the commission as excessive.

[Also see analysis of the Order](#)

<a href="#">2010-TIOL-595-ITAT-MUM</a>
<b>ACIT, Mumbai Vs M/s Tata Motors Ltd (Dated: June 30, 2010)</b>
Income Tax - Section 37(2) - Whether guest house expenses incurred on food and beverages can be allowed as business expenditure even without any evidence maintained in this regard - Whether onus to prove that the expenses are related to official work assigned to company's employees, falls on the assessee.
<a href="#">2010-TIOL-594-ITAT-DEL</a>
<b>M/s N G Technologies Ltd Vs DCIT, New Delhi (Dated: September 13, 2010)</b>
Income Tax - Sections 40(a)(ia), 194I, 271(1)(c) - Whether penalty is leviable on an assessee who has not challenged the disallowance effected for non-deduction of TDS on rent - Whether AO can impose penalty ignoring the benevolent Circular on the issue.
<a href="#">2010-TIOL-593-ITAT-MAD</a>
<b>Dy.CIT, Chennai Vs M/s Terra Energy Ltd (Dated: April 23, 2010)</b>
Income Tax - Sections 115JB, 271(1)(c) - Whether declaring positive income as losses in the return, and not rectifying the same even after being pointed out, amounts to furnishing of inaccurate particulars - Whether it calls for invocation of penalty.
<a href="#">Also see analysis of the Order</a>
<a href="#">2010-TIOL-592-ITAT-DEL</a>
<b>M/s Anand &amp; Anand Vs ACIT, New Delhi (Dated: August 31, 2010)</b>
Income Tax - Sections 32(1)(iii), 43(6)(c), 50(2), 271(1)(c) - Whether, when the entire block of asset exists, the benefit of Sec 50(2) cannot be claimed by disposing of a part of it - Whether penalty is warranted if assessee claims any expenses which are per se inadmissible under the Act and the same amounts to furnishing of inaccurate particulars
<a href="#">2010-TIOL-591-ITAT-BANG</a>

**M/s Embassy Classic Pvt Ltd Vs ACIT, Bangalore (Dated: July 22, 2010)**

Income Tax – Section 153A – Whether assessment made on the assessee pursuant to search conducted in the case of the assessee on the strength of a common search warrant issued not only in the name of the assessee company but also in the name of its directors and other persons is void -ab-initio - Whether writing off a debt as bad and doubtful in the books is sufficient and the assessee can convert any live amount into a bad debt only on the basis of the technical rule of writing off to claim the amount as bad debt - Whether addition can be made against the alleged on-money merely on the statement recorded from the third party that the payment was made to the assessee company and without any evidence of on-money payment .

[2010-TIOL-590-ITAT-MUM](#)

**Development Credit Bank Ltd Vs DCIT, Mumbai (Dated: August 31, 2010)**

Interest Tax Act, 1974 – Sections 12, 13, 17 - Whether penalty is leviable even in the case where the issue of treating lease transaction as financial transaction continues to be debatable .

[2010-TIOL-589-ITAT-MUM](#)

**Tata Infotech Ltd Vs ACIT, Mumbai (Dated: September 30, 2010)**

Income Tax - Sections 10A, 70,71,263 - Whether the 10% profits of an undertaking left after claiming deduction of section 10A can be set-off with the losses of other units which are not eligible for deduction u/s 10A.

[2010-TIOL-588-ITAT-MUM](#)

**Yashashree Yogesh Naik Vs DCIT, Nagpur (Dated: July 30, 2010)**

Income Tax - Sections 132, 253(6) - Application of CPC provision - Whether for invoking the provisions of CPC to exempt an assessee from the requisite appellate fees it is incumbent on assessee to establish that he/she has no asset and is literally indigent person.

[Also see analysis of the Order](#)

[2010-TIOL-587-ITAT-DEL](#)

**Indian Vaccines Corporation Ltd Vs ITO, New Delhi (Dated: September 10, 2010)**

Income Tax - Interest income - Whether, even if assessee does no money-lending business in the relevant year, interest income is to be treated under the head of business income merely because it was done so in the past.
<a href="#">2010-TIOL-586-ITAT -DEL</a>
<b>M/s Ruchi Oil &amp; Vanaspati (P) Ltd Vs ITO, New Delhi (Dated: July 9, 2010)</b>
Income Tax – Whether CIT(A) is justified in making partial disallowance of brokerage paid for lack of proper furnishing of confirmation from brokers.
<a href="#">2010-TIOL-585-ITAT -BANG</a>
<b>Kumar Nirman &amp; Nivesh Pvt Ltd Vs ACIT, Bangalore (Dated: March 5, 2010)</b>
Income Tax - Section 68 - Whether entries in books of accounts if not supported by independent evidence are self serving evidence and hence the CIT(A) was not correct in relying on these entries - whether the addition made by the AO on account of unexplained cash credits is correct observing that the transactions were in cash and explanations of the assessee were unilateral, not supported by the creditors.
<a href="#">2010-TIOL-584-ITAT -MUM</a>
<b>Bapusaheb Nanasaheb Dhumal Vs ACIT, Mumbai (Dated: June 25, 2010)</b>
Income Tax - Sections 40a(ia), 139(1), 194C – Whether disallowance u/s 40(a)(ia) can be invoked if assessee belatedly resorts to deduction u/s 194C and also belatedly deposits the same.
<a href="#">2010-TIOL-583-ITAT -MUM</a>
<b>DCIT, Mumbai Vs M/s Royal Home Collections Pvt Ltd (Dated: July 16, 2010)</b>
Income Tax – Sec 32, Rule 46A of Income Tax Rules – Whether information called for by CIT(A) can be termed as Additional Evidence in terms of the provisions of Rule 46A - Whether repairs and maintenance expenses incurred on lease hold premises can be said to fall within the purview of the provisions of Explanation 1 of section 32 and accordingly liable to be treated as capital expenditure not allowable under the Act .
<a href="#">2010-TIOL-582-ITAT -MUM</a>



