

HIGH COURT RULING (INCOME TAX)

[2015-TIOL-2001-HC-MUM-IT](#)

CIT Vs Thermax Ltd (Dated: August 21, 2015)

Whether delay can be condoned and notice of motion can be allowed when Revenue has failed to explain why there was undue delay in removing office objections - NO : HC

[2015-TIOL-2000-HC-KERALA-IT](#)

N A Baby Vs DCIT (Dated: July 31, 2015)

Whether assessee is liable to pay tax on higher value of sale consideration depict in Sale agreement found during search operations carried out in the premises of Broker of deal - YES : HC

Whether property sold can be considered as agricultural land when no evidence is produced to substantiate the same and no agricultural operations are carried out on property after purchase - NO : HC

[2015-TIOL-1999-HC-MUM-IT](#)

CIT Vs Income Tax Settlement Commission (Dated: August 14, 2015)

Whether adducing of additional documents during course of hearing before the Settlement Commission, can be equated with the failure of assessee to disclose true & full details of its unaccounted income - NO: HC

Whether original application for settlement deserves to be rejected, merely on ground of disclosure of additional documents at the time of hearing - NO: HC

Whether assessee can be said to have failed to disclose the manner in which his undisclosed income has been derived, when the application for settlement sufficiently explains the source of the income being declared - NO: HC

[Also see analysis of the order](#)

[2015-TIOL-1998-HC-MP-IT](#)

CIT Vs Prism Cement (Dated: August 18, 2015)

Whether when it has been made clear that the contract entered into by the assessee was not a composite contract, it was a simple purchase contract for procurement of certain items on prices fixed from a foreign company, the assessee can be held as a defaulter for non/ short deduction of TDS - NO: HC

[2015-TIOL-1997-HC-KERALA-IT](#)

Kurien Jose Vs ACIT (Dated: August 12, 2015)

Whether assessee is entitled to get the refund and reopen the assessment when proceedings u/s 143(1)(a) has been concluded - NO: HC

Whether option accepted by the assessee under the VDI Scheme cannot be re-opened under any circumstances since Ss 69 and 70 of the Finance Act, 1997 prohibited refund of any amount paid under the said Scheme - YES : HC

[2015-TIOL-1996-HC-MUM-IT](#)

Maharashtra Airport Development Co Ltd Vs DCIT (Dated: August 20, 2015)

Whether stay of demand can be allowed till the disposal of appeal by CIT(A), when CIT(A) has already commenced the hearing on merits of case - YES : HC

Whether where a strong prima facie case has been made out in its favour by the assessee, the requirement of predeposit would by itself be a matter of financial hardship - YES : HC

[2015-TIOL-1995-HC-JHARKHAND-IT](#)

CIT Vs Jever Jewellers (Dated: July 13, 2015)

Whether if true and full disclosure has been made by the assessee during search proceedings and the same has been accepted while passing order u/s 245D(4), it is justified on part of the Revenue to disallow the same subsequently - NO: HC

Whether in case an assessee is consistently following a method of inventory valuation for balance sheet purpose and for Income tax return filing purpose, which was also disclosed by him in notes, the same can be discarded by the Revenue authorities on the ground that the assessee was following different methods of stock valuation - NO:HC

[2015-TIOL-1994-HC-MUM-IT](#)

CIT Vs Chowgule And Company Ltd (Dated: August 20, 2015)

Whether in order to find out that assessee is entitled to exemption for 10 years or not, the case should be remanded, so as to decide it in light of the decision taken by HC in case of DSL Software Ltd - YES : HC

Whether to decide certain expenses, incurred are having nexus with export activity or not the case be remanded to be decided in light of the decision taken in case of Sesa Goa Ltd - YES : HC

[2015-TIOL-1993-HC-DEL-IT](#)

CIT Vs Arvinder Singh (Dated: August 24, 2015)

Whether in case, even after grant of an additional opportunity of giving a satisfactory explanation in respect of the extraordinary delay in filing the appeals, the revenue officials are unable to file a proper affidavit explaining the reasons of such delay, condonation of delay can be granted - NO: HC

[2015-TIOL-1988-HC-DEL-IT](#)

PR.CIT Vs Control And Switchgear Contractors Ltd (Dated: August 24, 2015)

Whether when the assessee receives compensation from its JV partner in lieu of giving up its right and treats the same as capital gains as against business profits determined by the AO, this is not a fit case to attract Explanation 1 of Sec 271(1)(c) as the issue was debatable in nature - YES: HC

Whether when the assessee determines the character of the income based on legal advice, it does not warrant imposition of penalty - YES: HC

[2015-TIOL-1985-HC-AHM-IT](#)

Ramesh C Prajapati Vs DCIT (Dated: April 28, 2015)

Whether income from sale of property acquired through inheritance can be claimed as capital gain, when the assessee is engaged in the business of development of housing project and has continuously failed to record such acquisition in his books of account which is audited every year - NO: HC

[Also see analysis of the order](#)

[2015-TIOL-1984-HC-MAD-IT](#)

D Ramya Vs CIT (Dated: August 10, 2015)

Whether DCIT has to consider the representation of the assessee with regard to return of the jewellery on merits and in accordance with law, when no proceedings were initiated after the assessment and before such seizure of jewellery - YES: HC

[2015-TIOL-1983-HC-MUM-IT](#)

Paras Shantilal Shah Vs DCIT (Dated: August 21, 2015)

Whether addition on account of unaccounted jewellery and silver articles found during search is justified where a statement was made on oath under Section 132(4) whereby assessee admitted that they were not in a position to produce any evidence in respect of the gold and diamond jewellery found in their possession and undertook to pay tax thereon and these statements of oath had not been withdrawn and/or retracted by assessee at any point of time - Whether the interest income receivable on loan given by assessee would be payable on accrual basis where prior to the search, the revenue was unaware of the grant of loan and accrued interest thereon and assessee did not maintain regular books of account and had not established before the authorities that it was following the cash system of accounting.

[2015-TIOL-1982-HC-MUM-IT](#)

CIT Vs M/s Reliance Industrial Infrastructure Ltd (Dated: August 17, 2015)

Whether an amount credited as lease equalization fund to the P&L A/c can be used for determining assessee's income chargeable to tax, in case such entry is made in compliance with the Guidance Note issued by the ICAI so as to meet Accounting Standards - NO: HC

Whether stamp duty paid for lease of assets should be spread over the entire life of

the lease as differed revenue expenditure - NO: HC

Whether expenditure on stamp duty incurred by assessee for securing leasehold property, is required to be allowed as revenue expenditure - YES: HC

[2015-TIOL-1981-HC-MUM-IT](#)

M/s Prithvi Prakashan Pvt Ltd Vs DCIT (Dated: July 30, 2015)

Whether the decision of the Tribunal to recall its order upon observing that the said order had been proceeded on a factual misunderstanding, requires any interference by the High Court under Article 226 of the Constitution - NO: HC

Whether such recall order can be said to have caused prejudice to the assessee, when the issue in question has not been decided by the same - NO: HC

[2015-TIOL-1980-HC-DEL-IT](#)

CIT Vs Metso Minerals (India) Pvt Ltd (Dated: August 12, 2015)

Whether when assessee is granted a license on non-exclusive basis and for a limited period, then the expenditure done on the same cannot be considered as a capital expenditure - YES: HC

[2015-TIOL-1979-HC-DEL-IT](#)

CIT Vs Swanpnil Properties (P) Ltd (Dated: July 28, 2015)

Whether it is sustainable for the Revenue to add any undisclosed income in the hands of an assessee for the subject A.Y, when the same undisclosed income was already added to the income of other assessee, for the same A.Y - NO: HC

[2015-TIOL-1978-HC-KAR-IT](#)

CIT Vs Hewlett-Packard Globalsoft Pvt Ltd (Dated: August 14, 2015)

Whether issuance of notice u/s 148 on ground of irregular claim of deduction u/s 10A can be sustained, in case the claim of the assessee u/s 10A was thoroughly scrutinized & claim of expenditure incurred in foreign currency for providing technical services was examined during original assessment - NO: HC

Whether reassessment u/s 147 can be sustained, when there is neither non-disclosure by the assessee nor the AO has obtained material subsequent to framing of assessment order so as to arrive at a conclusion that there is escapement of income from tax - NO: HC

[2015-TIOL-1977-HC-KERALA-IT](#)

Grihalakshmi Vision Vs Addl CIT (Dated: August 7, 2015)

Whether the Department can treat every receipt from a partner or a sister concern as a loan or deposit, when there is no material file by the assessee to prove it otherwise - YES: HC - **Assessee's appeal dismissed**

2015-TIOL-1976-HC-JHARKHAND-IT
CIT Vs T N Malhotra (Dated: July 22, 2015)
Whether if an assessee is relying upon exception mentioned under rule 6DD, in that case the burden of proof is upon the assessee to prove the existence of specified circumstances under such Rule, in the absence of the same, the assessee would be held liable - YES: HC
2015-TIOL-1969-HC-P&H-IT
Bikramjit Singh Gill Vs CIT (Dated: July 31, 2015)
Whether when there is pro rata transfer of land to the developer, the assessee can be made liable to pay capital gains tax in respect of remaining land for which no consideration had been received, in the event of cancellation of the Development agreement due to various orders passed by the Apex court and High Court - NO: HC
Also see analysis of the order
2015-TIOL-1968-HC-DEL-IT
CIT Vs Birender Singh (Dated: August 12, 2015)
Whether non-maintenance of stock registers cannot be a ground for rejection of books, as it depends upon the nature of the business - YES:HC
Whether when books of accounts maintained were duly audited, then the onus shifts on the Revenue to show that the accounts were incomplete or incorrect, in order to make any addition - YES:HC
2015-TIOL-1967-HC-MUM-IT
CIT Vs Shri Shriram Hiralal Soni (Dated : August 12, 2015)
Whether when Revenue appeal has been dismissed in quantum proceedings, then the occasion to restore the issue for reconsideration of the Assessing Officer for imposing of penalty does not arise - YES: HC
2015-TIOL-1966-HC-RAJ-IT
CIT Vs Bhawani Silicate Industries (Dated: July 30, 2015)
Whether any addition cannot be made merely because there is some deficiency of quality wise record in the books - YES:HC
Whether merely because books of accounts are rejected, it does not mean that it must necessarily lead to addition in the return of income of the assessee - YES:HC
2015-TIOL-1965-HC-KERALA-IT

CIT Vs South Travancore Distilleries & Allied Products (Dated : July 30, 2015)

Whether the High Court has power to ignore the circulars issued by the CBDT prescribing the minimum limit to file an appeal, proceed to decide the statutory appeals on merits, if the question involved is a substantial one - YES: HC

[2015-TIOL-1964-HC-KAR-IT](#)

August Ventures Pvt Ltd Vs UoI (Dated: August 13, 2015)

Whether in case the plaintiff on its own, not tendered for cross-examination, the same curtails the right of cross-examination of opposite party - NO: HC

[2015-TIOL-1963-HC-MUM-IT](#)

CIT Vs M/s Deogiri Nagari Sahakari Bani Ltd (Dated: January 22, 2015)

Whether interest accrued on a 'sticky' loan which was not recovered by a bank for past previous years and which has been transferred to the suspense account, can be included in the income of such bank for the particular A.Y - NO: HC

[2015-TIOL-1962-HC-MP-IT](#)

CIT Vs M P Text Book Corporation Pustak Bhawan (Dated: July 10, 2015)

Whether a matter requires restoration for proper consideration, when a particular issue in such matter stands answered by the Apex Court remanding the matter to the AO - YES: HC

[2015-TIOL-1954-HC-ALL-IT](#)

CIT Vs Smt Dimpal Yadav (Dated: August 21, 2015)

Whether genuinity of a loan transaction can be doubted merely on ground of its acceptance in cash, when the cash given by the lender is duly reflected in their books of account and is routed through proper banking channel - NO: HC

Whether penalty u/s 271D can be invoked upon violation of Section 269SS, if the assessee in default of the same has established a reasonable cause for his failure to comply with the provision of Section 269SS - NO: HC

[Also see analysis of the order](#)

[2015-TIOL-1953-HC-KOL-IT](#)

CESC Ltd Vs CIT (Dated: May 14, 2015)

Whether section 43B of the Income Tax Act is attracted to a case where payment is to be made to the State Government in the capacity of the State as a sovereign and not to a case where payment is to be made to the State Government in its capacity as a principal by an agent - YES : HC

Whether section 43B of the Income Tax Act does not apply to the electricity duty collected by the licensee as per provisions of the Bengal Electricity Duty Act, 1935 - YES : HC

[2015-TIOL-1952-HC-KAR-IT](#)

CIT Vs The Executive Engineer (Dated: August 11, 2015)

Whether if three separate contracts have been entered into by the assessee, but all the separate contracts were integral parts of a composite contract on single sale responsible basis, the invoices raised on the basis of the said composite contract separately mentioning the value of the material supplied can be subjected to TDS u/s 194C - NO: HC

[2015-TIOL-1950-HC-KERALA-IT](#)

CIT Vs Mr Thomas Muthoot (Dated: July 3, 2015)

Whether default in TDS u/s 194A on ground of ignorance of law is "reasonable cause" for not attracting penalty u/s 271C - NO: HC

[2015-TIOL-1942-HC-AHM-IT](#)

DCIT Vs Sayaji Industries Ltd (Dated: November 3, 2014)

Whether some business expenses as long as they were wholly and exclusively for the purpose of business, would not be governed by provision contained in section 37(3) read with rule 6D of the Rules - YES:HC

Whether when lump sum payment is made for a licensee, for use of a know-how, for the purpose of its business temporarily, then such payment or expenditure would be revenue in nature - YES:HC

[2015-TIOL-1941-HC-AHM-IT](#)

Ravji Manji Sorathia And Company Vs JCIT (Dated: May 6, 2015)

Whether AO can reopen assessment u/s 148 merely at instance of the audit party or on the audit objection raised by the audit party, without forming its own "independent opinion" that income chargeable to tax has escaped assessment - NO: HC

[2015-TIOL-1940-HC-KAR-IT](#)

CIT Vs M/s Murudeshwar Decor Ltd (Dated: July 1, 2015)

Whether the work carried on by the assessee of screen printing, embossing on ceramic tiles as per the requirements of the customers would amount to a manufacturing activity entitling it to deduction u/s 80-IA - YES: HC

[2015-TIOL-1939-HC-KAR-IT](#)

B M Muniraju Vs CIT (Dated: July 21, 2015)

Whether in order to prove that certain land has been used for agricultural purposes in the last two years, an assessee is required to present some accounts with regard to expenditure made by the assessee for sowing the crops and also revenue generated by selling the agricultural produce - YES: HC

[Also see analysis of the order](#)

[2015-TIOL-1938-HC-DEL-IT](#)

Mool Chand Khairati Ram Trust Vs DIT (Dated: July 27, 2015)

Whether assessee would be entitled to exemption u/s 11 where the assessee's activities were not in excess of its objects and the trustees have carried out the activities of the trust bonafide and in a manner, which according to them best subserved the charitable objects and the intent of the Settlor - Whether assessee would be entitled to exemption u/s 11 where in the past period, the Assessee has been consistently granted exemption under Section 11 of the Act and also under Section 10(22)/10(22A) or Section 10(23C) of the Act - Whether depreciation on assets used for providing Allopathic systems of medicine would be allowable if the activities of the Assessee are within the scope of its objects.

[2015-TIOL-1937-HC-AHM-VAT](#)

Shree Yamuna Trading Co Vs ACCT (Dated: July 29, 2015)

Whether if the registration of sellers from whom the assessee purchased some goods, has been cancelled with retrospective effect, the assessee was liable to pay taxes on that basis - NO: HC

[2015-TIOL-1929-HC-DEL-IT](#)

PR.CIT Vs Good Times Marketing Pvt Ltd (Dated: May 12, 2015)

Whether when the assessee's staff had failed to deposit the membership fee with IHCL, as per the agreement, then such money paid by the Assessee to IHCL should have been allowed as business loss - YES: HC

[2015-TIOL-1923-HC-UKHND-IT](#)

CHIEF CIT Vs Maharani Luxmi Bai Memorial Educational Society (Dated: July 29, 2015)

Whether if an assessee is claiming exemption u/s 10(23C)(vi), the objects appear to be ancillary to the main object of running the institution, it can be held that the objects can be anything without any linkage to the main purpose of imparting education - NO: HC

[2015-TIOL-1922-HC-KAR-IT](#)

Kothari Metals Omkar House Vs ITO (Dated: August 14, 2015)

Whether if re -opening of the assessment was done on the basis of a statement recorded by the Income Tax authorities of some other person, which statement was never furnished to the assessee in the reasons to believe, this would amount of violation of principals of natural justice - YES: HC

[2015-TIOL-1921-HC-DEL-IT](#)

CIT Vs Jasjit Singh (Dated: August 11, 2015)

Whether in the case of the searched person, the date with reference to which the proceedings for assessment or reassessment of any assessment year, within the period of the six assessment years, should be the date of initiation of the search under Section 132 or the requisition under Section 132A - YES: HC

[2015-TIOL-1920-HC-KOL-IT](#)

CIT Vs Hanuman Sugar Industries Ltd (Dated: July 17, 2015)

Whether the assessee can be allowed deduction on account of interest arising out of a liability which was neither paid nor shown to have been incurred in the books of accounts, the assessee himself has disputed the same - NO: HC

[2015-TIOL-1919-HC-RAJ-IT](#)

CIT Vs Compucom Softwares Ltd (Dated: July 30, 2015)

Whether when a fact finding authority has decided an issue after complete verification of documents and records, it is possible to interfere in such a case on the basis of Tribunal's order - NO: HC

[2015-TIOL-1918-HC-RAJ-IT](#)

CIT Vs Radha Swami Communication (Dated: July 30, 2015)

Whether where there is contradiction regarding period of deposit of TDS as to either before or after the conduction of survey operation, the matter requires restoration to the Tribunal being a final fact finding authority - YES: HC

[2015-TIOL-1917-HC-AHM-IT](#)

Pushpak Bullion Pvt Ltd Vs DCIT (Dated: May 7, 2015)

Whether the AO is bound to decide objections raised by assessee on re-opening of his assessment on merit, even if the assessee has failed to file his return within a period of not less than 30 days in pursuant to the notice of reopening issued u/s 148 - YES: HC

[2015-TIOL-1916-HC-P&H-IT](#)

Punjabi Cooperative House Building Society Vs CIT (Dated: July 31, 2015)

Whether mere pro -rata transfer of land as a licensee for the development of the property would attract Section 53A of Transfer of Property Act, where no possession was given by the transferor to the transferee of the entire land in part performance of the joint development agreement - NO: HC

Whether the assessee is liable to the capital gains tax in respect of remaining land under joint development agreement, for which no consideration was received and which stood cancelled and incapable of performance due to orders passed by the Supreme Court or High Court - NO: HC

[2015-TIOL-1915-HC-KAR-IT](#)

Maina Shetty Vs DCIT (Dated: August 14, 2015)

Whether in case the reopening was on the basis of an order passed by the Tribunal beyond the period of limitation specified in Section 149 of the Act, the reopening can be held as valid in nature - NO: HC

[2015-TIOL-1914-HC-DEL-IT](#)

CIT Vs Divine Infracon Pvt Ltd (Dated: August 13, 2015)

Whether in an appeal preferred by the Assessee before the Tribunal, Revenue could assail the finding returned by the CIT(A) in favour of the Assessee, limited to the issue decided by the CIT(A) against the Assessee - NO: HC

Whether it is open to the Revenue to travel outside the scope of the subject matter of the appeal to consider all questions of law where no investigation into facts are necessary, under the guise of invoking rule 27 - NO: HC

[2015-TIOL-1913-HC-KAR-IT](#)

CIT Vs M/s H M Exports Geneva House (Dated: August 4, 2015)

Whether income of the assessee which had not been disclosed and was found during the search would be considered as undisclosed income, even if the information of such income already given by the assessee to the Department much prior to conduct of the search - NO: HC

Whether an amount claimed by the assessee as earned from export of exhibition rights of cinematographic films would constitute undisclosed income as per Section 158B(b), even if the said amount has been declared in the regular return of income filed belatedly - NO: HC

[2015-TIOL-1912-HC-MAD-IT](#)

CIT Vs R Sethuraman (Dated: August 5, 2015)

Whether an individual in business needs to confine his activity to a particular line of business, like a company - NO: HC

Whether a composite transaction of sale of property can be divided into two units for the purpose of convenience, one representing the value of the undivided share of land and the other representing the cost of construction - YES: HC

Whether in order to claim deduction u/s 80IB(10), an assessee is required to transfer the entire land to the purchasers, even without reserving land for public utilities - NO: HC

[2015-TIOL-1911-HC-KERALA-IT](#)

CIT Vs M/s Kerala State Small Industries Development Corporation Ltd (Dated: August 6, 2015)

Whether failure or inability of the Revenue to frame a fresh assessment places the assessee in a more disadvantageous position, than in what he would have been if a fresh assessment was made - NO: HC

Whether it is open to an assessee to point out mistakes committed by it in the return filed and that the authorities under the Income Tax Act are bound to assess the income and loss of the assessee in terms of the provisions of the Act - NO: HC

[2015-TIOL-1908-HC-DEL-IT](#)

CIT Vs Vaish Associates (Dated: August 11, 2015)

Whether when the High Court finds no legal infirmity in the interpretation placed on Clause of the partnership deed to conclude that the salary paid to the partners was in accordance with Section 40(b)(v), the same can still be disallowed - NO: HC

Whether if the contribution made by Assessee to a Not for Profit organisation was held to be for creating greater awareness of the Assessee firm's activities and therefore an expenditure incurred for the purposes of the profession of the Assessee, the same can be disallowed as a deduction u/s 37(1) - NO: HC

[Also see analysis of the order](#)

[2015-TIOL-1907-HC-MUM-IT](#)

CIT Vs Kundan Real Estate (Dated: August 12, 2015)

Whether mere use of the revised sanction by the local authority, would not by itself make it an amendment or a change to a earlier sanction, when in fact it is a sanction for a materially different housing project - YES: HC

[2015-TIOL-1906-HC-MUM-IT](#)

CIT Vs M/s Haware Engineers And Builders Pvt Ltd (Dated: August 3, 2015)

Whether no substantial question of law arise to be answered by HC on the issue that deduction u/s 80IB(10) of Act be allowed to assessee for a Housing Project whose size of two plots of land together making minimum area of one acre and is comprise of residential and commercial units - YES: HC

[2015-TIOL-1905-HC-ALL-IT](#)

M/s Kiran Somani Vs ACIT (Dated: August 14, 2015)

Whether where the assessee has neither done business in the sale and purchase of shares in a regular way nor purchased the shares in the shape of capital assets, it is sustainable to treat those shares as stock in trade - NO: HC

Whether continuous & regular share transactions with an intention to earn profit, and further investment of such profit earned from the share transactions in advancing loans to other companies, can be taken as "adventure in the nature of trade" - YES: HC

Whether the shares sold during the concerned regular period, are liable to be considered as "stock entry" - YES: HC

Whether income or profit earned from the sale of such shares are liable to be treated as 'business income' and not 'capital income' - YES: HC

[2015-TIOL-1904-HC-MAD-IT](#)

Integrated Finance Co Ltd Vs DCIT (Dated: July 21, 2015)

Whether the finance charges arising from the purchase and hire back transactions involving second hand assets come within the meaning of term 'interest' defined under Sec. 2 (7) of the Interest Tax Act -YES: HC

[2015-TIOL-1903-HC-P&H-IT](#)

M/s Harf Charitable Trust Vs CCIT (Dated: July 6, 2015)

Whether the charitable character of the purpose of setting of an institution will be lost, merely because some profit arises from the charitable activity which was the predominant object of such institution - NO: HC

Whether mere presence of a clause in the trust deed providing that the trust would carry on other business as decided by the trustees, would per se dis -entitle it from

being considered for registration u/s 10(23C)(vi) - NO: HC

[2015-TIOL-1899-HC-MAD-IT](#)

CIT Vs M/s Chennai Garments (Dated: August 3, 2015)

Whether merely because another AO finds something wrong with the order of assessment passed by the previous one, assessment cannot be re-opened - YES: HC

Whether provisions of Section 147, which enables the AO to reopen the assessment and recompute the assessment, cannot be exercised merely because one officer finds fault with the previous one - YES: HC

[2015-TIOL-1898-HC-MUM-IT](#)

Shri Manish R Shah Vs ITO (Dated: August 6, 2015)

Whether retiring partners would have a right to goodwill of a business even if it is not being sold in its entirety - YES: HC

Whether goodwill cannot be generated within one year - NO: HC

Whether assessee is entitled to goodwill even it did not contribute any capital - YES: HC

[2015-TIOL-1897-HC-DEL-IT](#)

CIT Vs Mr Sri Chand Gupta (Dated: July 31, 2015)

Whether once the assessee had declared income during the course of search operations, the assets seized were liable to be immediately appropriated towards the tax liability on such income as per the provisions of section 132(5) - NO: HC

Whether even if the assessee has declared income u/s 132(4) during search and seizure operations, the same would constitute a determined liability towards which the assets seized could be readily applied - NO: HC

Whether provisions of section 132(5) does not contemplate appropriation of assets towards any liability, whether existing or in future, but is limited to permitting the ITO to retain the seized assets to be applied as provided under the Act - YES: HC

Whether payment of advance tax can be considered as an existing liability as on the date of the order u/s 132(5), seized assets could be applied towards the said liability as on that date - NO: HC

[Also see analysis of the order](#)

[2015-TIOL-1896-HC-MUM-IT](#)

CIT Vs M/s Forever Diamonds Pvt Ltd (Dated: August 12, 2015)

Whether Revenue has power to recast the final account, when the same are not correctly prepared in accordance with Schedule VI to the Companies Act, 1956, u/s 115JB of Act - NO : HC

[2015-TIOL-1895-HC-MUM-IT](#)

CIT Vs Haryana Ship Breakers Ltd (Dated: July 31, 2015)

Whether where order passed by court is not an order which dismissed the revenue's appeal but only state that no directions are necessary and on non-compliance of conditions stated in earlier order, would cause automatic dismissal of appeal then moving an application seeking to recall the said order is misconception of order by Revenue - YES: HC

[2015-TIOL-1894-HC-MUM-IT](#)

CIT Vs M/s Hindustan Organics Chemicals Ltd (Dated: August 11, 2015)

Whether the Revenue should carry the case to higher authorities on appeal, without removing office objections on the grounds which has already been decided in previous assessment year in assessee's own case - NO : HC

[2015-TIOL-1893-HC-MUM-IT](#)

CIT Vs M/s National Peroxide Ltd (Dated: August 11, 2015)

Whether the issues of depreciation and investment allowance on the plant and machinery have no cascading effect as these issues are to be considered independently in each AY depending upon the facts existing during the year under consideration - YES: HC

Whether appeal can be filed in HC for cases in which tax involved is less than Rss. 10 lakhs - NO: HC

[2015-TIOL-1892-HC-DEL-IT](#)

CIT Vs MGF Automobiles Ltd (Dated: August 13, 2015)

Whether if no statement u/s 132(4) was recorded during the search, there was no material, much less any incriminating material, recovered during the search which could form the basis, the assessment order made by the AO in terms of Section 153A is valid - NO: HC

Whether when the AO proceeded to frame assessments u/s 153 A relying on some information not unearthed during the search, whatever was recovered during the search have been destroyed in a fire, was not available with the AO when he framed the assessments, in that case assessment orders can be passed with reference to Section 153 A (1) - NO: HC

[2015-TIOL-1891-HC-KAR-IT](#)

DIT Vs Mr Shahroq Ali Khan (Dated: August 10, 2015)

Whether in order to sought the valuation report u/s 55A, AO has to be first of the opinion that the fair market value of the asset exceeds by more than 15% of the value of the asset as claimed by the assessee, for which reasons ought to have been recorded by AO - YES: HC

<p>Whether in case the assessee has transferred less area than the total size of the flats, the balancing area can be treated as amount in respect of undivided interest in the adjoining land on assumption basis - NO: HC</p>
<p>2015-TIOL-1884-HC-DEL-IT</p>
<p>CIT Vs M/s RS Avtar Singh (Dated: August 5, 2015)</p>
<p>Whether when assessee is a member of the JV, business loss of the JV can be set off against the profit of assessee from other business even before JV files its return - NO: HC</p>
<p>Also see analysis of the order</p>
<p>2015-TIOL-1883-HC-DEL-IT</p>
<p>CIT Vs Bharat Hotels Limited (Dated: July 31, 2015)</p>
<p>Whether the Assessee was entitled to claim the payment of interest on the borrowings made in relation to the hotel projects at Srinagar, Goa and Mumbai, which were in the nature of expansion of the business Assessee, as revenue expenditure - YES: HC</p>
<p>2015-TIOL-1882-HC-DEL-IT</p>
<p>American School Of Bombay Education Trust Vs Uoi (Dated: August 13, 2015)</p>
<p>Whether on restoration of case back to the AO, assessment order and its findings still hold good - NO: HC</p> <p>Whether while deciding the application for exemption, CBDT should not be influenced by the assessment orders - YES: HC</p>
<p>2015-TIOL-1881-HC-AHM-IT</p>
<p>P C Patel and Company Vs DCIT (Dated: May 6, 2015)</p>
<p>Whether where the AO while sending proposal to the higher authority for grant of approval for reassessment, continued to maintain that the audit objection raised by audit party is not acceptable and only with a view to protect the interest of Revenue, he proposed to reopen assessment u/s 147, such reassessment is not sustainable - YES: HC</p> <p>Whether in absence of any independent formation of opinion by the AO that the amount chargeable to tax has escaped assessment, his reason to believe presence of escaped income is vitiated and therefore, reopening initiated in such case is impermissible - YES: HC</p>
<p>2015-TIOL-1880-HC-AHM-IT</p>
<p>Rai University Vs CIT (Dated: July 27, 2015)</p>
<p>Whether the concerned authority before denying grant of exemption claimed by a</p>

university u/s 10(23)(vi) by forming a conclusion that the university is established for earning profit, is required to observe the relevant materials with regard to its income and expenditure - YES: HC

[2015-TIOL-1879-HC-AHM-IT](#)

Pareshbhai Hasmukhbhai Thakkar Vs ACIT (Dated: May 5, 2015)

Whether where during finalization of original assessment u/s 143(3), the AO along with notice u/s 142(1) has sent questionnaire to the assessee with respect to claim of deduction u/s 80IB to which the assessee has supplied necessary details and only thereafter the deduction was allowed u/s 80IB, initiation of reassessment is nothing but mere change of opinion by AO - YES: HC

Whether issuance of reopening notice u/s 148 on the basis of said change of opinion, is permissible - NO: HC

[2015-TIOL-1878-HC-KERALA-IT](#)

CIT Vs M/s P V S Memorial Hospital Ltd (Dated: July 20, 2015)

Whether where tax is deductible u/s 194J but is deducted u/s 194C, such a deduction would not satisfy the requirements of Section 40(a)(ia) - YES: HC

Whether deduction under a wrong provision of law can save an assessee from invocation of disallowance u/s 40(a)(ia) - NO: HC

[2015-TIOL-1877-HC-MUM-IT](#)

CIT Vs M/s Solix Technologies Pvt Ltd (Dated: August 10, 2015)

Whether once a benefit of deduction u/s 10A of Act is extended in respect of the provision for a particular number of years then unless the benefit is withdrawn for the first year it cannot be withdrawn for the subsequent years, when there is no change of facts - YES: HC

[2015-TIOL-1876-HC-MUM-IT](#)

CIT Vs Pudumjee Pulp & Paper Mills Ltd (Dated: August 5, 2015)

Whether bad debts claimed u/s 36(1)(vi) can be allowed, if bad debts is taken into account in computing the income of assessee for an earlier A.Y before such debt is written off or such debt represents money lent in the ordinary course of business of banking carried on by assessee - YES: HC

[2015-TIOL-1870-HC-MUM-IT](#)

M/s Sandvik Asia Ltd Vs DCIT (Dated: August 11, 2015)

Whether where a payment is made by an assessee not to protect a running business but for getting rid of a defect in title of vacant land, the said expenditure cannot be

claimed as revenue expenditure – YES: HC

Whether expenditure incurred for curing the defect in the title of land can be added to the costs of the building for claiming depreciation on the same - NO: HC

[Also see analysis of the order](#)

[2015-TIOL-1869-HC-MUM-IT](#)

Godrej Industries Ltd Vs B S Singh (Dated: July 21, 2015)

Whether a subsequent amendment in a provision can be used as sufficient 'reasons to believe' that income chargeable to tax has escaped assessment, for issuing re-opening notice u/s 148 - NO: HC

[2015-TIOL-1868-HC-MUM-IT](#)

Jyothy Laboratories Ltd Vs CIT (Dated: July 30, 2015)

Whether where there is no prima facie satisfaction of jurisdiction to issue reopening notice, is it open to the assessee agitate the issue before the authorities under the Act - YES: HC

[2015-TIOL-1867-HC-DEL-IT](#)

CIT Vs Fortune Oceanic Products Ltd (Dated: July 28, 2015)

Whether the conversion of liabilities of the Assessee into equity share capital at a premium resulted in any benefit to the Assessee within the meaning of Section 28 (iv) or Section 41(1) (a) of the Act - NO: HC

[2015-TIOL-1866-HC-DEL-IT](#)

CIT Vs Noida Medicare Centre Ltd (Dated: August 4, 2015)

Whether when it is admitted that the obligation to pay customs duty relates to the date of import of the equipment, the said customs duty paid in the relevant previous year can be capitalized with reference to an earlier year and depreciation can be claimed on the same - YES: HC

[2015-TIOL-1865-HC-DEL-IT](#)

CIT Vs Waco Matherson Elastomer Ltd (Dated: August 5, 2015)

Whether condonation of delay in filing an appeal before the High Court, can be granted to the Tribunal, even in case the reasons relied upon were not convincing - NO: HC

Whether the deduction under Section 10B can be denied to the assessee only on the ground that some part of the business turnover included domestic turnover - NO: HC

[2015-TIOL-1864-HC-MAD-IT](#)

<p>CIT Vs M/s Sri Ranganathar Valves Pvt Ltd (Dated: July 8, 2015)</p> <p>Whether entitlement to deduction u/s 80-IA can be claimed, even if losses incurred in current year are already set off or adjusted against profits of previous year - YES: HC</p>
<p>2015-TIOL-1863-HC-AHM-IT</p>
<p>CIT Vs Labh Construction And Ind Ltd (Dated: August 3, 2015)</p> <p>Whether recalculation of the interest payment u/s 201(1A) is to be done from the date of deduction of TDS to the date of assessment of payee and not subsequent to the said date - YES: HC</p> <p>Whether an assessee is liable to pay interest u/s 201(1A) only till the date of deposition of the TDS by the assessee company - YES: HC</p> <p>Whether where assessee company had deposited the TDS at belated stage, the provisions of Section 201(1A) would be attracted – NO: HC</p>
<p>2015-TIOL-1857-HC-DEL-IT</p>
<p>Melvinder Singh Grewal Vs ITO (August 04, 2015)</p> <p>Whether if an assessee could not establish that he has received agricultural income from carrying on farming activities in the society land, the income earned therefrom would be considered as the income of that society and not of the Assessee - YES: HC</p>
<p>2015-TIOL-1856-HC-DEL-IT</p>
<p>PR CIT Vs Granada Services Pvt Ltd (August 06, 2015)</p> <p>Whether in case the assessee had not incurred expenses in foreign exchange for providing technical services outside India, the charges need to be excluded from the export turnover - YES: HC</p>
<p>2015-TIOL-1855-HC-MUM-IT</p>
<p>CIT Vs Vishwendra B Panwar (August 7, 2015)</p> <p>Whether it is possible to file an appeal before the Tribunal even if the tax effect is less than the minimum prescribed limit in violation of the instructions of CBDT in terms of Section 268A - NO: HC</p>
<p>2015-TIOL-1854-HC-DEL-IT</p>
<p>CIT Vs Vijay Mehta (August 4, 2015)</p> <p>Whether when the assessee itself sought permission for extension of time to realise the export proceeds in convertible foreign exchange, CIT(A) is justified in extending the time further - NO: HC</p>

2015-TIOL-1853-HC-P&H-IT
CIT Vs Super Pipes (August 5, 2015)
Whether based on the two bills it could not be inferred that the assessee had indulged in the alleged practice in respect of the bills - YES:HC
Whether additions made by the AO cannot be upheld if it was unsupported by any cogent material on record - YES:HC
2015-TIOL-1852-HC-P&H-IT
CIT Vs Sunder Forging (Dated: July 30, 2015)
Whether where a small scale industry in the course of 10 years stabilizes early and makes further investments in the business resulting in it's going outside the purview of definition of small scale industry, the said process would not come in way of its claiming benefit u/s 80-IB for 10 consecutive years from the initial A.Y - YES: HC
2015-TIOL-1851-HC-P&H-IT
PR CIT Vs Mobisoft Tele Solutions Pvt Ltd (Dated: August 7, 2015)
Whether in case, an assessee is entitled to use the trade mark as a licensee thereof, the payment of royalty for the same can be considered as usual business expense - YES: HC
2015-TIOL-1849-HC-DEL-IT
CIT Vs Video Electronics Pvt Ltd (Dated: August 3, 2015)
Whether when assessee has not claimed the benefit of Section 32AB, the question of treating lease rental as income on accrual basis would not arise - YES:HC
2015-TIOL-1847-HC-AHM-IT
CIT Vs J B Exports (Dated: May 4, 2015)
Whether when the original assessment was completed by CIT(A) and within a period of three months from the original assessment order, notice u/s 148 was issued by another AO without having reassignment of the case or assuming legal jurisdiction, such notice is invalid - YES: HC
2015-TIOL-1846-HC-AHM-IT

Gulmohar Residency Vs ACIT (Dated: April 27, 2015)

Whether when the assessee was allowed deduction u/s 80IB on the basis of a valid reasoning, which was duly accepted by the AO while finalizing the original assessment, subsequent reopening of the assessment on the very ground would be considered as a change of opinion by the AO - YES: HC

[2015-TIOL-1845-HC-RAJ-IT](#)

Laxminarain Meena Vs UoI (Dated: July 21, 2015)

Whether where an issue has already been examined and decided by a Coordinate Bench of this court, no more lis is res integra to be examined and it is appropriate to dispose of the instant issue accordingly - YES: HC

[2015-TIOL-1844-HC-MUM-IT](#)

CIT Vs Vaidya Rashmi Kiran (Dated: July 31, 2015)

Whether redrafting a question of law can take 690 days in view of administrative difficulties - NO : HC

Whether condonation of delay be allowed for almost 2 years in filing notice of motion due to redrafting the questions of law in administrative difficulties of communication gap - NO: HC

[2015-TIOL-1841-HC-KAR-IT](#)

CIT Vs B S Shanthakumari (Dated : July 13, 2015)

Whether benefit of deduction u/s 54F of Act is available to the assessee even if construction work though has started but is not yet complete in all respects within the stipulated period - YES :HC

[Also see analysis of the order](#)

[2015-TIOL-1840-HC-DEL-IT](#)

CIT Vs Om Prakash Aggarwal (Dated: July 29, 2015)

Whether issue is rightly remanded to the AO, to decide after giving opportunity of hearing to assessee with regard to the addition made, on account of undisclosed income, towards purchase of property, as a result of slips and other documents received during search - YES: HC

[2015-TIOL-1839-HC-P&H-IT](#)

Gurdas Garg Vs CIT (Dated: July 16, 2015)

Whether when the ITO is satisfied about the genuineness of the transaction and payment and identification of the cash payment is established, it shall record his satisfaction about the fulfillment of the conditions for allowing the benefit of Rule 6DD(j) - YES: HC

Whether if the Tribunal has not disbelieved the transactions, nor has it disbelieved the fact of payments having been made for business expediency, disallowance u/s 40A(3) can be made - NO: HC

Whether if it is established that the interest free advances are made by an assessee who has adequate free reserves, this fact is sufficient to establish that the amounts advanced interest free can be added to the assessee's income - NO: HC

[2015-TIOL-1838-HC-AHM-IT](#)

National Construction Company Vs JCIT (Dated: May 6, 2015)

Whether when the formation of opinion by AO while reopening the completed assessment and his reason to believe that the income as escaped assessment, has been vitiated, in that case reopening assessment proceedings is valid and permissible - NO: HC

Whether if the Assessing Officer maintains that the audit objection raised by the audit party is not correct, as the amount involved is very high as mentioned by the audit party, in order to safeguard the interest of the Revenue, reassessment proceedings can be started in such case - NO: HC

[2015-TIOL-1837-HC-AHM-IT](#)

Gaurav Contracts Co Vs DCIT (Dated: April 30, 2015)

Whether even while sending the proposal to the higher authority to grant the approval for initiation of the reassessment proceedings, AO maintained that the audit objection raised by the audit party is not acceptable, but the formation of the opinion by AO while reopening the assessment proceedings is valid as per law - NO: HC

Whether any reassessment proceeding initiated at the instance of the audit party objection without the Assessing Officer himself having reason to believe that the income chargeable to tax has escaped the assessment has to fail - YES: HC

[2015-TIOL-1836-HC-AHM-IT](#)

Condor Footwear India Ltd Vs DCIT (Dated: April 8, 2015)

Whether when all primary facts are before the assessing authority, no further assistance is required by way of disclosure, after that all inferences of facts and legal inference need to be drawn by the Assessing Officer only - YES: HC

Whether it is for any one to guide the Assessing Officer in respect of inference "factual or legal", which requires to be drawn in order to reopen assessment - NO: HC

Whether when it is revealed from the record that the assessee disclosed full and complete facts and on scrutiny, at the time of original assessment all these details are examined, no change of opinion is permissible merely because there was some error earlier on the part of AO - YES: HC

[2015-TIOL-1834-HC-DEL-IT](#)

CIT Vs S G Estates Ltd (Dated: July 29, 2015)

Whether pro rata deduction u/s 80IB(10) of Act, is to be allowed when few of the residential units do not comply with the requirement of section 80IB(10) of the Act, whereas other units comply - YES: HC

[2015-TIOL-1833-HC-DEL-IT](#)

CIT Vs Harjeet Sharma (Dated: July 28, 2015)

Whether payment of freight and cartage can be disallowed on account of non-deduction of TDS when assessee is working as an agent of Airline and dealing in freight on behalf of said airlines - NO: HC

[2015-TIOL-1832-HC-MUM-IT](#)

CIT Vs Shri Amrutlal B Shah (Dated: August 5, 2015)

Whether compensation received against the land acquired by the State, which is in a town which has a population of 1000 persons and is more than 19 km away from the Municipal limits of the city would not fall within the definition of a capital asset - YES: HC

[2015-TIOL-1830-HC-P&H-IT](#)

CIT Vs M/s H M Steels Ltd (Dated: August 4, 2015)

Whether sales tax rebate can be said to be a part of profit and gain derived from business entitled for Sec 80IC benefits - NO: HC

[Also see analysis of the order](#)

[2015-TIOL-1827-HC-P&H-IT](#)

Subhash Chander Vs CIT (Dated: August 3, 2015)

Whether assessment essentially to be made u/s 144 and not u/s 143(3) of Act, when assessee does not comply with instructions given in notice - NO: HC

[2015-TIOL-1826-HC-P&H-IT](#)

CIT Vs M/s Brinsar Foods Pvt Ltd (Dated: August 3, 2015)

Whether where books of accounts are not maintained by the assessee, AO can apply GP rate based on his personal knowledge of previous returns and local knowledge

about trade - NO : HC

[2015-TIOL-1825-HC-DEL-IT](#)

CIT Vs M/s Bharat Hotels Ltd (Dated: July 31, 2015)

Whether the expenditure incurred on laying marble flooring in hotel business is allowable as revenue expenditure - YES: HC

[2015-TIOL-1824-HC-MUM-IT](#)

CIT Vs Sri Adhikari Bros (Dated: July 31, 2015)

Whether in review petition rearguing the appeal is permissible - NO : HC

Whether review is permissible only when there is new and important evidence not available at the time of earlier proceedings or in case there is some glaring error/mistake apparent on the face of the record - YES: HC

[2015-TIOL-1823-HC-KERALA-IT](#)

M/s Escapade Resorts Pvt Ltd Vs ACIT (Dated : July 30, 2015)

Whether the term initial assessment year, which is statutorily prescribed and fixed can be postponed keeping in mind the date of grant of approval of the prescribed authority - NO: HC

[2015-TIOL-1820-HC-P&H-IT](#)

M/s Vishal Coater Ltd Vs CIT (Dated: July 20, 2015)

Whether it is not necessary to claim expenses in respect of certain repairs, as capital in nature, merely because assessee had deducted similar expenses in the capital account in the past - YES: HC

[2015-TIOL-1819-HC-AHM-IT](#)

CIT Vs Yogeshwar Spintex Industries (Dated: July 21, 2015)

Whether when assessee has made payment by way of cheques, then it would be liable to pay the income tax only to the ratio of 20% of the amount of purchase value and not on the entire so called bogus purchase - YES: HC

[2015-TIOL-1818-HC-MUM-IT](#)

M/s Jagati Publications Ltd Vs President, ITAT (Dated: August 10, 2015)