**ITO, Mumbai Vs M/s Harcoh Enterprises (Dated: May 31, 2010)**

Income Tax – Sections 131, 133(6) - Whether merely because the GP of the earlier year was lower, addition can be made to the profits of the assessee – Whether deletion by the CIT(A) of the addition made by the AO on account of bogus purchases made from certain parties was sustainable.

[2010-TIOL-581-ITAT-MUM](#)

**Jawahar Lal Nehru Port Trust Vs DCIT, Panvel (Dated: September 30, 2010)**

Income Tax - Sections 10(20), 11, 12AA, 13 - Whether if assessee fails to claim benefits of Sections 11 and 12 for reasons beyond its control, the CIT(A) is right in denying the same for violation of procedural law even though the assessee later got valid registration u/s 12AA.

[2010-TIOL-580-ITAT-MUM](#)

**DCIT, Mumbai Vs Orbitech Limited (Dated: June 25, 2010)**

Income Tax - Section 10A, 80HHE, 143(3), 271(1)(c) – Whether AO could impose penalty for concealment of income, even if additions are delted by the CIT(A).

[2010-TIOL-579-ITAT-MUM](#)

**HDFC Ergo General Insurance Company Ltd Vs DCIT, Mumbai (Dated: September 17, 2010)**

Income Tax - Rule 5(b) - Whether profit on sale of investment in case of the assessee who is in the general insurance business is exempted from tax.

[2010-TIOL-578-ITAT-MUM](#)

**Balmukund P Acharya Vs ITO, Mumbai (Dated: September 22, 2010)**

Income Tax - Sections 49, 143(1)(a), 234C - Whether capital gains arising out of sale of assets having no acquisition costs are taxable - Whether an income which is not taxable in law cannot be subjected to tax upon offer of the same under misconception of law by the assessee as per the principle of estoppel - Whether, since the AO is a public authority, it is incumbent on him to use his powers, delegated under the statute, irrespective of the demand of the assessee to use the same and no discretion lies with AO either to use such powers or not.

[2010-TIOL-577-ITAT-MUM](#)

**ITL Tours and Travels Pvt Ltd Vs ITO, Mumbai (Dated: September 9, 2010)**

Income Tax – Section 40(a)(ia), 194H – Whether mere deduction of TDS and the act of not depositing the same in the Govt account warrants disallowance u/s 40(a)(ia) even though the assessee is not liable to TDS - Whether discount on sale of airlines tickets allowed by the assessee is not liable to TDS u/s 194-H as there is no contract of agency at any point of time between the assessee and the intermediaries.

[Also see analysis of the Order](#)

[2010-TIOL-576-ITAT-MUM](#)

**M/s Willis Processing Services (India) Pvt Ltd Vs ACIT, Mumbai (Dated: September 30, 2010)**

Income tax - Sec 10A - Whether fixed satellite charges incurred by the assessee to process data received from overseas clients but not recovered from the client, are to be treated as part of telecommunication charges - whether such charges are to be excluded from the export turnover for availing Sec 10A benefits.

[2010-TIOL-575-ITAT-MAD](#)

**Dy.CWT Vs M/s Mysore Fertilizer Company Pvt Ltd (Dated: June 24, 2010)**

Wealth Tax - Section 17, 2(m) - Whether if assessee offers capital gains to tax, it loses right to contend the issue of correct ownership of the property and hence is liable to treated as assessee for wealth tax as per Sec 2(m) of the Act.

[2010-TIOL-574-ITAT-BANG](#)

**DCIT, Bangalore Vs M/s Astrazeneca India Pvt Ltd (Dated: August 20, 2010)**

Income Tax - Sec 37(1) - Whether AO is right in disallowing professional charges paid by the assessee for a failed land deal entered into for expansion of business - Whether treatment of professional charges under I-T Act is to be the same for a failed deal and a consummated land deal.