Whether when a judicial body acts in administrative capacity, in midst of the litigation, which order will have effect on the ultimate outcome, the judicial body, must act with fairness, and not allow itself to be influenced - YES: HC

Whether permitting a party to the litigation to meet privately in absence of other side in respect of an ongoing litigation and then base an opinion on such meeting is most improper on the part of the Vice President of the Tribunal - YES: HC

Whether such private meetings is opposed to judicial conduct - YES: HC

Whether situation where an assessee send its representative to hold a private meeting to refer the entire matter to special bench, because the result before regular bench may affect his political career or that the issue in his case is politically sensitive, is an improper judicial conduct - YES: HC

[2015-TIOL-1817-HC-DEL-IT](#)

CIT Vs Modi Rubber Ltd (Dated: August 4, 2015)

Whether when the expenditure incurred in the past was allowed as revenue in nature, merely because the equipments were described as most important for tyre manufacturing plant, such expenditure is to be treated as capital in nature - NO: HC

Whether if certain amount has been given to a sister concern as loan on account of commercial expediency, any interest accrues on the same, even if the assessee has granted such loan out of its own funds - NO: HC

[Also see analysis of the order](#)

[2015-TIOL-1816-HC-KERALA-IT](#)

Malankara Plantations Ltd Vs ACIT (Dated : July 21, 2015)

Whether claim for interest and lease rentals written off is rightly disallowed in respect of income from other sources as deduction of income is permissible only u/s 57, sub section (iii), which is not attracted in the present case - YES: HC

[2015-TIOL-1815-HC-P&H-IT](#)

CIT Vs Shri Dinesh Verma (Dated: July 6, 2015)

Whether as per section 54B, the land sold must have been used by the assessee or by his parents or the HUF for agricultural purposes for a period of two years immediately preceding the date on which the transfer took place - YES: HC

Whether the provisions of section 54B entitle assessee to enjoy the benefit conferred therein if the subsequent property is purchased by a person other than the assessee including a close relative even such as his wife or children - NO: HC

[2015-TIOL-1814-HC-KAR-IT](#)

CIT Vs M/s Khivraj Motors (Dated: July 17, 2015)

Whether when the admitted fact that payment made to owner in order to vacate the premises had nothing to do with the construction, is in consonance with the Tripartite Agreement entered into between the parties, it can be said that the Revenue Authorities were correct in holding that the addition made by AO on the basis of project cost indicated by the developer is liable to be deleted - NO: HC

[2015-TIOL-1813-HC-MAD-IT](#)

C Krishnamurthy Vs ITO (Dated: July 13, 2015)

Whether request of an assessee to furnish a copy of the necessary documents, on the basis of which best judgment assessment has been made, need not be entertained in case the assessment has been completed and liability for payment of tax had been established - NO: HC

[2015-TIOL-1806-HC-AHM-IT](#)

Adani Exports Vs ITO (Dated: April 29, 2015)

Whether if the assessee has once participated in the reassessment proceedings without challenging the notice u/s 148 and thereafter reassessment proceedings are dropped, a show-cause notice has been issued by the Commissioner taking the reassessment order under revision, it is open for the assessee to challenge the notice u/s 148 - YES: HC

Whether when the deduction u/s 10AA is allowed in the first year, without any discussion at all and an intimation u/s 143(3) was issued, in the subsequent years AOs have mechanically allowed the exemption u/s 10AA claimed by the assessee, does that mean that reopening u/s 147 can be done on that basis - NO: HC

[Also see analysis of the order](#)

[2015-TIOL-1802-HC-AHM-IT](#)

Mudra Foundation For Communications Research And Education Vs CCIT (Dated: July 28-29, 2015)

Whether assessee is entitled to exemption u/s 10(23C) where assessee-institution is a charitable trust established for the sole purpose of imparting education in a specialised field .

[2015-TIOL-1791-HC-DEL-IT](#)

PR CIT Vs Pawan Kumar Bansal (Dated : July 29, 2015)

Whether when an individual is required to give the details of the additional income of his company, then the amount voluntarily surrendered cannot be treated as undisclosed income in his individual capacity: HC

[2015-TIOL-1790-HC-P&H-IT](#)

CIT Vs Bharat Bhushan (Dated : August 5, 2015)

Whether if the sellers and purchasers are all dealers and the purchases had been accounted for in the regular books of accounts maintained, duly audited, there can be anything to show that the quantity of sugar had been purchased and sold outside the books - NO: HC

Whether merely because the assessee was being prosecuted for keeping the sugar beyond the permissible limit and was trading in the same by sale and purchase on as is where is basis and as per his own case on credit, could entitle AO to add the value of the sugar to his undisclosed income - NO: HC

[2015-TIOL-1789-HC-DEL-IT](#)

PR CIT Vs Zircon Traders Ltd (Dated : July 29, 2015)

Whether when the assessee has allowed the premium paid in respect of the same keyman insurance policy as a business expenditure in previous years, then the Revenue cannot spring a surprise for denying the same by seeking to rely on the IRDA circular only for the AYs in question - YES: HC

Whether the difference amount which has been received back as a refund, on cancellation of booking for a flat should be treated as a capital gain - YES: HC

[2015-TIOL-1788-HC-MAD-IT](#)

CIT Vs Ucal Fuel Systems Ltd (Dated : July 23, 2015)

Whether when all the business undertakings are wind mills and they have claimed benefit of deduction u/s 80IA for the current assessment year and for the subsequent years as well, assessee falls within the parameters of Section 80IA - YES: HC

[2015-TIOL-1787-HC-KAR-IT](#)

Lakshminirman Bangalore Pvt Ltd Vs DCIT (Dated : June 12, 2015)

Whether a person responsible for deduction of tax namely deductor is required to furnish periodical statements containing the details of deduction of tax within the prescribed due date - YES: HC

Whether any delay in furnishing TDS statements would consequently have cascading effect namely, it would stall the processing of the return of income filed by the deductee - YES: HC

Whether fee sought to be levied u/s 234E for late filing of TDS statements, is in the guise of a penalty or tax simplicitor that is sought to be levied on the deductor - NO: HC

Whether provisions of Section 234E can be declared as erroneous or ultra vires to the constitution, simply because no remedy of appeal is provided for against the levy of fee under the said provision - NO: HC

<p>Whether the High Court in exercise of power vested under Article 226 of the Constitution can declare a statute or a provision as unconstitutional, where the impugned Act or provision is not beyond its legislative competence or intra vires to the Constitution - NO: HC</p>
<p>Also see analysis of the order</p>
<p>2015-TIOL-1783-HC-DEL-IT</p>
<p>CIT Vs M/s Delhi Transco Ltd (Dated: August 6, 2015)</p>
<p>Whether 'wheeling charges' paid in respect of transfer of electricity under a bulk power transmission agreement without any distribution licence, can be categorised as 'fees for technical services' - NO: HC</p>
<p>Whether mere transmission of electricity through a network without any human intervention can be characterized as a provision of technical services and sought to be brought within the fold of Section 194J - NO: HC</p>
<p>Also see analysis of the order</p>
<p>2015-TIOL-1781-HC-DEL-IT</p>
<p>PR CIT Vs Jindal Saw Ltd (Dated: July 29, 2015)</p>
<p>Whether when the net tax effect in relation to the issues raised by the Revenue is only Rs 4,81,080, then Revenue ought not to have preferred an appeal before the Tribunal - YES: HC</p>
<p>2015-TIOL-1780-HC-MUM-IT</p>
<p>M/s Chhatariya Dehydrates Exports Vs CIT (Dated: July 28, 2015)</p>
<p>Whether adoption of turnover method to allocate profit in a transaction with related parties is sustainable, in case the assessee has failed to establish its case for the exemption and the quantum of exemption it seeks by leading necessary evidence before the authorities - NO: HC</p>
<p>2015-TIOL-1779-HC-MUM-IT</p>
<p>CIT Vs M/s Fitwell Real Estate Pvt Ltd (Dated: July 22, 2015)</p>
<p>Whether Revenue can be allowed to raise points which it has not raised before the Tribunal and challenge the factual finding of the activities which it has not urged in the appeal memo - NO: ITAT</p>
<p>Whether interest can be allowed on funds borrowed to repay the loan already taken from the Directors and also utilized for other business purpose - YES: ITAT</p>

[2015-TIOL-1778-HC-AHM-IT](#)

Banaskantha District Oilseeds Growers Coop Union Ltd Vs ACIT (Dated: May 7, 2015)

Whether the power to challenge re -assessment notice issued is available to the assessee in two stages, firstly by way of was raising preliminary objections before the Assessing Officer and in case of failure before the AO, challenging the speaking order of the AO under section 148 - YES: HC

Whether when the AO has only met the stipulation as to dispose of preliminary objection of assessee raised before proceeding with the assessment, is it possible for the AO to pass a non speaking order in respect thereof - NO: HC

[2015-TIOL-1777-HC-P&H-IT](#)

Surjit Singh Vs CIT (Dated: July 21, 2015)

Whether if the assessee was never given a proper opportunity to cross examine or rebut the stand of commission agent who at that time, was on the receiving end of the department, addition can be made in his income - NO: HC

Whether merely because the assessee is a retired employee and files his return showing agricultural income admittedly being a owner of agricultural land, AO can make additions on the assumption that the assessee had tried to include his past savings and unaccounted money in the agricultural income - NO: HC

[2015-TIOL-1776-HC-P&H-IT](#)

CIT Vs Kudu Industries (Dated: July 31, 2015)

Whether where mixed funds are diverted towards interest free advances the disallowance should be made up to the level of the average cost of debt to the assessee - YES: HC

Whether in the absence of anything to indicate that the interest free advance was made only from a particular corresponding advance received by the assessee, the advance made by the assessee would obviously be from the common pool of money - YES: HC

[2015-TIOL-1774-HC-MAD-IT](#)

Sri Kanniah Photo Studio Vs ITO (Dated : June 15, 2015)

Whether the one time settlement amount paid to Bank to satisfy the mortgage over the property, can be allowed to an assessee as an expenditure incurred in connection with the transfer for the purpose of computing capital gains u/s 48 (1) (i) - NO: HC

[2015-TIOL-1771-HC-KERALA-IT](#)

Maruthi Babu Rao Jadhav Vs DCIT (Dated: July 24, 2015)

Whether in case an assessee is not maintaining regular books of accounts, it becomes cumbersome for him to defend himself during the course of search when any incriminating material is found in his possession - YES: HC

Whether in case there is a search in the assessee's premises, an amount assessed as investment from undisclosed source can be treated as loss from business - NO: HC

[2015-TIOL-1766-HC-MUM-IT](#)

Ratanlal J Oswal Vs CIT (Dated: July 27, 2014)

Whether when the tax audit report filed by assessee had classified its transactions in shares as shares trading transactions, all these are indicative of there being a regular systematic activity which is the activity of business being pursued by the assessee - YES: HC

Whether if there is sufficient material available with the assessee to support the conclusion, the fact that another Court might have arrived at a different conclusion, is a relevant factor that needs to be considered before deciding upon any issue - NO: HC

[2015-TIOL-1765-HC-KAR-IT](#)

N Govindaraju Vs ITO (Dated: July 1, 2015)

Whether once it is found that no tax can be levied for the reasons given in the notice for reopening the assessment, reassessment on other issues would not be permissible, even if subsequently, in the course of such proceedings, some other income chargeable to tax may have been found to have escaped assessment.

[2015-TIOL-1764-HC-KERALA-IT](#)

CIT Vs M/s South Indian Bank Ltd (Dated: July 3, 2014)

Whether when RBI guidelines to value the unsecured shares on the basis of yield to maturity method are inapplicable, the Tribunal has the authority to reverse the view taken by the AO and to direct that the notional loss claimed on revaluation of the securities as deduction has to be allowed - YES: HC

[2015-TIOL-1763-HC-KAR-IT](#)

CIT Vs Sri Santosh Kumar Shetty (Dated: July 15, 2014)

Whether the amendment to Section 40(a)(ia) by the Finance Act, 2010, which is given effect from 01.04.2010 is retrospective in nature.

[2015-TIOL-1760-HC-KOL-IT](#)

Goodricke Group Ltd Vs CIT (Dated : July 17, 2015)

Whether the activities of sale of tea manufactured out of bought green leaves and sale of purchased tea after blending with the tea manufactured by assessee were to be considered as part and parcel of the business of growing and manufacturing tea - YES: HC

Whether the profits arising out of such activities were to be excluded for the purpose of computation of the quantum of deduction under section 33AB - NO: HC

[Also see analysis of the order](#)

[2015-TIOL-1759-HC-MAD-IT](#)

CIT Vs Shri K Rajinikanth (Dated: July 22, 2015)

Whether when all the business undertakings are wind mills and they have claimed benefit of deduction u/s 80IA for the current assessment year and for the subsequent years as well, assessee falls within the parameters of Section 80IA - YES: HC

[2015-TIOL-1758-HC-AHM-IT](#)

CIT Vs Hitachi Home And Life Solutions (India) Ltd (Dated: May 4, 2015)

Whether deletion of disallowance made by the Tribunal after proper analysis of facts can be disturbed without even filing of evidence in support thereof - NO: HC

[2015-TIOL-1757-HC-KERALA-IT](#)

Dr Nassar Yusuf Vs CIT (Dated : July 15, 2015)

Whether if the accounts and the assessment order were disapproved by the HC and held to be un-reliable, the Tribunal could not have taken cognizance of these documents, even if these documents were pressed into service by the assessee - YES: HC

Whether when the Revenue had sufficient other materials to sustain a finding of cash payments made by the assessee, insufficient documents filed by the assessee are adequate to upset those factual findings - NO: HC

[2015-TIOL-1756-HC-KERALA-IT](#)

G Sunilkumar Vs CIT (Dated: July 21, 2015)

Whether when it is found that the Tribunal has not dealt with any of the contentions raised by the assessee on the merits of the matter, such order has to be remanded - YES: HC

[2015-TIOL-1755-HC-P&H-IT](#)

CIT Vs Vee Gee Industrial Enterprises (Dated: July 28, 2015)

Whether when the rate of tax remained the same in the present assessment year as well as in the subsequent AY, the dispute raised by the Revenue is entirely academic or at best may have a minor tax effect - YES: HC

Whether there is any need for the Revenue to continue with this litigation, even if it is clear that it is not only fruitless but also that it may not have added anything much to the exchequer - NO: HC

[2015-TIOL-1754-HC-P&H-IT](#)

CIT Vs Ram Gopal And Sons (Dated : July 29, 2015)

Whether addition on account of shortage in production can be made, even when the assessee has maintained proper stock records to justify the particulars of opening stock, purchase, consumption, production and sales - NO: HC

[2015-TIOL-1753-HC-P&H-IT](#)

Alexandra School Vs CIT (Dated: July 30, 2015)

Whether assessee society is entitled to registration u/s 12AA where the purpose of association apart from imparting of education to the children of a particular religion was also to provide sound education to persons belonging to other communities regardless of caste, creed, colour or distinction of any kind in order to produce enlightened and responsible citizens for the country and less than 10% of the students of that particular community were studying therein.

[2015-TIOL-1748-HC-JHARKHAND-IT](#)

CIT Vs Sudama Singh (Dated: June 26, 2015)

Whether merely because the assessee did not file returns its salaried income falling under the block period can be treated as undisclosed income - NO: HC

[2015-TIOL-1747-HC-MAD-IT](#)

M/s Aruppukottai Sri Jayavilas Ltd Vs CIT (Dated: June 30, 2015)

Whether for arriving at Book Profits for the purpose of Section 115 JA, AO is right in adding a sum which was directly credited to the 'Capital Reserve' Account on account of revaluation of Equity Shares by transfer to its subsidiary company without consideration - NO: HC

[2015-TIOL-1746-HC-DEL-IT](#)

CIT Vs Dion Global Solutions Ltd (Dated: July 13, 2015)

Whether the delay on the part of Departmental Representatives in filing of an appeal, can be condoned on the basis of technical glitches in the procedural environment of Revenue department - NO: HC

[2015-TIOL-1741-HC-MUM-IT](#)

CIT Vs Vijayjyot Seats Pvt Ltd (Dated: July 8, 2015)

Whether when the assessee has made complete disclosure with regard to the sale of the property which was furnished along with return of income including the stamped agreement for sale wherein the higher stamp duty valuation was indicated, penalty for furnishing incomplete records can be levied u/s 271(1)(c) - NO: HC

[2015-TIOL-1740-HC-MUM-IT](#)

CIT Vs Tata Power Company Ltd (Dated: July 7, 2015)

Whether when a refund of tax has to be reduced by refund already granted, it is only the tax element which has to be adjusted and not the interest element paid on the delayed refund of the tax - YES: HC

[2015-TIOL-1735-HC-MUM-IT](#)

Hinduja Global Solutions Ltd Vs UoI (Dated: July 16, 2015)

Whether inspite of the fact that a position has been agreed by both the assessee and the Revenue, Tribunal has authority to disregard its own earlier rulings in case of similar assessee and that too in case of no change in circumstances - NO: HC

[2015-TIOL-1733-HC-AHM-IT](#)

CIT Vs Veer Gems (Dated: July 21, 2015)

Whether profit on cancellation of forward marketing contract is to be treated as export turnover within the meaning of Section 80HHC - YES: HC

[2015-TIOL-1732-HC-AHM-IT](#)

CIT Vs I P Patel And Company (Dated: July 21, 2015)

Whether the Gains out of cancellation of contracts is income from export business and eligible for deduction u/s. 80HHC - YES: HC

[2015-TIOL-1731-HC-DEL-IT](#)

PR.CIT Vs Citi Financial Consumer Finance India Pvt Ltd (Dated: July 17, 2015)

Whether when the Assessment Order has attained finality, it could not be disturbed or reopened unless fresh proceedings were initiated and action was taken under Section 148 or 154 or 263, it is not open for the AO to suo moto pass another Assessment Order for the same AY - YES: HC

Whether in the remand proceedings commenced in terms of the directions of the Appellate Authority, if the AO is conducting the same in accordance with the provisions of the Act, these proceedings can be said as administrative in nature - NO: HC

[2015-TIOL-1722-HC-RAJ-IT](#)

CIT Vs Shri Ramesh Chandra Bhati (Dated: July 14, 2015)

Whether if in the garb of interest something more is paid over and above 'interest', that something can be allowed as deduction under the provisions of section 36(1)(iii) - NO: HC

Whether when once a claim is made for deduction of any amount by way of interest on the amount borrowed for the purpose of business, ITO has the power to examine whether the amount claimed as 'interest' is really an interest, wholly or in part - NO: HC

[Also see analysis of the order](#)

[2015-TIOL-1721-HC-MAD-IT](#)

M/s Natya Sankalpa Vs DIT (Dated: June 17, 2015)

Whether when the the land belonging to the assessee has been parted away from that individual to the Trust, it is still possible to argue that the present act would fall under the definition of the term 'Trustee' enjoying the benefit directly or indirectly - NO: HC

Whether if there is no vesting of the building on the trustee per se because, as per the agreement, on surrender of the building the trustee will have to pay compensation and, therefore, the question of application of funds for the benefit of the trustee does not arise - YES: HC

[2015-TIOL-1720-HC-DEL-IT](#)

CIT Vs PACL India Ltd (Dated: July 20, 2015)

Whether making addition based on statements of contractors that no work of development is actually carried out is justified, when during search conducted at the premises of the Assessee no incriminating documents, books of accounts etc. are found or seized to indicate that the Assessee has claimed any bogus expenditure to reduce the burden of tax liability - NO: HC

Whether suspicion as to the genuineness of the expenditure, arising due to non availability of parties, at given address is enough to disallow land development expenditure without making further inquiry - NO: HC

[2015-TIOL-1719-HC-KAR-IT](#)

Shree Siddeshwar Souhardhana Sahakari Niyamit Vs ITO (Dated: July 13, 2015)

Whether the interest earned by a cooperative society from its investment, which is done from its surplus deposit in a private limited company is liable to be deducted in terms of Section 80P(2)(a)(i) - YES: HC

[2015-TIOL-1718-HC-KAR-IT](#)

Sri Narayana Guru Vs CIT (Dated: July 14, 2015)

Whether mere construction of a building for the purpose of carrying out of activities for the advancement of any objects of general public utility would constitute charitable activity and continuance of approval under Section 80G(5)(vi) can not be denied - YES: HC

Whether when assessee was granted registration u/s 12A and also approval u/s 80G(5)(vi) and continuance for such approval in preceding years under similar circumstances, Tribunal was justified in upholding the denial of continuance of approval subsequently u/s 80G(5)(vi), in no change of circumstances - NO: HC

[2015-TIOL-1717-HC-MUM-IT](#)

CIT Vs Perfect Thread Mills Pvt Ltd (Dated: July 21, 2015)

Whether when the loan amount had been taken for the purchase of machinery / fixed assets being on capital account and not on trading account would not be hit by Section 41(1) r.w. section 28(iv) - YES: HC

Whether the waiver of a loan would amount to a subsidy grant or reimbursement and thus, the costs of the fixed assets relating to which there is grant of subsidy, grant or reimbursement would stand reduced - NO: HC

[2015-TIOL-1716-HC-MUM-IT](#)

Sun Tan Trading Co Pvt Ltd Vs DCIT (Dated: July 23, 2015)

Whether the AO needs to seek a copy of the sanction for issuing reopening notices to the assessee in terms of Section 151 - YES: HC

Whether the onus is on the Revenue to establish that the reopening notice is within its jurisdiction - YES: HC

Whether the Revenue cannot reopen the assessment merely on the basis of an order passed by the quasi judicial authority - YES: HC

[2015-TIOL-1715-HC-DEL-IT](#)

CIT Vs Jindal Photo Films Ltd (Dated: July 20, 2015)

Whether interest on fixed deposit receipts in Banks can be said to be derived from an industrial undertaking and will be included in the computation for deduction under Sections 80HH and 80I - NO: HC

[2015-TIOL-1714-HC-P&H-IT](#)

Bright Enterprises Pvt Ltd Vs CIT (Dated: July 24, 2015)

Whether in order to claim an amount incurred as revenue expenditure, the fact that such amount was debited to the account of sister concern in respect of payment made under the share purchase agreement or the amount actually paid to the sister concern and used by it for the purpose of business, is immaterial - YES: HC

Whether if the department has never contended that the amounts were not advanced by the assessee to sister concern for commercial expediency, the assessee can still be denied deduction of interest on such advances taken from bank as a loan - NO: HC

Whether if the financial assistance provided by the assessee to its sister concern was not only prudent but of utmost necessity, as without it, the subsidiary would have suffered grave financial prejudice, the deduction of interest on such amount borrowed

can be denied to the assessee - NO: HC

[2015-TIOL-1708-HC-DEL-IT](#)

M/s Bharat Hotels Vs CIT (Dated: July 24, 2015)

Whether assessee is entitled to depreciation where although the land and building vested in the Municipal Council and the assessee had only paid part of the price of the buildings in question to the Housing Board, the document of title had not yet been executed in favour of assessee but Assessee was indeed in full control of the three buildings – Whether addition on account of interest free deposits received by assessee from sub-licencees is justified where what has been transferred to the sub-licencee is only a right of occupancy for the purpose of licence and nothing more and Whatever benefit the Assessee derived from the deposits has already been reflected in its business income on which it has been taxed.

[Also see analysis of the order](#)

[2015-TIOL-1707-HC-DEL-IT](#)

CIT Vs Jcb India Ltd (Dated: July 16, 2015)

Whether when the DRP did not seek any clarification or explanation from the assessee on the details provided, there is any basis either for the AO or the DRP to simply conclude that benefit of an enduring nature had been derived by the Assessee as a result of the expenditure on development charges - NO: HC

[2015-TIOL-1706-HC-MAD-IT](#)

CIT Vs M/s Ramraj Handlooms (Dated: July 8, 2015)

Whether where the losses and other deduction have been set off against the income of the previous year, can it be reopened again for purpose of computation of current year income u/s 80I or 80IA for denying admissible deduction u/s 80IA - NO: HC

Whether loss in the year earlier to the initial A.Y already absorbed against the profit of other business can be notionally brought forward and set off against the profits of the eligible business - NO: HC

[2015-TIOL-1705-HC-MUM-IT](#)

CIT Vs M/s Sbi Commercial & International Bank Ltd (Dated: July 17, 2015)

Whether the interest income on the securities has to be taxed on the due basis only - YES: HC

Whether a vested right is created in the interest so accrued even before it becomes due for payment - YES: HC

[2015-TIOL-1704-HC-P&H-IT](#)

CIT Vs Ravinder Singhania (Dated: July 6, 2015)

Whether interest u/s 234A and 234B is to be levied on returned income instead of assessed income - NO: HC

[2015-TIOL-1703-HC-P&H-IT](#)

M/s Rsg Foods Pvt Ltd Vs CIT (Dated: July 8, 2015)

Whether transfer of an assessee's case u/s 127 can be sustained, in the absence of any substantive evidence showing assessee's connection with other similarly situated business in different jurisdiction - NO: HC

Whether land sold by any assessee for commercial exigency can be questioned merely on ground of storage of space faced by assessee and can be a valid ground for authorities to come to a conclusion that the jurisdiction of the assessment proceedings requires to be transferred - NO: HC

[2015-TIOL-1702-HC-MP-IT](#)

CIT Vs M/s Keti Construction Ltd (Dated: July 7, 2015)

Whether where an assessee has furnished return of income and applies for settlement of his case, his liability to pay additional tax would be the amount of tax calculated on total income, which is calculated by aggregating the total income returned and the income disclosed in the application, minus the amount of tax calculated on the total income returned for that year.

[2015-TIOL-1701-HC-UKHAND-IT](#)

CIT Vs Oil And Natural Gas Corporation Ltd (Dated: May 21, 2015)

Whether the payment of royalty made by a Government of India undertaking to the State Government in terms of the Government of India's policy and directions, can be likened to protection money, extortion or bribe paid in violation of section 37 - NO: HC

[2015-TIOL-1690-HC-ALL-IT](#)

Rich Udyog Network Ltd Vs CCIT (Dated: July 7, 2015)

Whether when the Revenue initially takes approval only for a Survey u/s 133A but finds huge cash at the assessee's premises which one of its Directors fails to explain, the same Survey can be converted into a Search after taking due approval from competent authority - YES: HC

Whether the expression "information" must be something more than a mere rumour, gossip or hunch and there must be some material, which can be regarded as "information", which must exist on the file, on the basis of which the authorizing officer can have "reason to believe" that an action u/s 132 - YES: HC

[Also see analysis of the order](#)

[2015-TIOL-1689-HC-MUM-IT](#)

CIT Vs ICICI Prudential Insurance Co Ltd (Dated: July 15, 2015)

Whether it is open to the AO to make adjustment on account of negative reserve, when the actuarial valuation is done and accepted by the Tribunal - NO: HC

Whether income earned on shareholder's account in life insurance business, can be treated as income from other sources - NO: HC

[2015-TIOL-1688-HC-DEL-IT](#)

CIT Vs Om Prakash Khaitan (Dated: July 21, 2015)

Whether where there is no change of system of accounting by the assessee, it is open to the Department to adopt a different stance in the concerned A.Y - NO: HC

Whether any nexus is required between the expenditure incurred and the income not forming part of the total income, to invoke disallowance u/s 14A r/w Rule 8D - YES: HC

[2015-TIOL-1687-HC-P&H-IT](#)

C S Atwal Vs CIT (Dated: July 22, 2015)

Whether assessee would be liable to capital gains tax in respect of land for which no

consideration had been received and which stood cancelled and incapable of performance where the parties had agreed for pro -rata transfer of land and no possession had been given by the transferor to the transferee of the entire land in part performance and the possession delivered, if at all, was as a licensee for the development of the property and not in the capacity of a transferee and whatever amount was received from the developer, capital gains tax was already paid on that and sale deeds had been executed and in view of cancellation of Joint Development Agreement no further amount was received and no action thereon was taken.

[2015-TIOL-1686-HC-KAR-IT](#)

CIT Vs United Racing & Blood Stock Breeders Pvt Ltd (Dated: June 22, 2015)

Whether the 'reason to believe' of escapement of income to tax by the assessee is justifiable or not, would not be an exercise which can be undertaken by AO at the stage of issuing of notice.

[2015-TIOL-1685-HC-DEL-IT](#)

CIT Vs Verdhman Properties Ltd (Dated: May 26, 2015)

Whether penalty can be imposed by the AO on the ground that the revised return was not a suo moto return and assessee was following wrong method resulting in concealment of income.

[2015-TIOL-1684-HC-KAR-IT](#)

CIT Vs Sri Gururaja Seva Samithi (Dated: July 2, 2015)

Whether the High Court has the power to question the correctness of the decision of the Supreme Court even though the point raised before the High Court was not considered by the Supreme Court - NO: HC

Whether the decision in a judgment of SC can be assailed on the ground that certain aspects were not considered by, or that relevant provisions were not brought to the notice of the Supreme Court - NO: HC

[2015-TIOL-1680-HC-MAD-IT](#)

CIT Vs Orient Express (Dated: July 7, 2015)

Whether in case of substantive amendment, retrospective operation can be given only if it is for the benefit of the assessee - YES: HC

Whether a retrospective amendment can result in depriving the benefit earlier granted to a class of the assessee whose assessments were still pending - NO: HC

[2015-TIOL-1679-HC-DEL-IT](#)

CIT Vs Maithon Power Ltd (Dated: July 21, 2015)

Whether if the character of receipt of subsidy in the hands of Assessee has to be determined with respect to the purpose for which the subsidy was granted, which is to

"enable the assessee to set up a new unit or to expand the existing unit then the receipt of the subsidy would be on capital account" - NO: HC

[2015-TIOL-1678-HC-MUM-IT](#)

Vascon Engineers Ltd Vs Income Tax Settlement Commission (Dated: July 9, 2015)

Whether dismissal of assessee's application for settlement at the stage of Section 245(2D) merely on the ground that assessee has not paid taxes on additional income is justified - YES: HC

Whether an unjustified rejection without proper enquiry into the stand of the Revenue would cause prejudice to the assessee as all the information made available during the settlement proceedings would be capable of use by AO to the prejudice of the applicant in regular assessment proceedings - YES: HC

[2015-TIOL-1677-HC-MAD-IT](#)

CIT Vs T L Prasanth (Dated: July 3, 2015)

Whether the case should not be considered on merit by HC when the issue involved does not attract the taxation of more than Rs. 4 Lac and also does not fall within the exceptions specified in Instruction No.1979 issued by CBDT on 27.3.2000.

[2015-TIOL-1676-HC-MUM-IT](#)

CIT Vs Smc Rohit JV (Dated: July 8, 2015)

Whether AOP is liable to deduct tax on payment made to its members as it is a separate person from its member as per the provisions of sec. 2(31), of Act - NO: HC

[2015-TIOL-1675-HC-MUM-IT](#)

Ajay R Dhoot Vs DCIT (Dated: July 15, 2015)

Whether when during search operation in assessee's premises, a locker key of another assessee was seized, it can be presumed that the market value of jewellery stored in such locker can be added in the income of searched assessee as deemed income - YES: HC

[Also see ananalysis of the order](#)

[2015-TIOL-1674-HC-MUM-IT](#)

Sant Trust Vs ACIT (Dated: July 16, 2015)

Whether when the information leading to the reassessment notice was received from the AO of the beneficiaries, it would be considered as notice issued without jurisdiction on account of lack of sanction - NO: HC

[2015-TIOL-1673-HC-MUM-IT](#)

Panchratna Coop Housing Society Ltd Vs ADDL CIT (Dated: July 16, 2015)

Whether when there is no failure to make full and true disclosure of necessary facts which is the jurisdictional requirement for initiating reopening proceedings after period of four years, the reasons do not show that there was any failure to disclose, can the reopening still be made - NO: HC

Whether in case a return has been furnished by the assessee before a wrong authority and the same is not be considered as a return in the eyes of law, the reassessment u/s 147 can be made on the basis of such wrong filing - NO: HC

[2015-TIOL-1672-HC-DEL-IT](#)

CIT Vs Dpa Finvest Services Ltd (Dated: July 20, 2015)

Whether any addition can be made as unexplained credit, when information or material that AO came across during the search of another company, had no relation to the solitary accommodation entry of the assessee which was unearthed during such search - NO: HC

[2015-TIOL-1666-HC-MUM-IT](#)

Reliance Industries Ltd Vs CIT (Dated: July 20, 2015)

Whether the fact that an appeal is provided under Section 246(i) from an order passed u/s 201, it would by itself require the passing of separate order u/s 201 prior to passing of an order u/s 221 - NO: HC

Whether the requirement of a written order treating a person to be an assessee in default is necessary, even when it is admitted position between the parties that the assessee is in default - NO: HC

Whether penalty under Section 221 would be payable only when the same is in addition to the arrears of payment of tax deducted - NO : HC

Whether merely because the tax has been deposited before the levy of penalty, would take in all acts, from the imposition of the charge upto the entire process of raising demand and collecting the same - NO: HC

Whether even where the assessee contends that he has paid part the tax after deducting the same from the payee, the provisions of Section 201(1) of the Act would continue to apply - YES: HC

[2015-TIOL-1665-HC-KAR-IT](#)

Guttigedarara Credit Co-Operative Society Ltd Vs ITO (Dated: June 9, 2015)

Whether for the purpose of taxing balancing charge and like, arising from the sale of old machinery and buildings, the term "attributable to" is certainly wider in import than the expression "derived from" - YES: HC

Whether if the amount invested in bank to earn interest, was not an amount due to any members, it is in the nature of profits and gains which was not immediately required by the assessee for lending money to its members, the said income is attributable to carrying on the business of banking, liable to be deducted in terms of Section 80P(1) - YES: HC

[Also see analysis of the order](#)

[2015-TIOL-1664-HC-ALL-IT](#)

Harbhajan Singh Chadha Vs DIT (Dated: March 27, 2015)

Whether in order to justify the action u/s 132, it is incumbent upon the authority to collect relevant material on the basis of which, the authority can form an opinion that he has reasons to believe that such action would be justifiable - YES: HC

Whether the expression "information" must be something more than a mere rumour, gossip or hunch and there must be some material, which can be regarded as "information", which must exist on the file, on the basis of which the authorising officer can have "reason to believe" that an action u/s 132 - YES: HC

Whether merely by alleging that the authority had no "information" nor reason to believe by itself is sufficient to challenge the action taken by the authority under Section 132 - NO: HC

Whether making allegation without corroborative support is by itself sufficient to challenge the action taken by the authority u/s 132 - NO: HC

[2015-TIOL-1663-HC-MAD-IT](#)

P Muthukaruppan Vs JCIT (Dated: March 26, 2015)

Whether when it is found that the conduct of the assessee was in breach of the provisions of Section 269SS and 269T on more than one occasion and there was no justification of any business interest or exigency to violate such provisions, disallowance can be made - YES: HC

Whether if the entire transactions took place in a major city and there appears to be no reason as to why the assessee should not have repaid the amount through bank, the entire transaction between the assessee and a financier can be assumed to evade the provisions of the tax authorities - YES: HC

Whether in case an assessee was taking loan amount by cash in contravention of the

provisions of Section 269SS, making repaying thereof by cash in contravention of the provisions of Section 269T, it can seek the support of Section 273B - NO: HC

[2015-TIOL-1654-HC-KERALA-IT](#)

Thomas George Muthoot Vs CIT (Dated: July 3, 2015)

Whether a statutory provision, unless otherwise expressly stated to be retrospective or by intendment shown to be retrospective, is always prospective in operation - YES: HC

Whether if once it is found that there is failure to deduct tax at source, the fact that the recipient has subsequently paid tax, will not absolve the payee from the consequence of disallowance - YES: HC

Whether when the recipients of the amounts paid by the appellants, the firms of which they are partners, have already paid tax, in that case it is illegal to disallow the interest paid - YES: HC

[2015-TIOL-1653-HC-KERALA-IT](#)

Equity Intelligence India Pvt Ltd Vs ACIT (Dated: July 3, 2015)

Whether the requirement that AO must have 'reason to believe' can be taken to mean that AO should have formed an opinion about the nature of the final order that is likely to be passed after re-opening the assessment - NO: HC

Whether though consistency is desirable, its desirability can operate against the Revenue in completing assessments for subsequent years in accordance with law - NO: HC

Whether if the assessment is completed u/s 143(1), re-opening is permissible u/s 147 and power under that section could be invoked only if any income chargeable to tax has escaped assessment - YES: HC

Whether in the absence of any evidence of trading activity in case of purchase and resale of shares, it can be held that profit arising from resale is an accretion to the capital - NO: HC

Whether if a transaction is outside the assessee's line of business, in that case, it must depend upon the facts and circumstances of each case whether the transaction is in the nature of trade, it is not necessary to constitute trade that there should be a series of transactions, both of purchase and of sale - YES: HC

Whether the character of a transaction can be determined solely on the application of any abstract rule, principle or test but must depend upon all the facts and circumstances of the case - NO: HC

[2015-TIOL-1652-HC-KERALA-IT](#)

Kottinattu Transports Vs CIT (Dated: June 25, 2015)

Whether when there is no provision which provides that the hire charges for vehicles should be provided per kilometer or that it cannot be provided depending upon the capacity of the vehicle, merely on the basis of the TDS certificate and hire charges received per metric tonne, the claim of assessee could be rejected - NO: HC

Whether if the assessee themselves have admitted that it was "letting out lorries on hire", such business of hiring trucks can be treated as 'motor vehicles other than those used in the business of running them on hire' so as to limit the depreciation allowance to 15% - NO: HC

[2015-TIOL-1651-HC-MUM-IT](#)

Betts India Pvt Ltd Vs DCIT (Dated: April 30, 2015)

Whether if the Assessing Officer seeks to draw an inference from the facts which were already available that in view of claiming higher depreciation, there was suppression of book profits, resulting in lower tax payable under the MAT provision, this could be the basis of reopening of assessment after the initial period of four years - NO: HC

Whether the reasons recorded by AO can be supplemented by filing an affidavit or making an oral submission before the matter reaches the higher authority - NO: HC

[2015-TIOL-1650-HC-MAD-IT](#)

Devi Karumariamman Educatonal Trust Vs DCIT (Dated : July 3, 2015)

Whether when the issue regarding entitlement to depreciation for A.Y 2009-10 has been decided by the jurisdictional High Court, all authorities, civil, criminal and judicial, coming within the territory of High Court, shall act in the aid of High Court - YES: HC

[2015-TIOL-1644-HC-MUM-IT](#)

CIT Vs Grasim Industries Ltd (Dated : July 10, 2015)

Whether the law of limitation binds everyone, including Government - YES: HC

Whether in the absence of plausible and acceptable explanation, the delay can be condoned mechanically merely because the Government or a wing of the Government is a party before the Court - NO: HC

Whether in a matter of condonation of delay, when there was no gross negligence or deliberate inaction or lack of bonafides, a liberal concession has to be adopted to advance substantial justice, the Department can take advantage of various earlier decisions - NO: HC

[Also see analysis of the order](#)

[2015-TIOL-1643-HC-MUM-IT](#)

R W Promotions Pvt Ltd Vs ACIT (Dated: July 13, 2015)

Whether any impugned order holding that it would have directed cross examination if it felt it was necessary, can be interpreted in such a way so as to come to the conclusion that no cross examination was called - NO: HC

Whether where an order has been passed without taking into consideration the affidavit of the representatives of the companies which indicates that they had received payment from the assessee for rendering of services, it is a case of no opportunity to cross-examine - YES: HC

[2015-TIOL-1642-HC-MAD-IT](#)

Bharaneedhars Refineries Pvt Ltd Vs DCIT (Dated: June 18, 2015)

Whether in case of pending stay petitions, the Revenue officials can resort to any coercive proceedings against the assessee including the realization of the balance amount of pending demand - NO: HC

[2015-TIOL-1641-HC-MP-IT](#)

CIT Vs Ritesh Agrawal (Dated: July 7, 2015)

Whether when the Revenue, during the course of the arguments, had not disputed the working of the assessee given before the CIT(A) and had not pointed out any infirmity in the findings of CIT(A) on this issue, it is possible for that authority to bring any material on record to contradict the findings of the fact before the Tribunal - NO:HC

Whether even if some loose papers are recovered during course of the search, the computation of undisclosed income should be computed for whole of the block period - NO: HC

[2015-TIOL-1640-HC-P&H-IT](#)

Jalandhar Iron And Steel Merchants Association Vs State Of Punjab (Dated: May 20, 2015)

Whether when on the date of introduction of sub Rule (8) of Rule 21, the State did not possess any power, emanating from the Act, to confine the availing of input tax credit to the reduced rate of tax on stock in trade, on transactions that had concluded with the dealer already earning input tax credit, it can restrain assessee from availing such benefit - NO: HC

[2015-TIOL-1633-HC-AHM-IT](#)

CIT Vs Hiren Alluminium Ltd (Dated: July 15, 2015)

Whether the assessee is entitled for deduction of any income received by sale of Duty Entitlement Pass Book Scheme under the provision of section 80-IB of the Act - NO: HC

[2015-TIOL-1632-HC-DEL-IT](#)

Oracle India Pvt Ltd Vs DCIT (Dated: July 9, 2015)

Whether proceedings which had attained finality with the passing of the order of jurisdictional High Court, can be sought to be revived by issuance of notice u/s 201(1)/201(1A) after expiry of limitation period, on ground of receiving new information - NO: HC

[2015-TIOL-1631-HC-DEL-IT](#)

Hcl Technologies Ltd Vs DCIT (Dated: July 16, 2015)

Whether escapement of income from assessment must necessarily be occasioned by failure on part of the assessee to disclose material facts, fully and truly, in order to invoke reassessment u/s 147 - YES: HC

[2015-TIOL-1630-HC-MAD-IT](#)

P Deivendran Vs CIT (Dated: June 17, 2015)

Whether a concerned authority is required to be directed to dispose of any petition, if he has failed to do so and take the petition for hearing - YES: HC

[2015-TIOL-1629-HC-MUM-IT](#)

M/s Supreme Traders Vs Settlement CC & CE (Dated: July 13, 2015)

Whether if compliance of conditional order passed by the Settlement Commission is reported late, then the Commission can dismiss the assessee's application. No : HC

[2015-TIOL-1627-HC-MP-IT](#)

CIT Vs M/s Mechmen (Dated: July 10, 2015)

Whether the power bestowed on the Assessing Officer having jurisdiction – be it under Section 153C or Section 158BD - is identical and thus when no incriminating material attributable to the assessee was seized during the course of search at the premises of the searched person and there was no satisfaction or even the basis for satisfaction to issue a notice u/s 153C, the action of AO was illegal and invalid - YES: HC

[Also see analysis of the order](#)

[2015-TIOL-1626-HC-MUM-IT](#)

CIT Vs Dushyant Development Corporation (Dated: July 7, 2015)

Whether in the absence of any evidence on the part of Revenue to prove that it is the survey which led the assessee to file revised return or withdraw its claim for benefit of Section 80IB, it is not open to hold that only because of survey, the claim for benefit of Section 80IB was withdrawn - YES: HC

[2015-TIOL-1625-HC-DEL-IT](#)

Principal. CIT Vs Fortune Polymers Industries Pvt Ltd (Dated: July 13, 2015)

Whether when a company was under liquidation at the time the penalty proceeding was initiated, then such penalty would be invalid - YES: HC

[2015-TIOL-1624-HC-DEL-IT](#)

CIT Vs SMCC Construction India Ltd (Dated: July 3, 2015)

Whether when the benefit accrued to the Assessee as a result of payment of royalty for technical knowhow is not of an enduring nature, it cannot be construed to be a capital expenditure - YES: HC

[2015-TIOL-1623-HC-DEL-IT](#)

CIT Vs T G Leisure And Resorts Pvt Ltd (Dated: July 3, 2015)

Whether no disallowance u/s 14A r.w Rule 8D, could be made if the investment is made out of interest free fund - YES: HC

Whether the Counsel is permitted to urge a ground before the HC, when such ground has not been raised before the ITAT - NO: HC

[2015-TIOL-1622-HC-MAD-IT](#)

M/s Kalapet Primary Agricultural Co-Op Credit Society Ltd Vs ITO (Dated: June 5, 2015)

Whether the assessee being a credit cooperative society, is carrying on banking business, it can still be considered as eligible for deduction u/s 80P(4) - NO: HC

Whether the Assessing Officer is bound by the order passed by the jurisdictional Tribunal without taking any stand that the Tribunal or High Courts of other States are taking a different view - YES: HC

[2015-TIOL-1621-HC-AHM-IT](#)

Principal. CIT Vs Gujarat Gas Financial Services Ltd (Dated: July 7, 2015)

Whether in absence of any material or substantial change justifying the revenue to take a different view than the view it had taken in the preceding assessment years, it should not have reopened the issue in the subsequent AY - YES: HC

Whether in case the assessee company is providing various kinds of services to the parents company and both the companies are paying the highest tax, it could be contended in such a case, that there was no evasion of tax by the assessee - YES: HC

Whether as far as the provisions under Section 40A (2) and particularly with regard to the transaction between the relatives and associates are concerned, the same shall be treated as bona fide case unless the officer finds it that one of them is trying to evade payment of tax - YES: HC

[2015-TIOL-1620-HC-AP-IT](#)

Principal. CIT Vs M/s G K Properties Pvt Ltd (Dated: June 17, 2015)