[Also see analysis of the Order](#)

[2010-TIOL-573-ITAT -BANG](#)

**Sri S Narasaraju Vs Dy.CIT, Bangalore (Dated: April 16, 2010)**

Income Tax - Section 144 - Whether where the notice of section 142(1) is issued by the AO during the course of assessment proceedings there is no need for issuance of any notice of section 144(1) in the light of second proviso to section 144-Held Yes: - However since the AO has not supported his estimation of income with proper documentary evidence the matter requires fresh consideration in the interest of justice- Held:- Yes

[2010-TIOL-572-ITAT -BANG](#)

**Dy.CIT, Shimoga Vs M/s Shree Lakshmi Tractors (Dated: March 19, 2010)**

Income Tax Act, 1961 - Section 40A(3), 40(a)(ia), 194H - Whether cash discount allowed by the assessee which doesn't involve payments exceeding Rs 20,000 attracts invoking provisions of section 40A(3) of the Act - Whether AO was justified in disallowing deduction u/s 40(a)(ia) of the Act in respect of the advertisement expenses incurred as a part of sales expenses which involves no service element and doesn't attract the provision of TDS u/s 194H of the Act.

[2010-TIOL-571-ITAT -DEL](#)

**Shri Bahadur Singh Sabharwal Vs ACIT , Faridabad (Dated: June 2, 2010)**

Income Tax – Section 158BC – Whether addition can be made on the mere statement of the third party and without giving any opportunity to the assessee to explain the same .

[2010-TIOL-570-ITAT -MUM](#)

**ACIT, Mumbai Vs M/s Su-Raj Diamond Industries Ltd (Dated: September 16, 2010)**

Income Tax - Section 56 - Deemed gift - Whether in absence of any material justifying the sale of shares at inadequate consideration by the assessee to its sis tern concern, the AO is correct in making addition by applying the concept of deemed gift.

[2010-TIOL-569-ITAT -MUM](#)

**CIT, Mumbai Vs M/s Airlines Financial Support Services (India) Ltd (Dated: August 31, 2010)**

Income Tax – Sections 10A, 147 – Whether income shown under the head 'miscellaneous income' on account of service charges, exchange gain, overtime charges and services charges for procuring hardware, packing and clearing, can be said to be the income derived from industrial undertaking and, therefore, eligible for deduction u/s 10A of the Act.

[Also see analysis of the Order](#)

[2010-TIOL-568-ITAT-MUM](#)

**Shri Satramdas G Fatehchandani Vs ACIT, Thane (Dated: August 6, 2010)**

Income Tax – Section 132(3) – Whether period of limitation for passing an order u/s 132(3) has to be reckoned from the date of search or with reference to the date when the Panchanama was drawn .

[2010-TIOL-567-ITAT-MUM](#)

**ITO, Mumbai Vs Nikko Capital Market P Ltd (Dated: August 27, 2010)**

Income Tax – Sections 28(iv), 41(1), 142(A) – Whether section 28(iv) applies to waiver of principal amount of loan which was advanced by a bank to the assessee – Whether section 41(1) is not attracted to remission of the loan if no deduction is allowed on such waiver of loan.

[2010-TIOL-566-ITAT-MUM](#)

**DCIT, Mumbai Vs M/s Godrej Consumer Products Ltd (Dated: August 13, 2010)**

Income Tax – Sections 80IB, 80IC – Whether the common costs such as selling and distribution expenses and corporate administrative expenses incurred at the head office have to be allocated on the basis of sales or on the basis of the activity performed, and not on the basis of net profits of the units for the purpose of arriving at the profits for claiming deduction u/s 80IB or 80IC .

[2010-TIOL-565-ITAT-BANG](#)

**Shri Shanthilal N Kotecha Vs ITO, Bangalore (Dated: January 29, 2010)**

Income Tax - Section 69, Rule 46A - Whether the assessee who has sufficient drawings from bank can be saddled with the addition under section 69 merely on the ground of poor explanation vis -à-vis rotation of drawings and that too in a situation where after realizing the mistake the assessee has immediately corrected his

explanation and filed correct explanation before the CIT (A) who discarded the same as additional evidence.

[2010-TIOL-564-ITAT-MUM](#)

**Sony Mony Electronics Ltd Vs Dy.CIT, Mumbai (Dated: September 22, 2010)**

Income tax - Sec 142(2D) - Whether Revenue's order fixing the audit fees for special auditors is an appealable order - Whether Tribunal has inherent power to hear an appeal even in the absence of specific provisions for the same in the I-T Act.

[Also see analysis of the Order](#)

[2010-TIOL-563-ITAT-MUM](#)

**ACIT, Mumbai Vs Meco Instruments Pvt Ltd (Dated: August 20, 2010)**

Income Tax – Section 35(2AB) – Whether non-availability of the approval in the prescribed form for the relevant assessment year could disentitle the assessee of deduction for in-house R & D expenditure u/s 35 (2AB) .

[2010-TIOL-562-ITAT-MUM](#)

**DCIT, Mumbai Vs Ms Sweetoo H Mehta (Dated: August 27, 2010)**

Income Tax - Sections 45(4), 47(ii), 54EC - Whether in view of the judgment of the jurisdictional High Court and the facts that there is no transfer of any capital asset by the assessee to the firm, the amount received by assessee in lieu of her share in the partnership firm is a capital receipt and the same is not taxable in the hands of the assessee.