Whether mere rejection of assessee's claim ipso facto can be construed as wrong claim by furnishing of inaccurate particulars attracting levy of penalty u/s 271(1)(c) - NO: HC

[2015-TIOL-1618-HC-DEL-IT](#)

CIT Vs Sardar Exhibitors Pvt Ltd (Dated: July 6, 2015)

Whether where both the CIT(A) as well as the Tribunal has found that there is no deliberate concealment of income as a capital receipt by the assessee, no substantial question requires to be answered by the High Court regarding nature of such receipt - YES: HC

[2015-TIOL-1615-HC-MAD-IT](#)

CIT Vs Sangeeth Textiles Ltd (Dated: July 8, 2015)

Whether the loss in the year earlier to the initial assessment year already absorbed against the profit of other business can be notionally brought forward and set off against the profits of the eligible business u/s 80-IA(5) - NO: HC

Whether a fiction created in Section 80-IA contemplates to bring set off amount notionally - NO: HC

Whether the fiction in law is always created only for the limited purpose and cannot be extended beyond the purpose for which it is created - YES: HC

[2015-TIOL-1614-HC-KAR-IT](#)

Saira Banu Vs ACIT (Dated: June 26, 2015)

Whether if the CIT(A) as well as Tribunal were to treat the transaction of purchase of land as a stock -in-trade and not as a capital asset, then they ought to have given sufficient opportunity to the assessee to prove her stand - YES: HC

Whether in case the department has not provided such sufficient opportunity to the assessee with regard to her establishing that business exigency required payment in cash, the order thus passed is valid as per law - NO: HC

[2015-TIOL-1613-HC-DEL-IT](#)

CIT Vs Rajesh Vats (Dated: July 2, 2015)

Whether when the details of the Legal Representative in case of a deceased assessee, has already been placed on record, no steps whatsoever have been taken by the Revenue, this shows the Revenue's casual approach - YES: HC

[2015-TIOL-1612-HC-P&H-IT](#)

MDN Education Society Vs UOI (Dated: June 30, 2015)

Whether if the exemption has already been granted to the assessee earlier, the same could be withdrawn after giving reasonable opportunity only if the activities are found not to be genuine and not according to the conditions and the approval could be subject to monitoring - YES: HC

[2015-TIOL-1611-HC-DEL-IT](#)

DIT Vs Lala Bhagwan Dass Educational Trust (Dated: July 1, 2015)

Whether where the Revenue has failed to enclose with its affidavit copies of relevant documents which is incumbent upon it in terms of order passed by the jurisdictional High Court, it is not open to the Revenue to claim perversity in the order of Tribunal - YES: HC

Whether it is open to the Revenue to deny benefit of Section 11 to an assessee by doubting the creditworthiness of the donors, in absence of any evidence showing non-confirmation of such donors - NO: HC

[2015-TIOL-1610-HC-AHM-IT](#)

Krishnamegh Yarn Industries Vs ACIT (Dated: July 14, 2015)

Whether where the assessee himself admitted that he had not fully disclosed the stocks in the books of account, he would still be entitled for the set off under the proviso of Section 71 - YES: HC

[2015-TIOL-1609-HC-DEL-IT](#)

CIT Vs DLF Commercial Project Corporation (Dated: July 15, 2015)

Whether if sale of development rights is recognized on accrual basis in the financial year in accordance with the terms of the agreements entered into with the customers, every receipt can be treated as income of the assessee - NO: HC

Whether in absence of any sale, revenue's attempt to bring to tax the advances received by the assessee, can succeed, given that such advances were not towards any income that the assessee was entitled to receive in the two assessment years - NO: HC

Whether reimbursement of expenses can, under any circumstances, be regarded as revenue receipt" and therefore, the same can be liable to income tax - NO: HC

Whether if the payments made by the assessee were only for the reimbursement of expenses incurred by the payee on behalf of the assessee, it can be held that TDS was required to be deducted by the assessee - NO: HC

[Also see analysis of the order](#)

[2015-TIOL-1607-HC-KAR-IT](#)

M/s Lakshmi Enterprises Vs ITO (Dated: July 2, 2015)

Whether where no substantial evidence is produced by the assessee in respect of any liability, for verification by the AO, it can be inferred that the liability created by the assessee is not genuine - YES: HC

[2015-TIOL-1606-HC-P&H-IT](#)

CIT Vs Shri Munish Kumar Bansal (Dated: July 13, 2015)

Whether any interference in the decision of Tribunal is required, when the factual findings of Tribunal is found to be not perverse - NO: HC

[2015-TIOL-1601-HC-MUM-IT](#)

CIT Vs M/s Dalmia Dyechem Industries Ltd (Dated: July 6, 2015)

Whether if the AO in the order imposing penalty has noted that commercial expediency was not proved beyond doubt, it can levy penalty for concealment without rendering a conclusive finding that there was an active concealment or deliberate furnishing of inaccurate particulars - NO: HC

[2015-TIOL-1600-HC-MAD-IT](#)

CIT Vs M/s Southern Petrochemical Industries Corporation Ltd (Dated: June 30, 2015)

Whether when the assessee is in the business of marketing bulk drugs, formulations, etc., and one of its ventures has ended in a loss, which is attributable to business only, it can be deemed to be a new enterprise and a capital expenditure - NO: HC

[Also see analysis of the order](#)

[2015-TIOL-1599-HC-MAD-IT](#)

CIT Vs M/s Scm Silks Pvt Ltd (Dated: July 7, 2015)

Whether it is required that losses or other deductions which have already been set off against the income of the previous year should be reopened again for computation of current income under section 80-I for the purpose of computing admissible deductions thereunder - NO: HC

[2015-TIOL-1598-HC-MUM-IT](#)

CIT Vs M/s Indian Oil Corporation Ltd (Dated: June 29, 2015)

Whether when the assessee has sufficient amount of its own funds, there is any question of amount being borrowed to invest in shares for earning dividend income and deduction u/s 80M is to be denied to such assessee - NO: HC

Whether, to avail deduction u/s 80I, profits of marketing division can be treated as part of overall profits with respect to industrial undertaking eligible for such deduction - YES: HC

[Also see analysis of the order](#)

[2015-TIOL-1591-HC-P&H-IT](#)

CIT Vs M/s Mahesh Munjal HUF (Dated: June 30, 2015)

Whether when there is nothing on record that indicates that the assessee paid advance tax on the basis of an estimate which he knew or had any reason to believe to be false, the AO can make addition in assessee's income without any basis - NO: HC

Whether merely because a person or an entity is a partner of a firm, it does necessarily follow that he was aware of every detail of the income tax returns filed by the firm - NO: HC

[2015-TIOL-1590-HC-KAR-IT](#)

CIT Vs M/s Hasan Hajee And Co (Dated: June 1, 2015)

Whether while disallowing the contentions of the aggrieved party, in case the Tribunal has not meticulously analysed each and every aspect of the evidence produced, the order such passed would be considered as an order passed without affording an opportunity of being heard - YES: HC

[2015-TIOL-1587-HC-KAR-IT](#)

ACE Manufacturing Systems Ltd Vs Addl.CIT (Dated: June 2, 2015)

Whether it can be said that the machines were manufactured only on trial basis and not for commercial purposes in the relevant assessment year where the prototypes manufactured by the assessee were tested and sold to group companies for consideration and there was transfer of title in respect of the machines and the group companies which had purchased the machines started making use of those machines and were earning profit.

[2015-TIOL-1586-HC-P&H-IT](#)

CIT Vs Rakesh Gupta (Dated: July 2, 2015)

Whether there were free reserves available with the assessee to advance the interest free loan to his son, is it justified on the part of Revenue to make addition in assessee's income - NO: HC

[2015-TIOL-1585-HC-KAR-IT](#)

CIT Vs Sri Dinesh D Ranka (Dated: June 11, 2015)

Whether the transaction where the assessee who was eligible for a larger Floor Area Ratio, retained only a part for his residence and surrendered the balance in favour of Developer for construction of flats by receiving consideration would fall within the definition of transfer under section 2(47).

[2015-TIOL-1578-HC-RAJ-IT](#)

CIT Vs Vijay Solvex Ltd (Dated: June 30, 2015)

Whether when similar view has already been taken by the High Court on the identical question of law, there is no reason to deviate with the findings and question of law answered in case no distinguishing facts have been brought on record - YES: HC

[2015-TIOL-1577-HC-RAJ-IT](#)

CIT Vs Saraf Carpet And Textile (Dated: July 01, 2015)

Whether if the facts of a case are similar with that of a High Court decision which was directly based on a Supreme Court ruling given in the favour of assessee, in no change of circumstances can the department argue otherwise - NO: HC

[2015-TIOL-1576-HC-KOL-IT](#)

CIT Vs Balarampur Chini Mills Ltd (Dated: July 02, 2015)

Whether when the revised return filed by the assessee u/s 139 includes an expenditure disallowable u/s 37(1), it would automatically follow that inaccurate particulars had been furnished in the originally filed return - YES: HC

Whether furnishing of such inaccurate particulars coupled with absence of satisfactory explanation, would per se make the assessee liable to pay penalty u/s 271(1)(c) - YES: HC

Whether concealment of income in such case shall be presumed, if the assessment leads to addition or disallowance of any amount in computing his total income - YES: HC

Whether mens rea, during present time, is a prerequisite for imposition of penalty u/s 271(1)(c) - NO: HC

[Also see analysis of the order](#)

[2015-TIOL-1573-HC-P&H-IT](#)

Dr Jasleen Kaur Vs CIT (Dated: July 1, 2015)

Whether when the remand report of AO himself has stated that before him the assessee was unable to adduce all the necessary facts due to shortage of time, should it be granted an additional opportunity of being heard - YES: HC

[2015-TIOL-1572-HC-P&H-IT](#)

CIT Vs Parminder Singh (Dated: May 21, 2015)

Whether if the Tribunal has made some addition in assessee's income after properly analysing the facts and circumstances, is it justified on the part of Revenue to reagitate the same issues before the High Court - NO: HC

[2015-TIOL-1571-HC-DEL-IT](#)

Srei Infrastructure Finance Ltd Vs Addl.CIT (Dated: February 13, 2015)

Whether as income derived from leasing of vehicles by a financing company would be "business income" as the asset was used in the course of business, assessee is entitled for higher rate of depreciation - Whether while computing book profit under section 115JB, it is justified adding the amount transferred to the special reserve pursuant to the provisions of section 45IC of the RBI Act, 1934 and the amount transferred to debt redemption reserve under Clause (b) of the Explanation to Section 115JB.

[2015-TIOL-1569-HC-MAD-IT](#)

ACIT Vs Sundaram Asset Management Co Ltd (Dated: June 16, 2015)

Whether the Income Tax Officer in lieu of payment of refund, set-off the amount to be refunded against the sum payable by an individual, without furnishing information in writing to him of the proposed action.

[2015-TIOL-1568-HC-MAD-IT](#)

CIT Vs M/s CNV Textiles Pvt Ltd (Dated: June 25, 2015)

Whether once the losses and other deduction have been set off against the income of the previous year, it shall not be reopened again for the purpose of computation of current year income under Section 80I or 80IA and the assessee shall not be denied the admissible deduction under Section 80IA - YES: HC

Whether loss in the year earlier to the initial assessment year already absorbed against the profit of other business cannot be notionally brought forward and set off against the profits of the eligible business, as no such mandate is provided in section 80-IA(5) - YES: HC

[Also see analysis of the order](#)

[2015-TIOL-1567-HC-MUM-IT](#)

CIT Vs Savitridevi Ringshia (Dated: June 29, 2015)

Whether the extra amount received by the assessee during the proceedings of an interim order accrue to the assessee as its income until the finalization of the dispute - NO: HC

[2015-TIOL-1566-HC-MUM-IT](#)

CIT Vs M/s Hindustan Organics Chemicals Ltd (Dated: June 29, 2015)

Whether the appeals filed by revenue before the High Court mechanically without application of mind in respect of matters which are already concluded by various decisions of the High Court and accepted or earlier orders of the Tribunal which are accepted by the revenue, has to be entertained - NO: HC

[2015-TIOL-1565-HC-KAR-IT](#)

CIT Vs M/s Filtrex Technologies P Ltd (Dated: June 1, 2015)

Whether penalty u/s 271(1)(c) attracts automatic levy, in case any addition/disallowance is sustained by the appellate authorities - NO: ITAT

Whether where the assessee has acted upon the certification wherein the Chartered Accountant has not reported any violation by the assessee which would attract disallowance u/s 40(a)(ia), no penalty can be levied u/s 271(1)(c) by inferring concealment of income - YES: ITAT

[2015-TIOL-1564-HC-KAR-IT](#)

CIT Vs M/s HMA Data Systems Pvt Ltd (Dated: June 26, 2015)

Whether when the contention of the Revenue that assessee has been in the business of purchase and sale of shares, has been debiting the P & L A/c with increase or decrease in the value of shares is not in conformity of the facts of the case, the amount on sale of shares held as investment can be considered as business income - NO: HC

Whether if the assessee has not discharged the burden cast on it by furnishing the details of travel made, the order of AO as affirmed by the lower appellate authorities cannot be found fault with - YES: HC

Whether in the absence of any commercial expediency of incurring certain expenditure as technical support charges, the disallowance can be warranted - YES: HC

[2015-TIOL-1561-HC-MUM-IT](#)

Hindustan Unilever Ltd Vs DCIT (Dated: June 25, 2015)

Whether when there is no demand outstanding/payable for a concerned A.Y, there will be no occasion to adjust any part of the refund due to the assessee for subsequent A.Y to meet a non existing demand for previous A.Y - YES: HC

Whether an order passed by an officer superior to the AO granting stay would always be binding upon the AO - YES: HC

Whether where a stay is granted u/s 220(6), in view of pending appeal before the CIT(A), then such an assessee would not be treated in default even after the expiring of the period of 30 days - YES: HC

Whether where the AO has rejected assessee's contention at the time of making TP adjustment, he is required to inform the assessee as to why assessee's objections are not sustainable, before exercising power u/s 245 - YES: HC

Whether where an assessee is not an assessee in default u/s 220 till such time as its appeals are decided, there is no occasion to charge interest at such stage u/s 220(2) - YES: HC

[2015-TIOL-1559-HC-KERALA-IT](#)

M/s Beacon Projects Pvt Ltd Vs CIT (Dated: June 23, 2015)

Whether when the assessee, on cancellation of purchase of flats, refunds the sum with a part of the excess amount collected from new purchaser, such excess payment is to be construed as interest, liable to TDS u/s 194A - NO: HC

Whether such payment made by the assessee to the purchaser, one in discharge of any pre-existing obligation can be termed as interest as defined in section 2(28A) - NO: HC

Whether section 2(28A) is not attracted to every payment made and that the provision can be attracted only in cases where there is debtor-creditor relationship and that payments are made in discharge of a pre-existing obligation - YES: HC

[Also see analysis of the order](#)

[2015-TIOL-1552-HC-KAR-IT](#)

CIT Vs Karnataka State Industrial Investment Development Corporation Ltd (Dated: June 10, 2015)

Whether when the transfer of property by way of mortgage is effected, there was no notice of pendency issued to transferee, of the proceedings initiated by the department, it can be said that the said transfer was void in nature - NO: HC

Whether if the assessee is a secured creditor, in that case even the Crown debt could be discharged only after the debt of secured creditors stand discharged, so would happen with the income tax dues - YES: HC

[Also see analysis of the order](#)

[2015-TIOL-1551-HC-MUM-IT](#)

Vaseem Iqbal Kapadia Vs UoI (Dated: June 29, 2015)

Whether if Directorate has already seized Indian currency which was not confiscated and the foreign currencies could not have been seized through addendum without affording opportunity, the Tribunal in passing order of two different amounts by way of predeposit and bank guarantee in the Stay Petition for waiver of predeposit of penalty amounts, to non application of mind - NO: HC

[2015-TIOL-1550-HC-UKHAND-IT](#)

CIT Vs M/s Tehri Steel Ltd (Dated: June 22, 2015)

Whether when the assessee has used its 'contacts' to obtain the contract in some other party's favour on commission basis, the same would be considered as an illegal activity, which is not allowable as deduction u/s 37 - NO: HC

2015-TIOL-1544-HC-MAD-IT
CIT Vs Arvind Remedies Ltd (Dated: June 8, 2015)
<p>Whether when the assessee could not claim a particular benefit in respect of two heads properly, this could be a ground for the Revenue to initiate reassessment proceeding u/s 147 - NO: HC</p> <p>Whether when it is clear from the order of the Tribunal that it was failure on the part of AO to consider the material, the assessee had placed all the materials before AO during the regular assessment, the Proviso to Section 147 can get attracted - YES: HC</p>
2015-TIOL-1542-HC-DEL-IT
CIT Vs Vishishth Chay Vyapar Ltd (Dated: April 30, 2015)
<p>Whether when the assessee mainly provided a link between the companies floated by an entry provider and no sum was paid for purchase of untraded shares, such sale and purchase is to be construed as sham - YES: HC</p>
Also see analysis of the order
2015-TIOL-1541-HC-MUM-IT
CIT Vs Shri J M Joshi (Dated: June 26, 2015)
<p>Whether interest income earned by the assessee on fixed deposits with the bank and other interest income is eligible for deduction u/s. 80IA - YES: HC</p>
2015-TIOL-1537-HC-DEL-IT
CIT Vs Anil Arora (Dated: May 22, 2015)
<p>Whether in order to determine amount of undisclosed investment valuation report of DVO be considered, when there is no nexus between the properties compared by DVO. - Whether addition on account of rental income is justified when no evidence is gathered to show that rent over and above what has been declared is realized.</p>
2015-TIOL-1536-HC-AHM-IT
Shree Chalthan Vibhag Khand Vs DCIT (Dated: June 12, 2015)
<p>Whether reopening of assessment after four years from completion of relevant assessment year is justified where in the reasons recorded there is no allegation that the income has escaped assessment on account of any failure on the part of the assessee to disclose fully and truly all material facts necessary for its assessment – Whether reopening of assessment within 4 years on the ground that the payment of purchase price in excess to the SMP has escaped the assessment is sustainable where at the time of original assessment under Section 143(3) of the Act the Assessing Officer after applying the mind had accepted the original return filed by assessee – Whether reopening of assessment on the basis of the order passed by the CIT (Appeals) in case of some other assessee which was pursuant to the order of Supreme</p>

Court is sustainable in law.

[2015-TIOL-1534-HC-JHARKHAND-IT](#)

Emaar Alloys Pvt Ltd Vs DGIT (Dated : May 5, 2015)

Whether writ petition filed against the conduct of search and seizure operations, is maintainable when Revenue has material to prove that assessee has huge property which was not disclosed by it earlier and assessee's case is pending before CIT(A).

[Also see analysis of the order](#)

[2015-TIOL-1527-HC-MAD-WT](#)

CIT Vs M/s Mil Industries Ltd (Dated : June 8, 2015)

Whether when there is no change in the set of circumstances, no other flaw has been pointed out either by the Revenue or by the assessee in the decisions of both the Appellate authorities, the High COURT has the power to intervene therein - NO: HC

[2015-TIOL-1520-HC-KOL-IT](#)

Rani Leasing And Finance Ltd Vs CIT (Dated : March 30, 2015)

Whether hire charges received under a hire purchase agreement amounts to interest liable to tax under the provisions of the Interest Tax Act.

[2015-TIOL-1519-HC-JHARKHAND-IT](#)

CIT Vs M/s Panchwati Builders (Dated : June 18, 2015)

Whether the valuation of a building is to be done after estimating the quantity of sand, cement, the work put by the labourers in hours, the cost of supervision and not by multiplication of some amount with the floor area - NO: HC

Whether valuation done on such basis and addition in the income done by the Department on the same is legally sustainable - NO: HC

[2015-TIOL-1518-HC-MAD-IT](#)

CIT Vs The Karur Vysys Bank Ltd (Dated : June 9, 2015)

Whether the plea of the Department that the grounds raised were not considered by the Tribunal, will be unmaintainable, when Revenue had already raised an appeal on identical issues in previous years and the same was decided in accordance of merits - YES: HC

[2015-TIOL-1517-HC-AHM-IT](#)

DCIT Vs Vadofone Essar Gujarat Limited (Dated : June 12,2015)

Whether the Appellate Tribunal is required to consider the facts of each case and arrive at subjective satisfaction in each case, if the delay in not disposing of the appeal within the period of 365 days from the date of initial grant of stay is attributable to the assessee or not - YES: HC

Whether Tribunal is required to pass a speaking order on each application and after giving an opportunity to the representative of the revenue – YES: HC

Whether if the Department is aggrieved by such extension in a particular case, having of the view that in a particular case the assessee has not cooperated and/or has tried to take undue advantage of stay and despite the same the Appellate Tribunal has extended stay order, revenue can challenge the same before the higher forum / High Court - YES: HC

[2015-TIOL-1516-HC-MUM-IT](#)

M/s The Quepem Urban Co-Operative Credit Society Ltd Vs ACIT (Dated : April 17, 2015)

Whether in case of a cooperative society, when the transactions with non members are insignificant, deduction u/s 80P"(2)(a)(i) can be denied merely on this basis observing that assessee's principal business is of accepting deposits from public and therefore it is in banking business - NO: HC

[2015-TIOL-1514-HC-KAR-IT](#)

CIT Vs M/s Crane Software Internaitonal Ltd (Dated : June 9, 2015)

Whether interest income earned from fixed deposits which was to fall within the head 'Income from Business' or 'Income from Other Sources' and consequently the same would affect the computation of deduction u/s 80HHE, is a debatable issue, which cannot be rectified u/s 154 - YES: HC

[2015-TIOL-1513-HC-KAR-IT](#)

Sri P M Abdulla Vs ITO (Dated : June 3, 2015)

Whether the provisions of Section 69C can be made applicable in case the credit purchases, being in the nature of expenditure, recorded in the books of accounts are not proved by the assessee before the AO - YES: HC

[2015-TIOL-1512-HC-MUM-IT](#)

CIT Vs Industrial X-Ray And Allied Radiographers (India) Pvt Ltd (Dated : June 23, 2015)

Whether if an assessee receives an amount from a creditor towards advance instead of sales, the same can be added as business income u/s 28(v) read with Section 41(1) for the subject assessment year - NO: HC

[2015-TIOL-1505-HC-MAD-IT](#)

CIT Vs S Duraipandi & S Thalavaipandian (Dated: June 9, 2015)

Whether when it is clear that the Tribunal has gone in depth into the various proceedings that had been undertaken by the assessee before approaching CIT(A) for pursuing the appeals and the delay for filing appeal is on account of availing remedies before various forums including before the Tribunal, assessee can be held as a defaulter - NO: HC

[2015-TIOL-1503-HC-KERALA-IT](#)

Jose Kuruvinakunnel Vs CIT (Dated: June 8, 2015)

Whether when the Department is proceeding against an assessee on the basis of the statement of a third party, it is necessary that the Department should make available that third party for cross examination - YES: HC

Whether in case of cash deposit made by the assessee in the capital account of the firm, the cash flow statement could be treated as the account of the assessee, the amount not depicting in the accounts could be treated as unexplained investment of the assessee - YES: HC

[2015-TIOL-1502-HC-KERALA-IT](#)

M/s Union Air Products Pvt Ltd Vs ACIT (Dated: January 16, 2015)

Whether an assessee can claim invocation of section 119(2) by the CIT for waiving interest chargeable u/s 234B/234C, in absence of any finding as to the time at which assessee had received intimation concerning waiver of interest on term loan granted by the financial institutions - NO: HC

[2015-TIOL-1499-HC-KOL-IT](#)

CIT Vs Contain Cooperative Bank Ltd (Dated: June 2, 2015)

Whether the deposit of non-statutory fund made by the assessee amounts to an investment activities of a banking company, therefore the income arising therefrom is a business income amenable for the benefit u/s 80P(2)(a)(i).

[2015-TIOL-1498-HC-MAD-IT](#)

CIT Vs M/s Ambattur Clothing Ltd (Dated: June 1, 2015)

Whether the tax credit should be allowed to be set-off, when tax becomes payable on the total income computed in accordance with the provisions of the I-T Act other than Section 115JA or Section 115JB - YES: HC

Whether an assessee is expected to pay the advance tax to the extent of MAT credit brought forward from the preceding years - NO: HC

Whether only the balance tax liability that is remaining after the set off of MAT credit, is payable by the assessee as advance tax - YES: HC

[2015-TIOL-1497-HC-MUM-IT](#)

Mr Kunal S Surana Vs ITO (Dated: June 16, 2015)

Whether an assessee can be granted condonation for delay in filing an appeal before the CIT(A) occurred on the part of Chartered Accountant attending to the assessee's affairs - YES: HC

[2015-TIOL-1496-HC-MUM-IT](#)

M/s Zodiac Developers Pvt Ltd Vs PCIT (Dated: June 18, 2015)

Whether an order of transfer of assessment from one jurisdiction to another when passed, without considering assessee's submissions, is to be considered as an order passed in breach of principles of natural justice - YES: HC

[2015-TIOL-1495-HC-MUM-IT](#)

CIT Vs M/s Elde Electricals Agencies Pvt Ltd (Dated: June 16, 2015)

Whether in case a certain amount standing in the assessee's balance sheet continues to be shown as the liability in the current year, can be considered as amount taxable u/s 41(1), even when the assessee has not unilaterally written off such amount - NO: HC

[2015-TIOL-1494-HC-MUM-IT](#)

CIT Vs M/s Gajanan Agro Farms (Dated: June 10, 2015)

Whether when the assessee was carrying on activity of cultivation of sugarcane on the rented land, he can be denied the benefit derived therefrom as agricultural income - NO: HC

[2015-TIOL-1489-HC-DEL-IT](#)

CIT Vs Verdhman Properties Ltd (Dated: May 26, 2015)

Whether penalty can be imposed by the AO on the ground that the revised return was not a suo moto return and assessee was following wrong method resulting in concealment of income.

[2015-TIOL-1488-HC-DEL-IT](#)

CIT Vs M/s Samiah International Builders Pvt Ltd (Dated: May 29, 2015)
Whether HC would entertain a case involving question of facts and not of law.
2015-TIOL-1487-HC-MUM-IT
CIT Vs M/s Kewal Silk Mills (Dated: June 15, 2015)
Whether when the agreement entered into by the assessee has clearly provided that it has transferred rights only to the looms and machinery and use of the subject premises was only incidental, such license to use the premises will be construed as sublease in any form - NO: HC
Whether if the owner of the subject premises were to seek eviction of assessee on the basis of the contract, such assessee would be considered as a deemed tenant of the subject premises and such tenancy being property would be considered as a capital asset - YES: HC
Also see analysis of the order
2015-TIOL-1486-HC-MAD-IT
CIT Vs M/s Sea Rose Marines Pvt Ltd (Dated: June 8, 2015)
Whether when it is evident that the reason for the Tribunal in recalling its own order was the fact that the assessee was not noticed, which was brought to the notice of the Tribunal by way of miscellaneous applications, thereafter, the Tribunal considered the matter on merits and held in favour of the assessee, the order so passed is valid as per law: YES: HC
2015-TIOL-1485-HC-ALL-IT
Jalan Jee Polytex Ltd Vs ACIT (Dated: June 12, 2015)
Whether once no ground whatsoever has been made out to justify the request, in that case can it be said that the order, that has been so passed, suffers from any infirmity - NO: HC
2015-TIOL-1477-HC-DEL-IT
Estate Of Smt Abnash Kaur Vs ACIT (Dated: March 17, 2015)
Whether the rental income received on account of sub-letting the property is to be treated as notional income in the hands of estate where the property owned by the estate is still on rent and the estate is not self-occupied by any of the heirs as legal heirs but is actually in possession of one of the legal heirs on account of the tenancy rights and the estate still continues to be undivided and a civil suit for partition of estate is still pending for adjudication.

[2015-TIOL-1474-HC-MUM-IT](#)

CIT Vs M/s Jawaharlal Nehru Port Trust (Dated: June 8, 2015)

Whether where order passed by the CIT(A) has not dealt with the decisions cited by the assessee at the time of hearing before it without any reasons, such matter requires restoration for consideration afresh - YES: HC

Whether depreciation can be disallowed on ground of double deduction, where the amount spent on acquiring assets are taken as application of income for the purposes of Section 11 and the depreciation claimed thereafter on the same amount during subsequent years is being granted on the user of the same - NO: HC

[2015-TIOL-1473-HC-MUM-IT](#)

CIT Vs M/s Nicholas Piramal (India) Ltd (Dated: June 10, 2015)

Whether the expenditure incurred by the assessee company for the society at large which would result in a goodwill being created in its favour leading to better business, would be allowed as a business expenditure - YES: HC

[2015-TIOL-1472-HC-MUM-IT](#)

CIT Vs M/s Prime Broking Co (I) Ltd (Dated: June 9, 2015)

Whether when it has been proved that the payment made by assessee to its associate enterprise involves payment relating to reimbursement of expenses, can there be any disallowance u/s 40(a)(ia), even if such payment does not have any income element - NO: HC

[2015-TIOL-1471-HC-MUM-IT](#)

CIT Vs M/s Veco Engineering Ltd (Dated: June 9, 2015)

Whether it is open for the Tribunal to dismiss the appeal filed by the assessee without examining the contention of the parties on a ground which is not urged by any of the parties - NO: HC

[2015-TIOL-1470-HC-KOL-IT](#)

CIT Vs Hallmark Construction Co Pvt Ltd (Dated: June 2, 2015)

Whether when on a question of fact, both the CIT(A) and the Tribunal concurred after analyzing the facts of the case, the High Court would consider the case in the event of no change in circumstances - NO: HC

[2015-TIOL-1469-HC-MUM-IT](#)

CIT Vs M/s Hindustan Aluminum Corporation Ltd (Dated: June 12, 2015)

Whether reduction plant is an integral part of the factory of the assessee and therefore the assessee is entitled for the deduction to be allowed as extra shift allowance in terms of the CBDT circulars issued - YES: HC

[2015-TIOL-1468-HC-MUM-IT](#)

Hindustan Unilever Ltd Vs Addl CIT (Dated: June 8, 2015)

Whether where a question regarding nature of payment of non-compete fees has been remanded by the Tribunal to the AO by passing a clarificatory order, no substantial question can be said to have been raised for raising appeal u/s 260A - YES: HC

[2015-TIOL-1465-HC-AP-IT-LB](#)

CIT Vs S Vijaya Kumar (Dated: June 5, 2015)

Whether each article, unit or component used in 'shuttering' or 'centering' in construction activities, can always be treated as a 'plant', entitled for 100% depreciation - NO: HC.

Whether an apparatus by itself or in combination with other, if used in the business of an assessee, would qualify as 'plant' - YES: HC.

Whether once it is accepted that for claiming depreciation u/s 32(1), centering and shuttering material constitute a 'plant', can it be assumed that for purpose of Sec.32 (1), each piece of the centering and shuttering material will not be a 'plant', merely on the ground that they cannot be used on a 'stand alone' basis but only in combination with other items thereof - NO: HC

Whether the 'Stand alone use' Test is the only test for a contrivance to be a 'Plant' - NO : HC

Whether individual components of shuttering or centering material do lose their individuality merely because they are used in combination with other similar or dissimilar units in the construction activity of the assessee - NO: HC

Whether it is possible for the assessee to claim depreciation on individual items of shuttering or centering material under the proviso to Section 32 (1) (ii) and it is not necessary for him to prove that each such individual item is capable of being used on a stand alone basis - YES: HC

[2015-TIOL-1464-HC-MAD-IT](#)

CIT Vs M/s Cylwin Knitwear (Dated: June 1, 2015)

Whether Section 80-IA allows the Revenue to look backward and find out if there is any loss of earlier years and bring forward notionally even though the same were set off against other income of the assessee and the set off against the current income of the eligible business - NO: HC

Whether under such circumstances assessee can be denied the admissible deduction under Section 80IA - NO: HC

Whether a fiction created only for the limited purpose can be extended beyond the purpose for which it is created - NO: HC

[Also see analysis of the Order](#)

2015-TIOL-1461-HC-MAD-IT
CIT Vs M/s Schwing Stetter India Pvt Ltd (Dated: June 2, 2015)
<p>Whether if the assessee has already furnished necessary details for the purpose of making assessment, which is a mandate as per the provisions of the Act, the AO has the power to reopen an assessment on the basis of same material on record which has been reviewed during assessment - NO: HC</p> <p>Whether only because in the assessment order, detailed reasons have not been recorded, an analysis of the materials on the record by itself may justify the AO to initiate a proceeding u/s 147 - NO: HC</p>
2015-TIOL-1460-HC-MAD-IT
CIT Vs M/s Sivananda Pipe Fittings Ltd (Dated: June 8, 2015)
<p>Whether profit can be computed for the purpose of deduction under Section 80HHC, by setting of the unabsorbed depreciation out of the business profits.</p>
2015-TIOL-1456-HC-MAD-IT
CIT Vs M/s Vetal Textiles And Electronics Pvt Ltd (Dated: June 1, 2015)
<p>Whether where losses and other deductions have been set off against the income of the PY, then it should not be reopened again for the purpose of computation of current year income u/s 80I or 80IA of the Act.</p>
2015-TIOL-1454-HC-ALL-IT
Umang Agrawal VS CIT (Dated: May 6, 2015)
<p>Whether when the amount retained u/s 132 exceed the amount required to meet the liability u/s 132B (1) (i), in that case the Department is liable to make payment of interest at the rate applicable from the date of expiry of 120 days u/s 132 (4) to the date of regular assessment, re -assessment or last such assessment or re -assessment - YES: HC</p>
2015-TIOL-1453-HC-ALL-IT
CIT Vs Technip Italy Spa India Project (Dated: April 20, 2015)
<p>Whether in case there is no dispute that the computation of income made by the assessee was genuine and was accepted so by the High Court, there is any justification for levy of penalty - NO: HC</p>
2015-TIOL-1452-HC-MAD-IT
CIT Vs M/s Premier Cotton Textiles (Dated: June 1, 2015)
<p>Whether where the assessee has already been allowed set off of losses of its business</p>

of earlier year against other income, is it open to the Revenue to rework the set off amount and bring it notionally - NO: HC

Whether loss in the year earlier to the initial A.Y already absorbed against the profit of other business can be notionally brought forward and set off against the profits of the eligible business, for purpose of section 80-IA(5) - NO: HC

[2015-TIOL-1445-HC-AHM-IT](#)

ITO Vs Saket Corporation (Dated: May 5, 2015)

Whether if the assessee has completed construction within the prescribed time limit and applied for 'Building Use' Permission, however, for some technical ground, such permission was not granted and the same was not rejected on the ground that construction was not completed, the assessee shall be entitled to claim deduction under section 80IB(10) - YES: HC

[2015-TIOL-1444-HC-DEL-IT](#)

CIT Vs Sh Rajender Singh (Dated: May 22, 2015)

Whether an adhoc addition can be made by the AO even in case the assessee has disclosed complete particulars of his income through filing proper books of accounts - NO: HC.

[2015-TIOL-1443-HC-AHM-IT](#)

CIT Vs Shreenathji Construction (Dated: May 5, 2015)

Whether proportionate deduction allowed u/s 80IB(10) to an assessee with respect to the residential construction only, can be denied even when the said deduction has been accepted by the CIT(A) and the tribunal - NO: HC

[2015-TIOL-1440-HC-ALL-IT](#)

CIT Vs M/s Hongo India Pvt Ltd (Dated: February 27, 2015)

Whether wrong deduction of an amount for computation of income in the return submitted by assessee, can be equated with concealment of income on which penalty for concealment of income can be levied - NO: HC

[2015-TIOL-1433-HC-MUM-IT](#)

R B Shreeram Durgaprasad (P) Ltd Vs CIT (Dated: May 8, 2015)

Whether in case of a trust, the very same income can be subjected to tax at the hands of representative assessee as also its beneficial owner or trustee - NO: HC

Whether in case adjustment has been made in the assessee's income due to levy of double taxation, such adjustments made by revenue can be considered as reopening of final orders of assessment - NO: HC

Whether an assessee by clandestinely making transfer, can pass over its income in

the hands of an export firm just to avoid tax liability - Whether such defaulter assessee is allowed to take benefit of its own default - NO: HC

[2015-TIOL-1431-HC-MAD-IT](#)

CIT Vs M/s G R Thangamaligai Firm (Dated: June 1, 2015)

Whether losses or other deductions which have already been set off against the income of the previous year should be reopened again for computation of current income under section 80-I for the purpose of computing admissible deductions thereunder - NO: HC

Whether loss in the year earlier to the initial assessment year already absorbed against the profit of other business can be notionally brought forward and set off against the profits of the eligible business, even if no such mandate is provided in section 80-IA(5) - NO: HC

[2015-TIOL-1429-HC-P&H-IT](#)

Dalip Singh Vs ITO (Dated: May 25, 2015)

Whether the mere fact that the authorities ought to have made an effort to ascertain the price rather than relying upon the rate at which the lands were sold in the subsequent year, is sufficient enough to reopen an assessment for the current year - YES: HC

[2015-TIOL-1428-HC-KERALA-IT](#)

GTN Industries Ltd Vs DCIT (Dated: May 28, 2015)

Whether the High Court has the power to confirm an order passed by the Commissioner under Section 263 on the ground that there was no application of mind by the Assessing Officer while passing order under Section 143(3) - YES: HC

[2015-TIOL-1427-HC-KERALA-IT](#)

M/s Classic Concepts Home India Pvt Ltd Vs CIT (Dated: May 21, 2015)

Whether when an assessee has failed to deduct TDS as required under the provisions of Chapter XVIIIB of the Act, penalty of a sum equal to the amount of tax which should have been deducted at source, would be leviable u/s 271C - YES: HC

[2015-TIOL-1420-HC-DEL-IT](#)

CIT Vs M M Aqua Technologies Ltd (Dated: May 18, 2015)

Whether in view of the Explanation 3C appended to Section 43B with retrospective effect from 01.04.1989, conversion of interest amount into loan would be deemed to be regarded as actually paid amount within the meaning of Section 43B of the Income-tax Act, 1961 - NO: HC

[2015-TIOL-1419-HC-KOL-IT](#)

Hutchison Telecom East Ltd Vs CIT (Dated: May 12, 2015)

Whether when in respect of sale of starter packs and recharge coupons for prepaid

service, assessee did not make any payment to or credit the accounts of the distributors, such assessee becomes a person "responsible for paying" within the meaning of section 194H - YES: HC

[2015-TIOL-1418-HC-P&H-IT](#)

State Bank of Patiala Vs CIT (Dated: April 22 ,2015)

Whether reasons for reopening, being merely a change of opinion on account of the assessment being made for the subsequent years would not give the AO the jurisdiction to reopen the assessment u/s 147 - YES: HC

Whether such reopening would amount to reviewing of earlier order, which is not permitted under I-T Act - YES: HC

[2015-TIOL-1417-HC-DEL-IT](#)

CIT Vs Den Networks Limited (Dated: April 22 ,2015)

Whether if it is proved that interest paid on borrowed capital was directly attributable to acquisition of business, it can still be assumed that loan was for acquisition of mutual funds also - NO: HC

[Also see analysis of the Order](#)

[2015-TIOL-1414-HC-ALL-IT](#)

M/s Gauri Pati Udyog Throu Its Partner Vs ITO (Dated: May 29, 2015)

Whether in order to issue an order of reassessment u/s 142(2A), Assessing Officer has to form an opinion with regard to the nature and complexity of the accounts of the assessee and the interest of the revenue - Whether an order passed u/s 142(2A) without recording such opinion is valid in law.

[2015-TIOL-1413-HC-KOL-IT](#)

CIT Vs M/s Som Dutt Builders Pvt Ltd (Dated: May 8, 2015)

Whether the amount allowed to be treated as revenue expenditure pertained to that part of the expenditure, which related to the construction raised by the assessee for the purpose of real estate business, the investments made were all in the nature of revenue expenditure - YES : HC

Whether if the land purchased is to be allowed as revenue expenditure, can it be said that the stamp duty and the registration charges will be treated as capital expenditure - NO : HC

[2015-TIOL-1409-HC-DEL-IT](#)

CIT Vs Study Overseas Golbal Pvt Ltd (Dated: May 22, 2015)

Whether the element of business activity or expenditure incurred by the assessee can be subjected to objective reasonable standard, which the AO could sought to impose upon the assessee - NO: HC

2015-TIOL-1408-HC-DEL-IT
CIT Vs Biharji Commodity Brokers Pvt Ltd (Dated: May 26, 2015)
Whether when it is evident that not only did the CIT(A) weigh the evidence filed but even sought for a remand report and on an appreciation of the merits of the material before him, rendered findings against the assessee, in that case is it still possible on the part of Tribunal to remand the case again - NO: HC
2015-TIOL-1403-HC-DEL-IT
Tupperware India Pvt Ltd Vs CIT (Dated: March 25, 2015)
Whether payment made towards additional excise duty by the assessee on behalf of the contract manufacturers is allowable as business expenditure - YES: HC
Whether expenditure incurred voluntarily and without a ny necessity is deductible under Section 37(1) of the Act, if it is incurred 'wholly and exclusively' for the purposes of business - YES: HC
Whether merely because assessee paid towards additional excise duty on behalf of the contract manufacturers, such payment can be treated as part of collusive attempt to evade tax - NO: HC
Also see analysis of the Order

2015-TIOL-1400-HC-DEL-IT
Pr.CIT Vs Fortune Technocomps (P) Ltd (Dated: May 20, 2015)
Whether when the assessee has filed the PAN Number, TIN Number and assessment orders secured from the sales tax authorities, then the genuineness of such transactions claimed by the assessee cannot be doubted.
2015-TIOL-1399-HC-KOL-IT
Saarthak Vanijya India Ltd Vs CCIT (Dated: May 21, 2015)
Whether an assessment order passed by a jurisdiction Commissioner u/s 127 in order to transfer assessment proceedings, is it mandatory to grant the assessee an opportunity of being heard - YES: HC
2015-TIOL-1398-HC-PATNA-IT
CIT Vs Inter Pharmaceuticals(I) Pvt Ltd (Dated: March 24, 2015)
Whether when the assessee is unable to prove expenses against receipts from the private parties and the same are derived from the audited accounts and such the figures are not in dispute, it will stand to reason to presume that reasonable supplies are made to the concerned private parties.

2015-TIOL-1392-HC-JHARKHAND-IT
CIT Vs Kolhan Transport (Dated: March 18, 2015)
<p>Whether amount paid as vehicle hire charges is allowable as deduction where assessee is a transporter and transporting the goods through sub contractors and there was existence of oral agreement between assessee and sub-contractors and assessee had made cash payments of more than Rs.20,000/- on different dates - Whether deduction is available for entire vehicles running expenses such as cost of diesel and lubricants, labour charges, repair and maintenance charges which mainly comprising replacement of spare parts, tyres and tubes, batteries, engines, motors auto body, leaf spring and other general repairs and maintenance and also to wards loading and unloading charges and TDS has not been deducted under Section 194C.</p>
Also see analysis of the Order
2015-TIOL-1391-HC-P&H-IT
Faisal Tanveer Vs UoI (Dated: May 13, 2015)
<p>Whether the amount of reward payable to a person who has helped the Revenue department in initiation of a search u/s 132, can be denied merely on the basis that the proceedings of the searched assessee was pending before the Income Tax Settlement Commission - NO: HC</p>
2015-TIOL-1390-HC-P&H-IT
CIT Vs M/s Carrier Air-Conditioning And Refrigeration (Dated: May 19, 2015)
<p>Whether warranty expenses claimed by the assessee in its income tax return can be denied by the Revenue only on the basis that the same are contingent in nature and not actually incurred - NO: HC</p> <p>Whether if the warranty provisions are based on experience and historical trend of assessee and the working is robust, in that case the question of reversal of such expenses debited in P&L account still can be raised - NO: HC</p>
2015-TIOL-1389-HC-KOL-IT
CIT Vs M/s ITC Ltd (Dated: May 7, 2015)
<p>Whether the money advanced by the assessee for the purpose of purchasing raw material which was written off would bear the character of revenue expenditure - YES: HC</p> <p>Whether deletion of amount on account of depreciation on capitalization of foreign gain/loss when the intermediate fluctuation in the rates of foreign exchange does necessarily enhance the actual cost of the depreciable assets is warranted - NO: HC</p>
2015-TIOL-1388-HC-KERALA-IT
A M Aboobacker Vs ITO (Dated: May 21, 2015)
<p>Whether the investment incurred towards actual construction of the building shall be</p>

treated as unexplained investment, when such construction was completed in the previous year and the assessee had been deriving rental income from the said property.

[2015-TIOL-1387-HC-PATNA-IT](#)

ACIT Vs M/s Kiran Prakashan, Naya Tola (Dated: April 17, 2015)

Whether the decision of the Tribunal to remand the matter on the limited issue of giving findings of fact is unassailable, when pure question of law could not have been decided in the absence of finding of fact regarding the service or non-service of notice under Section 143(2).

[2015-TIOL-1383-HC-DEL-IT](#)

CIT Vs M/s Velocient Technologies Ltd (Dated: May 14, 2015)

Whether reopening of assessment is justified when the AO became aware of the forfeiture of the loan after the matter was remanded by the CIT(A) and the assessee failed to establish the truthfulness of its claim of the receipt of loan despite being afforded specific opportunities and CIT(A) also in his order has not commented on the veracity of the evidence furnished by the assessee in this regard - Whether jurisdiction becomes vested in the Income-tax Officer to proceed to reassess, once a notice is issued within the period of limitations - Whether addition u/s 68 is justified where at no point of time did the assessee furnish any details or particulars with respect to the company which according to it primarily advanced the money and the identity of the company through which the money was advanced was never revealed and no attempt was made to explain the inter se relationship between the companies and the onus to prove that the amounts came from credible sources and creditworthiness of the entity or the source, was never discharged - Whether merely because of the reason that the money has been forfeited by the assessee by transferring the same to its reserve and surplus account, the same can be considered to be income of the assessee chargeable to tax, where the loan received by the assessee was for the purpose of setting up a business of software development in India and was not at all related or connected to any trading transactions of the assessee company.

[2015-TIOL-1382-HC-DEL-IT](#)

Ferrous Infrastructure Pvt Ltd Vs DCIT (Dated: May 21, 2015)

Whether when the reasons for reopening an assessment u/s 148 were recorded after the issue of notice, the proceedings pursuant thereto are without authority of law - YES: HC

Whether in case an assessee has sought reasons for reassessment from the AO, he is bound to dispose of the same by passing a speaking order before proceeding with the reassessment - YES: HC

[2015-TIOL-1381-HC-P&H-IT](#)

Liz Batra Vs CBDT (Dated: May 25, 2015)

Whether launching a prosecution is mandatory in every case of failure provided u/s 276B - Whether in case the assessee is accused u/s 276C and 277, the same provision would apply for launch of prosecution - Whether in order to launch the

prosecution, the Revenue authority has to pass a reasoned order on all the issues raised by the assessee.

[2015-TIOL-1380-HC-P&H-IT](#)

CIT Vs M/s Vijay Bharat Cigarette Store (Dated: May 27, 2015)

Whether when an order CIT(A) had allowed the assessee's appeal against the order of assessment and this order has attained finality, then the Revenue can not succeed in the proceedings under section 263.

[2015-TIOL-1379-HC-KOL-IT](#)

CIT Vs Merlin Holding Pvt Ltd (Dated: May 12, 2015)

Whether in case the assessee has adduced proof to show its intention regarding share transactions and the revenue has not been able to find fault from the evidence adduced, in that case the mere fact that there were huge number of transactions in a year can have any decisive value on taxing such transactions as capital gain transactions - NO: HC

[2015-TIOL-1378-HC-UKHAND-IT](#)

CIT Vs Oil and Natural Gas Corporation Ltd (Dated: May 14, 2015)

Whether if the expenditure incurred is to bring into existence or advantage for the enduring profit of the business, in that case such expenditure incurred is to be considered as capital in nature - Whether in case the expenditure has direct nexus, connection or relation to the carrying on or conducting the business of the assessee, it has to be recorded as an integral part of profit making process, hence revenue in nature - Whether the maintenance of oil extraction vessels and rigs is a sine-qua-non for carrying on its business of exploration and production of oil.

[2015-TIOL-1373-HC-KAR-IT](#)

DIT Vs Envisions (Dated: March 13, 2015)

Whether when the objects of the trust are charitable in character and the purposes mentioned by the assessee are for achieving the objects of the trust, merely because of non-furnishing of the details, as to how the said amount is proposed to be spent in future, the assessee can be denied the benefit u/s 11 - NO: HC

[Also see analysis of the Order](#)

[2015-TIOL-1370-HC-KOL-IT](#)

CIT Vs Britannia Industries Ltd (Dated: April 24, 2015)

Whether the consideration paid by the assessee to the authorized dealer of foreign exchange in order to obtain protection from fluctuation of foreign exchange rates, is a revenue expenditure - YES: HC

[2015-TIOL-1369-HC-KOL-IT](#)

CIT Vs H K Financers Pvt Ltd (Dated: May 12, 2015)

Whether if the finding of fact is that the income was earned by the assessee company from investment, could not have been recorded, in that case, it is for the revenue to show that such a finding is not possible in law.

[2015-TIOL-1368-HC-DEL-IT](#)

CIT Vs Honeywell International(india) Pvt Ltd (Dated: May 20, 2015)

Whether for the purpose of computing deduction u/s 10A, losses of the amorphous division of the assessee can be set off against the profit of the other Units - NO: HC

[2015-TIOL-1366-HC-KERALA-IT](#)

Vengara Service Co-operative Rural Bank Ltd Vs ITO (Dated: March 24, 2015)

Whether the Department needs to consider the merits of the assessee's case and the issue of financial hardship that is raised by the assessee, before dismissing the stay petition on merit.

[2015-TIOL-1363-HC-AHM-IT](#)

Gujarat Co-Operative Milk Marketing Federation Ltd Vs ACIT (Dated: March 25, 2015)

Whether amount transferred to reserve fund as per provisions of Sec. 67 of the Gujarat State Cooperative Societies Act, 1957 is not a diversion of income at source by overriding title - Whether any amount transferred to reserve fund is to be treated as business expenditure and allowed deduction u/s 28/37 of the Act.

[Also see analysis of the Order](#)

[2015-TIOL-1362-HC-MUM-IT](#)

ACC Ltd Vs DCIT (Dated: March 30, 2015)

Whether where reassessment proceedings is pending then at this stage can writ petition be entertained and allowed merely on the presumption that it would result into any adverse order against assessee.

[2015-TIOL-1361-HC-KAR-IT](#)

Vodafone South Ltd Vs DCIT (Dated: March 26, 2015)

Whether writ petition filed for direction for stay of demand and cancellation of order of CIT(A) be considered and matter be restored to CIT(A) for decision on merit.

[2015-TIOL-1360-HC-P&H-IT](#)

Principal CIT Vs Avtar Kukreja (Dated: May 21, 2015)

Whether when in respect of difference in valuation of plot made by the assessee and DVO, no comparable sale instance has been depicted, the addition on account of such

<p>difference can still be made - NO: HC</p> <p>Whether in order to make addition in the value of property by capitalizing rent, can be made by estimating the cost of acquisition of such property by considering rental value of such property in the same assessment year - YES: HC</p>
<p>2015-TIOL-1357-HC-KAR-IT</p>
<p>M/s D K District Womens Co-Operative Bank Ltd Vs CIT (Dated: March 23, 2015)</p>
<p>Whether writ petition seeking stay of demand till the disposal of appeal by CIT(A) can be allowed, where Revenue has rejected the stay application.</p>
<p>2015-TIOL-1356-HC-MAD-IT</p>
<p>CIT Vs Dynavision Ltd (Dated: March 24, 2015)</p>
<p>Whether excise duty paid/payable will form part of closing stock.</p>
<p>2015-TIOL-1353-HC-AHM-IT</p>
<p>State of Gujarat Vs Tolmap Corporation (Dated: March 1, 2015)</p>
<p>Whether it is open for Tribunal to decide the appeal on merits when first appellate Authority has dismissed the appeal on the ground of non-deposit of pre-deposit amount.</p>
<p>2015-TIOL-1352-HC-DEL-IT</p>
<p>CIT Vs Vishan Das (Dated: May 21, 2015)</p>
<p>Whether any interest liability arises during pendency of application before Settlement Commission - NO: HC</p>
<p>Also see analysis of the Order</p>
<p>2015-TIOL-1351-HC-AP-IT</p>
<p>Sri Damodarlal Badruka Vs ITO (Dated: March 17, 2015)</p>
<p>Whether when an assessment is re-opened by virtue of the order passed by CIT u/s 263, the initial order of assessment ceases to be operative - Whether the effect of re-opening of assessment is to vacate or set aside the initial order for assessment and to substitute in its place the order made of re-assessment - Whether it is open to the Assessing Officer to make assessment under sub-section (3) of Section 143 without seeking prior approval as contemplated by sub-section (2) thereof.</p>
<p>2015-TIOL-1350-HC-MUM-IT</p>
<p>CIT Vs K Sera Sera Productions Ltd (Dated: March 18, 2015)</p>

Whether revisional power u/s 263 can be invoked when the same matter was already considered and decided in appeal - NO: HC

[2015-TIOL-1349-HC-DEL-IT](#)

The Liquidator Polymerland India P Ltd Vs DCIT (Dated: May 19, 2015)

Whether when assessee's explanation has been accepted with respect to non taxability thereof in the previous assessment year, can the Revenue in absence of any compelling reason, treat such an identical subject matter taxable for the succeeding years - NO: HC

[2015-TIOL-1348-HC-DEL-IT](#)

Eicher Goodearth Ltd Vs CIT (Dated: May 14, 2015)

Whether the heads of income as enumerated u/s 14 prescribe its essential characteristics - Whether if a business concern or an individual receives some amount which may be assessed as income of a particular kind, that would be conclusively determinative of that character.

[2015-TIOL-1345-HC-MUM-IT](#)

Capgemini India Pvt Ltd Vs ACIT (Dated: May 6, 2015)

Whether reassessment order can be held valid, when reasons for rejecting objections raised by the assessee are not communicated to it.

[2015-TIOL-1344-HC-MUM-IT](#)

CIT Vs Rasiklal Kantilal And Co (Dated: May 8, 2015)

Whether settlement application filed by an assessee u/s 245C would turn invalid, in case the assessment order as well as notices u/s 148 for reassessment are already served upon the assessee before filing of such application - YES: HC

Whether application u/s 245C is required to be filed to the Settlement Commission, only during pendency of an assessment before the AO - YES: HC

Whether delivery of assessment order to the assessee through post, can be termed as service, for the purpose of claiming 'no pendency of assessment' before filing of settlement application u/s 245C - NO: HC

Whether the act of giving a notice is complete on mere dispatch of such notice and the term 'issued' can be used in the same sense as 'served', for finding out delivery of such notice to the concerned assessee - NO: HC

Whether a common conclusion regarding non-compliance of true & full disclosure of income by assessee can be drawn for every A.Ys, where the assessment order is made for only one A.Y - NO: HC

Whether where the majority of members has held that the conditions regarding threshold limits for quantum of tax for additional income, payment of tax and interest thereupon and pendency of proceedings are fulfilled, the application filed u/s 245C

cannot be rejected on any technical ground - YES: HC

[Also see analysis of the Order](#)

[2015-TIOL-1343-HC-DEL-IT](#)

CIT Vs Accession Buildwell (P) Ltd (Dated: April 27, 2015)

Whether expenditure on Registrar of Companies' fee for increase in authorized share capital cannot be allowed as revenue expenditure as it is not a fee for initial registration of the company - Whether interest on money is received as share capital, and is temporarily placed in fixed deposit awaiting acquisition of land, a claim that such interest is in a capital receipt entitled to be set off against pre-operative expenses is allowed - Whether such interest earned cannot be treated as income from other sources.

[2015-TIOL-1342-HC-RAJ-IT](#)

CIT Vs The Udaipur Central Cooperative Bank Ltd (Dated: May 1, 2015)

Whether when the assessee himself has rectified the bonafide error made in its original return of income, through a revised return of income, the AO has the authority to impose penalty for concealment u/s 271(1)(c).

[2015-TIOL-1341-HC-P&H-IT](#)

CIT Vs Nachhattar Singh (Dated: April 29, 2015)

Whether in case the assessee is not able to prove any allegation of fraud against the Revenue Department, the civil suit filed by the assessee would still remain valid as per the provisions of section 293 - NO: HC

[2015-TIOL-1340-HC-PATNA-IT](#)

CIT Vs Alken Laboratories Ltd (Dated: March 31, 2015)

Whether if the Tribunal has agreed to delete a disallowance made by the Revenue authorities earlier with a detailed reasoning, is it possible for such authorities to argue with regard to the same before the High Court without any additional evidence - NO: HC

[2015-TIOL-1337-HC-MAD-IT](#)

CIT Vs M/s Sri Ranganathar Industries Pvt Ltd (Dated: February 23, 2015)

Whether once the losses and other deductions have been set off against the income of the previous year, it should not be reopened again for the purpose of computation of current year income u/s 80I or 80IA of the Income Tax Act and hence the assessee cannot be denied the admissible deduction u/s 80IA of the Income Tax Act.

[2015-TIOL-1336-HC-MUM-IT](#)

<p>CIT Vs Hercules Hoists Ltd (Dated: May 7, 2015)</p> <p>Whether the loss incurred in business of power generation which is entitled to deduction under section 80IA can be set off against business income from manufacturing unit ignoring the provision of section 80-IA(5) - YES: HC</p> <p>Also see analysis of the Order</p>
<p>2015-TIOL-1334-HC-AHM-IT</p>
<p>CIT Vs Co-Operative Bank of Rajkot Ltd (Dated: May 5, 2015)</p> <p>Whether the assessee is entitled to the amortization of security premium, as claimed - Whether no substantial question of law will arise, when the issue has already been decided by the Division Bench in its case and the facts and circumstances are identical in the present case.</p>
<p>2015-TIOL-1329-HC-MUM-IT</p>
<p>Nagpur Engineering Co Pvt Ltd Vs CIT (Dated: April 9, 2015)</p> <p>Whether a lumpsum commission or one time payment made to the Director of a company does not attract the mischief of Sec 40(c) - YES: HC</p> <p>Also see analysis of the Order</p>
<p>2015-TIOL-1328-HC-RAJ-IT</p>
<p>CIT Vs Bhuvnesh Maheshwari (Dated: May 12, 2015)</p> <p>Whether in case a notice prior to expiry of six months was served upon an employee of the assessee, the same would be considered as a effective service of notice as per the provisions of section 143(2) - Whether as per the provisions of Section 292 BB, in case the assessee participated in assessment proceedings, a presumption can be drawn about service of statutory notice upon the assessee.</p>
<p>2015-TIOL-1327-HC-DEL-IT</p>
<p>Schneider Electric India Pvt Ltd Vs DCIT (Dated: May 18, 2015)</p> <p>Whether if the assessee has already been granted conditional stay by the Tribunal in respect of an appeal and that authority is in the midst of hearing the appeal, would it be in the interest of justice that the stay order granted by the Tribunal is continued till the disposal of the appeal by it - Whether there is any bar for grant of relief in the form of conditional stay on income tax proceedings, if the Court is of the opinion that the circumstances and the ends of justice so warrant.</p>
<p>2015-TIOL-1326-HC-DEL-IT</p>
<p>CIT Vs Ram Kishan Kulwant Rai Charitable Trust (Dated: May 14, 2015)</p> <p>Whether the assessing officer has the power to go beyond the power granted u/s 12A and doubt the certificate granted by the DIT(Exemption) for exemption as a trust - Whether in case the certificate u/s 12A has to be revoked by the issuing authority, it has to produce necessary evidence in support thereof.</p>

[2015-TIOL-1325-HC-KOL-IT](#)

CIT Vs Golden Corporation Services (Dated: May 8, 2015)

Whether a beneficial circular in tax matters has to be applied retrospectively and an oppressive circular has to be applied prospectively - YES: HC

Whether if an assessee has not pursued a matter seriously, there is no allegation or any proof of the fact that the assessee was prevented by any cause or sufficient cause from preferring the appeal within the prescribed period of limitation, delay has to be condoned - NO: HC

[2015-TIOL-1324-HC-P&H-IT](#)

CIT Vs Patiala Carriers (Dated: May 13, 2015)

Whether Income Tax Settlement Commission needs to consider the representation of the Department and give adequate time to furnish the information, before passing the final orders on merit.

[2015-TIOL-1323-HC-MAD-IT](#)

CIT Vs Light Alloy Products Ltd (Dated: March 11, 2015)

Whether deduction u/s 80IB on profits derived from industrial undertaking on job work contract is to be allowed

[2015-TIOL-1322-HC-MUM-IT](#)

CIT Vs JSW Energy Ltd (Dated: April 30, 2015)

Whether liability to tax although credited retrospectively could not entail the punishment of payment of interest with retrospective effect.

[2015-TIOL-1317-HC-RAJ-IT-LB](#)

M/s Reliance Trading Corporation Vs ITO (Dated: May 1, 2015)

Whether where the 'interest earned' does not have any direct or even proximate nexus with the 'income from the business of export', such interest cannot be deducted as income from export u/s 80HHC(3)(a) - YES: HC

Whether the said interest income has to be given the treatment for tax, as "income from other sources" u/s 56 - YES: HC

Whether amendment u/s 80HHC, by way of insertion of sub-section (4B), excluding interest income for purposes of deduction u/s 80HHC, will also affect the deduction of interest income u/s 80HHC for the period prior to the amendment - YES: HC

Whether the principle of direct and proximate nexus to the business income, will apply both, to the provisions of the Act prior to, and after the amendment, which came into effect by the Finance Act, 1992, w.e.f 1st Apr, 1992 - YES: HC

Whether earning of an income convertible from foreign exchange, can be used as a test for determining, as to whether deduction is allowable in respect of an income derived from the profits retained for export business - NO: HC

[Also see analysis of the Order](#)

[2015-TIOL-1316-HC-MUM-IT](#)

CIT Vs Allana Sons (P) Ltd (Dated: May 7, 2015)

Whether interest paid on packing credit is eligible for export market development allowance u/s. 35B of the Act.

[2015-TIOL-1315-HC-P&H-IT](#)

CIT Vs Smt Usha Saboo (Dated: May 15, 2015)

Whether the Revenue can deny that the assessee was not entitled to apportionment, thereof for the purposes of assessment merely on the ground that none of the members of the Saboo group had the technical expertise to manufacture the goods - Whether ability to engage in such a business is not dependent on their possessing the technical expertise required for running such a business - Whether the Department was correct in holding that there was no consideration payable in respect of the negative covenants - Whether the apportionment of 25% of the value of shares towards the negative covenants was on conservative basis - Whether consideration for the negative covenants the Share Purchase Agreement is assessable to tax under section 28.

[2015-TIOL-1314-HC-AHM-IT](#)

CIT Vs Vallabhdas Vithaldas (Dated: March 13, 2015)

Whether a 3rd referee Judge, sitting singly, is bound by the decision of Division Bench – YES: HC

Whether a 3rd referee Judge, sitting singly, is not bound by decisions of Division Bench since the ultimate opinion he may express in the reference would be a culmination of application of judicial mind by 3 judges – NO: HC

Whether the basis of intervention by a commissioner should be limited to part of the records in the assessment proceedings of the assessee – NO: HC

Whether statements recorded during search operations regarding son of the assessee could be considered as forming part of assessment of the assessee – YES: HC

[2015-TIOL-1306-HC-DEL-IT](#)

Pepsi Foods Pvt Ltd Vs ACIT (Dated: May 19, 2015)

Whether the power granted to the Tribunal to hear and entertain an appeal and to pass orders includes the ancillary power to grant stay, subject to certain conditions - YES: HC

Whether insertion of words "even if the delay in disposing of the appeal is not attributable to the assessee", in the proviso to Section 254(2A) regarding Tribunal's power to grant extension of stay, would render the right of appeal granted to the assessee to be illusory without any fault on his part - YES: HC

Whether assessees who, after having obtained stay orders have delayed the appeal proceedings by their conduct, can be treated on same footing with those assessees, who have not, in any way, delayed the proceedings in the appeal - NO: HC

Whether clubbing together of the said two assessees will create hostile discrimination against the assessees to whom the delay is not attributable - YES: HC

Whether insertion of the expression "even if the delay in disposing of the appeal is not attributable to the assessee" by virtue of the Finance Act, 2008, is violative of the non-discrimination clause of Article 14 of the Constitution of India - YES: HC

Whether where the delay in disposing of the appeal is not attributable to the assessee, the Tribunal has the power to grant extension of stay beyond 365 days in deserving cases - YES: HC

[Also see analysis of the Order](#)

[2015-TIOL-1305-HC-DEL-IT](#)

CIT Vs Anil Khandelwal (Dated: April 21, 2015)

Whether intelligible narrations signifying payments of cash on various dates by the assessee to various group companies of a third party, who have issued accommodation entries for investment in the companies in which the assessee and his relatives are interested, can be the basis of making an addition to the assessee's income - NO: DELHI HC

Whether when the third party, who was searched, has denied having authored the impugned seized material and has also denied that they are part of his books of accounts, it is still possible for the AO to make addition in the income of assessee on the presumption that there were cash transactions made by the assessee or his family members or entities owned by them with such party searched - NO: DELHI HC

[2015-TIOL-1304-HC-MUM-IT](#)

CIT Vs M/s Ruby Mills Ltd (Dated: April 23, 2015)

Whether the amount received pursuant to the tripartite agreement by the assessee shall be assessable to tax under the head "Capital Gains" and not termed as an adventure in nature of trade, when the assessee is engaged in such activity in respect of only one property - Whether an isolated transaction cannot be the sole criterion to test as to if it is in the nature of trade or sale of investment.

[Also see analysis of the Order](#)

[2015-TIOL-1303-HC-AP-IT](#)

Telangana State Beverage Corporation Ltd Vs UoI (Dated: May 1, 2015)

Whether any recovery proceedings can be initiated against the assessee for the alleged income tax dues from APBCL

[2015-TIOL-1302-HC-MUM-IT](#)

CIT Vs M/s Sai Prasad Properties Ltd (Dated: May 7, 2015)

Whether in an application before the SETCOM, it is possible for assessee to disclose additional income - Whether when the assessee has not mentioned complete particulars before the SETCOM in an application filed u/s 245C, the same can be accepted by the Revenue for further disposal.

[2015-TIOL-1301-HC-MUM-IT](#)

CIT Vs Shriram Sahakari Sakhar Karkhana Ltd (Dated: May 7, 2015)

Whether addition can be made for non-refundable deposits, interest on non-refundable deposit, the Indira Vikas Awas Nidhi, Earthquake fund etc in cooperative sugar factory

[2015-TIOL-1297-HC-MAD-IT](#)

CIT Vs M/s Excel Cotspin India Pvt Ltd (Dated: April 27, 2015)

Whether in order to claim deduction u/s 80IA, ownership of the underlying assets is a criteria that cannot be avoided - Whether once the losses and other deduction had set off against the income of the previous year, should it be reopened again for the purpose of computation of current year income u/s 80I or 80IA - Whether the assessee can be denied admissible deduction u/s 80IA on such basis in the current year - Whether once the set off is taken place in earlier year against the other income of assessee, Revenue cannot rework the set off amount and bring it to tax on notional basis.

[2015-TIOL-1296-HC-MUM-IT](#)

CIT Vs Dr Beck And Co (India) (Dated: May 5, 2015)

Whether assessee is entitled for weighted deduction u/s. 35B of the Act, in respect of whole of export inspection charges, although as per proviso to Rule 6AA only 44% thereof is allowedable.

[2015-TIOL-1295-HC-HP-IT](#)

CIT Vs M/s Shree Triveni Foods (Dated: April 23, 2015)

Whether in order to claim deduction u/s 80IA, ownership of the underlying assets is a criteria that cannot be avoided - Whether once the losses and other deduction had set off against the income of the previous year, should it be reopened again for the purpose of computation of current year income u/s 80I or 80IA - Whether the assessee can be denied admissible deduction u/s 80IA on such basis in the current year - Whether once the set off is taken place in earlier year against the other income of assessee, Revenue cannot rework the set off amount and bring it to tax on notional basis.

[Also see analysis of the Order](#)

[2015-TIOL-1294-HC-MUM-IT](#)

CIT Vs Continental Warehousing Corporation (Dated: April 21, 2015)

Whether once the proceedings u/s 153A of the Act are initiated, then, the original assessment / reassessment order already passed in the assessment years covered u/s 153A stand abated and the AO is obliged to pass fresh assessment / reassessment orders and determine the total income afresh for those assessment years - Whether the scope of Section 153A is limited to assessing only search related income, thereby denying Revenue the opportunity of taxing other escaped income, that comes to the notice of the AO - Whether a Container Freight Station is an inland port whose income is entitled to deduction u/s 80IA(4).

[2015-TIOL-1293-HC-MUM-IT](#)

CIT Vs M/s Century Textiles And Industries Ltd (Dated: May 8 ,2015)

Whether when the Tribunal has proceeded to quash the revisional order under section 263 then, all consequential proceedings and in furtherance thereof do not survive in law.

[2015-TIOL-1292-HC-KOL-IT](#)

M/s Budge Budge Company Ltd Vs CIT (Dated: May 13 ,2015)

Whether the depreciation claimed on machinery is allowed, when it is not disputed that the suspension of work was not actuated by any malice and the plant was lying ready for use - Whether expenditure incurred for filling up of the pond and leveling of low land is a capital expenditure, as it is an improvement and enhancement of value being a change of a permanent character resulting in a benefit of enduring nature to the assessee.

[2015-TIOL-1287-HC-DEL-IT](#)

CIT Vs M/s Bharti Teletech Ltd (Dated: April 15, 2015)

Whether when the assessee pays a lumpsum amount to the transferor of a marketing network, depreciation cannot be denied on the alleged ground that it was an arrangement for right to use such a network - YES: HC

[Also see analysis of the Order](#)

[2015-TIOL-1286-HC-MUM-IT](#)

Vedanta Ltd Vs A/DCIT (Dated: May 7, 2015)

Whether refund due to the assessee which was attached by Revenue u/s 281B of Act can be released on furnishing of the Bank Guarantee of a Nationalised Bank

[2015-TIOL-1285-HC-MUM-IT](#)

Sesa Goa Ltd Vs CIT (Dated: May 7, 2015)

Whether the receipt from insurance claim on account of the stock in trade constitute an independent income or receipt of a nature similar to brokerage, commission, interest, rent or charges - Whether such a receipt would be subject to a deduction of

ninety percent under clause (1) of Explanation (baa) of section 80HHC - Whether where the interest is earned by an assessee for the delay in making payment by the foreign buyer such receipt on account of interest would be hit by clause (baa) of the Explanation to Section 80HHC - Whether Where the manufacturer and exporter of Stainless Steel utensils, sells scrap as well then any amount received on that account, can be included within the turnover u/s 80HHC of the manufacturer and exporter of stainless steel utensils.

[2015-TIOL-1284-HC-AHM-IT](#)

CIT Vs The Agricultural Produce Market Committee (Dated: April 22, 2015)

Whether an appeal will not raise a substantial question of law, when the issue with the identical facts and circumstances, has already been covered in by the HC in a different case and the Revenue has not shown or in a position to show any contrary decision.

[2015-TIOL-1283-HC-KOL-IT](#)

Navin Kumar Agarwal Vs CIT (Dated: May 12, 2015)

Whether a restraint order under Section 132(3) is in aid of search and is valid for sixty days u/s 132(8A) unless revoked earlier and during continuance of the restraint order the search itself cannot be said to have come to end.

[2015-TIOL-1282-HC-P&H-IT](#)

P M S Diesels Vs CIT (Dated: April 29, 2015)

Whether if an assessee is liable to deduct and pay over TDS under Section 194C and the assessee fails to do so, the payments in respect of which the TDS was to be deducted and paid over are to be disallowed in view of Section 40(a)(ia).

[2015-TIOL-1281-HC-P&H-IT](#)

Varinder Kumar Sood Vs CIT (Dated: May 4, 2015)

Whether amount deposited in joint a/c can be considered as income from undisclosed source, when both the holders do not have any relationship and it is contended that a/c is opened only to accommodate joint holders who do not have PAN card numbers and amount is deposited only by the assessee and another holder has no interest whatsoever.

[2015-TIOL-1276-HC-AP-IT](#)

CIT Vs Sileman Khan Mahaboob Khan (Dated: March 11, 2015)

Whether the income from letting out of godowns earned by an exporter assessee, can be included in its income as income from business and profession merely because one of the objectives, in the partnership deed, is to let out the godowns - NO: HC

[2015-TIOL-1275-HC-ALL-IT](#)

CIT Vs Shyam Biri Works (Dated: May 6, 2015)

<p>Whether Instruction No.3 of 2011 raising the monetary limit for filing an appeal by the Department would also apply to pending appeals in various Courts or Tribunals.</p>
<p>2015-TIOL-1274-HC-DEL-IT</p>
<p>Shri Lal Mahal Ltd Vs CIT (Dated: April 28, 2015)</p>
<p>Whether the classification made by amendment in second, third and fourth proviso to section 80HHC as between those assesseees who had an export turnover of more than Rs. 10 crores and those who had less than that amount is correctly held to be unreasonable so far as the retrospective operation of the amendment is concerned.</p>
<p>2015-TIOL-1273-HC-MUM-IT</p>
<p>CIT Vs Rupam Pictures Pvt Ltd (Dated: May 5, 2015)</p>
<p>Whether activities of production of a film amounts to manufacturing of an article or goods and the activities to be treated as those of an industrial undertaking within the purview of Section 80J - Whether amounts paid to the two individuals in their capacity as professional charges for directing and producing a film and not as members of the Board of Directors, cannot be disallowance by the ITO under section 40(c).</p>
<p>2015-TIOL-1272-HC-AP-IT</p>
<p>Rastriya Ispat Nigam Ltd Vs ACIT (Dated: April 15, 2015)</p>
<p>Whether the limitation for issuing notice u/s 154 commences from the date of assessment order u/s 143 (3) or from the order of re-assessment u/s 147 read with Section 148 - Whether as a result of reopening assessment u/s 148, a fresh order for reassessment would have to be made after which the original assessment order would cease to have effect - Whether the jurisdiction u/s 154 is extremely narrow, restrictive and could be exercised only to rectify any mistake apparent from the record that are obvious and patent mistake, not something which could be established by long drawn process and reasoning on points on which there may be conceivably two opinions.</p>
<p>2015-TIOL-1271-HC-MUM-IT</p>
<p>Madhukar B Thakoor Vs ITAT (Dated: April 22, 2015)</p>
<p>Whether a revenue official can pass derogatory and critical remarks while disposing off a miscellaneous application u/s 254 against persons and authorities whose conduct comes into consideration before Court of law unless it is really necessary for the decision of the case, as an integral part thereof to animadvert on that conduct.</p>
<p>2015-TIOL-1270-HC-KAR-IT</p>
<p>CIT Vs Kapur Investments (P) Ltd (Dated: April 20, 2015)</p>
<p>Whether it would not mean that the assessee is carrying on the business of investment in shares, when funds which lie with the assessee are invested in the shares by Portfolio Management Scheme - Whether profits from such investment, either directly or through professionally managed firm, shall remain as profits to be taxed as capital gains and not as business income, as the same will not change the nature of investment, which is in shares.</p>
<p>2015-TIOL-1269-HC-DEL-IT</p>
<p>CIT Vs Eicher Ltd (Dated: April 30, 2015)</p>

Whether the HC shall follow the decision of another HC, where the issue has already been decided in Revenue's favour upon the same issue during the pendency of the present appeal.

[2015-TIOL-1259-HC-AP-IT](#)

CIT Vs Shri Varanasi Khanta Rao (Dated : March 31, 2015)

Whether the Tribunal can sit as an appellate authority on the order of the CIT passed u/s 263, once the CIT has got power to point out the errors which has the prejudicial effect on the revenue - NO: HC

Whether where the power exists in the CIT and is exercised by him after satisfying himself on the facts of the case, it is not for the Tribunal to re-appreciate the said satisfaction of the CIT - NO: HC

Whether where the order passed by the CIT is proper and validly exercised as per the powers conferred on him u/s 263, no interference by the Tribunal is warranted to decide jurisdiction of CIT under the said provision - YES: HC

[2015-TIOL-1255-HC-DEL-IT](#)

CIT Vs M/s Navbharat Export (Dated : May 05, 2015)

Whether when as a result of commercial expediency, assessee has incurred a certain amount as transportation charges in cash, its entire books of accounts can be rejected on that basis only - NO: HC

[2015-TIOL-1253-HC-KOL-IT](#)

M/s Prakash Engineering Works Vs CIT (Dated : September 18, 2014)

Whether the burden to prove that any expenditure in respect of which a payment is made to a person referred to in Section 40A(2)(b) is excessive or unreasonable in nature, is on the assessing officer - Whether such burden on assessee can be shifted on to the assessee to show that the conversion charge paid by it was equal to the market rate or was not excessive or unreasonable.

[2015-TIOL-1252-HC-PATNA-IT](#)

M/s Bihar Industrial Area Development Authority Vs ACIT (Dated : March 30, 2015)

Whether when there has been no change in the nature of interest earned on the funds provided by the State Government which have gone in the Bank, it is open to the Department to come to a different conclusion in view of the overriding effect of the provisions of Article 289 of the Constitution of India - NO: HC

[2015-TIOL-1251-HC-MUM-IT](#)

M/s Cosme Matias Menezes Pvt Ltd Vs CIT (Dated : May 7, 2015)

Whether when the delay in filing of return of income is of very minimal duration and that too on account of genuine hardship being faced by the assessee, such delay deserves to be condoned - YES: HC

[2015-TIOL-1250-HC-MUM-IT](#)

CIT Vs Tata Consultancy Services Ltd (Dated : March 24, 2015)

Whether payment made by the assessee as Tata Brand equity contribution can be considered as a fringe benefit, when assessee has itself considered this contribution as sales promotion expenses.

[2015-TIOL-1248-HC-DEL-IT](#)

CIT Vs Justice Rajiv Shakti (Dated : April 25, 2015)

Whether amounts received by an individual after discontinuance of its profession, can be made liable to tax under the head 'income from business and profession' even if such profession has been discontinued - YES: HC

[2015-TIOL-1246-HC-DEL-IT](#)

CIT Vs Sutlaj Cotton Mills Ltd (Dated : April 23, 2015)

Whether for the purpose of claiming deduction in respect of 1/7th of the insurance premium amount, that was payable on redemption of debentures after seven years - YES: HC

[2015-TIOL-1245-HC-AHM-IT](#)

Sai Consulting Engineers Pvt Ltd Vs DCIT (Dated : April 29, 2015)

Whether issuance of notice u/s 148 within four years from the end of the relevant A.Y can be treated as a mere change of opinion, in case the AO has duly scrutinized the entire issue at the time of original assessment - YES: HC

[2015-TIOL-1242-HC-MAD-IT](#)

CIT Vs M/s Sri Ponkumar Magnesite Mines (Dated : April 27, 2015)

Whether when the Tribunal, on merits, had come to the conclusion that order passed by the AO is one within the provisions of Section 237, it is not open to the Revenue to file a Miscellaneous Petition challenging the said finding in the guise of rectification of the order.

[2015-TIOL-1241-HC-MUM-IT](#)

<p>Narendra Kumar A Baldota Vs DCIT (Dated : May 5, 2015)</p> <p>Whether reassessment order passed by the AO without waiting for the period of four weeks from such service passed will be invalid in the eyes of law.</p>
<p>2015-TIOL-1238-HC-DEL-IT</p>
<p>M/s Shivnandan Buildcon Pvt Ltd Vs CIT (Dated : April 30, 2015)</p> <p>Whether no addition can be made on account of notional interest earned on advances given, when there is nothing to show that the assessee had, in fact, received interest or that the company to whom the loan is given, has paid interest to the assessee</p>
<p>2015-TIOL-1237-HC-KAR-IT</p>
<p>Shri Farooq Ali Khan Vs Principal CIT (Dated : April 28, 2015)</p> <p>Whether it is enough to say that transfer is being effected to facilitate effective and coordinate the investigations in the connected case of assessee, in which search and seizure operations u/s 132 of the Act is being conducted to transfer jurisdiction over the assessee's case from the DCIT, Circle - 6(2)(1), Bengaluru, to second respondent at Mumbai u/s 127 of the Act.</p>
<p>2015-TIOL-1236-HC-AHM-IT</p>
<p>Tirupati Foam Ltd Vs DCIT (Dated : April 17, 2015)</p> <p>Whether reassessment proceedings initiated under section 147 beyond the period of 4 years of completion of assessment is justified where subsequently and during the scrutiny assessment, assessee furnished the details asked by the Assessing Officer and while framing the assessment, the Assessing Officer accepted the accounting system forwarded by the assessee, more particularly exclusive method of accounting.</p>
<p>2015-TIOL-1235-HC-MAD-IT</p>
<p>CIT Vs Sri R Yuvaraj (Dated : April 21, 2015)</p> <p>Whether an assessee can be denied admissible deduction u/s 80-IA and assessment can be reopened again for purpose of computation of current year income u/s 80I or 80IA, where all losses and other deductions have been already set off against the income of previous year - NO: HC</p>
<p>2015-TIOL-1234-HC-AHM-IT</p>
<p>Paladiya Brothers And Co Vs ACIT (Dated : April 8, 2015)</p> <p>Whether when there was no failure on the part of the assessee to disclose truly and fully all material facts necessary for the assessment with respect to the additional depreciation claimed, the impugned notice under section 148 to initiate reassessment proceedings beyond the period of 4 years is correctly quashed and set aside.</p>

[2015-TIOL-1225-HC-MAD-IT](#)

CIT Vs M/s Meera Textiles Mills P Ltd (Dated : April 27, 2015)

Whether the assessee is entitled to claim deduction u/s 80-IA of the Act, once the losses and other deduction have set off against the income of the previous year and it should not be reopened again for the purpose of computation of current year income u/s 80IA of the Act.

[2015-TIOL-1224-HC-MAD-IT](#)

CIT Vs M/s Anand Textiles (Dated : April 27, 2015)

Whether assessee is entitled to claim deduction u/s 80-IA of the Act, once the losses and other deduction have set off against the income of the previous year and it should not be reopened again for the purpose of computation of current year income u/s 80IA of the Act.

[2015-TIOL-1223-HC-PATNA-IT](#)

Sanjay Shankar Vs ITAT (Dated : February 9, 2015)

Whether expenditure incurred by the assessee can be disallowed when though they are claimed to be incurred in business operation but are not reflected in the accounts of the assessee.

[2015-TIOL-1222-HC-AHM-IT](#)

Sanjay Kumar Bucha Vs ITO (Dated : April 20, 2015)

Whether if the Tribunal has first considered the peak deposit for the unaccounted bank account and after noting the frequency of the deposit and the withdrawal from the account observed that assessee was carrying on certain undisclosed deposits, and, therefore considered the profit at a certain percentage, as income of the assessee in respect of the unaccounted bank account, it can be said that there is any error committed by the Tribunal - NO: HC

[2015-TIOL-1221-HC-AHM-IT](#)

CIT Vs Gurudev Builders (Dated : April 7, 2015)

Whether the assessee will be entitled to the exemption under Section 54EC of Rs.1 Crore instead of Rs.5 lakhs, when no contrary decision is brought against the judgement in which the issue is fully covered.

[2015-TIOL-1218-HC-DEL-IT](#)

CIT Vs Dinesh Jain (Dated : April 27, 2015)

Whether the period of limitation to impose penalty is to be reckoned from the issue of the first show cause notice by the Joint Commissioner or is it to be reckoned from the date of issue of first show cause for initiation of such penalty proceedings.

2015-TIOL-1217-HC-KOL-IT
Late Sushil Modi Vs CIT (Dated : April 1, 2015)
Whether during block assessment, treatment of cash deposits in bank account of assessee as unexplained cash credit is correct by invoking provisions of section 69 of Act, inasmuch as the source of such deposits was duly considered in the final account of the assessee.
2015-TIOL-1207-HC-AHM-IT
PR CIT Vs Matruprasad C Pandey (Dated: March 27, 2015)
Whether merely because the liabilities are outstanding for last many years, it can be inferred that the said liabilities have ceased to exist - Whether in that case the AO shall have to prove that the assessee has obtained the benefits in respect of such trading liabilities by way of remission or cessation thereof.
2015-TIOL-1206-HC-MUM-IT
CIT Vs M/s Maharashtra State Electricity Distribution Company Ltd (Dated: May 8, 2015)
Whether payment of Transmission charges and / or Wheeling charges are not amounts to rent – Whether payment of Transmission charges and / or Wheeling charges amounts to fees for technical services.
2015-TIOL-1205-HC-MUM-IT
CIT Vs M/s Life Insurance Corporation Of India (Dated: April 29, 2015)
Whether loss to assessee from Jeevan Suraksha Fund can be set off against taxable income of the assessee corporation despite the fact that Jeevan Suraksha Fund is covered u/s 10(23AAB) of the Act. - Whether the non-obstante clause in section 44 is not extended to section 10(23AAB) of the Act. - Whether amount paid from the profit of Life Insurance business to the CG under the statutory obligation is not in the nature of dividend, despite the fact that all domestic companies are liable to pay additional income tax @ 15% on any account declared, distributed or paid by way of dividends on or after 01.06.1997, whether out of current or accumulated profits.
2015-TIOL-1204-HC-MUM-IT
CIT Vs M/s Raviraj Kothari Punjabi Associates (Dated: April 24, 2015)
Whether a prospective nature of amendment in statute can make any difference in the assessment of the year which is prior to the date of amendment - NO: HC
Also see analysis of the Order

[2015-TIOL-1203-HC-MUM-IT](#)

DIT Vs Ingram Micro (India) Exports Pte Ltd (Dated: April 29, 2015)

Whether in terms of sections 153-A and 153-C, proceedings can only be initiated after the AO arrives at a satisfaction that the seized material pertains to other persons, namely, persons other than the searched party - Whether proceedings u/s 153C are invalid, when there is nothing in the assessment order which would indicate that the AO arrived at such satisfaction.

[2015-TIOL-1202-HC-MUM-IT](#)

CIT Vs India Advantage Securities Ltd (Dated: April 13, 2015)

Whether it is correct to apportion 10% of the dividend income earned towards expenses for earning the same.

[2015-TIOL-1200-HC-AHM-IT](#)

Principal CIT Vs Eci Technologies Pvt Ltd (Dated: April 22, 2015)

Whether when it is not in dispute that the permission granted by the Development Commissioner has been ratified by the Board of Approval subsequently, the moment such permission of the Development Commissioner is ratified by the Board of Approval it will relate back to the date on which the approval was granted by the Development Commissioner - YES: HC

[2015-TIOL-1198-HC-AHM-IT](#)

CIT Vs P G Foils Ltd (Dated: March 13, 2015)

Whether the HC in order to avoid any further conflicting orders, shall remand the matter, when the issue involved is the same as that in previous AYS, which was remanded back to the Tribunal.

[2015-TIOL-1193-HC-P&H-IT](#)

CIT Vs Sri Guru Gorakh Nath Charitable Educational Society (Dated: May 5, 2015)

Whether the principles laid down for excluding income u/s 10(23C) are applicable while considering the application for registration under Section 12AA - NO: HC

Whether when the assessee fails to provide evidence regarding the charitable nature of activities, the Commissioner has the power to look into the objects of the Society and verify the genuineness of the same - YES: HC

[2015-TIOL-1192-HC-KAR-IT](#)

M/s Hubballi Electricity Supply Co Ltd Vs CIT (Dated: April 15, 2015)

Whether when the First Appellate Authority, without hearing the contentions of the assessee, rejected the stay application filed, the proper recourse in that case would be to remand the case back and reconsider the matter afresh to pass appropriate orders.

[2015-TIOL-1190-HC-AHM-IT](#)

Principal CIT Vs Hitachi Home And Life Solutions (India) Ltd (Dated: April 27, 2015)

Whether deduction claimed in respect of writing off of the irrecoverable advances and other debit balances claimed by assessee u/s 36(1)(vii) of the Act can be allowed when it is not arising out of sale.

[2015-TIOL-1186-HC-DEL-IT](#)

CIT Vs DLF Universal Ltd (Dated: April 16, 2015)

Whether '*hundi discounting charges*' can be treated as capital expenditure, when the same was treated as a period cost and charged to revenue account on a year to year basis, for all the previous and subsequent years - NO: HC

Whether addition to the income of assessee on account of allotment of shares to its sister concern, can be made on mere basis of assumption, where no gain or income has arisen to the assessee which can be brought to tax - NO: HC

Whether expenses incurred on brokerage and commission on booking of properties being a finance/selling expenses, are allowable expenditure - YES: HC

[Also see analysis of the Order](#)

[2015-TIOL-1185-HC-DEL-IT](#)

CIT Vs M/s Cairns Computer Aided Information And Services Pvt Ltd (Dated: April 22, 2015)

Whether depreciation claimed by the assessee, will be allowed if the assessee has demonstrated the use of such assets along with the sub-distributor, even when the subsequent upgradation of the software and machinery, may be with the sub distributor.

[2015-TIOL-1184-HC-MUM-IT](#)

Vassantram Mehta And Co (P) Ltd Vs JCIT (Dated: April 17, 2015)

Whether when both interest free funds and interest bearing funds are available then there is a general presumption to be followed that investments are made out of interest free funds - NO: HC

Whether interest on borrowed loan advanced to a sister concern, has to be allowed in every case assuming it on the basis of commercial expediency - NO: HC

Whether revenue loss on account of foreign exchange rate fluctuation, is an allowable expenditure on the date of making its balance sheet, it cannot be postponed to a future date when the transaction gets crystallized either by performance or cancellation of the contract - YES: HC

2015-TIOL-1183-HC-MAD-IT
CIT Vs M/s Kalpana Agencies (Dated: February 16, 2015)
Whether the feldspar exported by the assessee and the consequent benefit u/s 80HHC will be available only if such mineral is exported in the pulverized and micronised form – Whether merely because the assessee washes, chippers and washes the stone manually, it cannot be considered as 'processing' because Twelfth schedule stipulates that there should be pulverishing or micronising of Quartz and feldspar.
2015-TIOL-1182-HC-MAD-IT
CIT Vs Funkskool (I) Ltd (Dated: April 22, 2015)
Whether activity of the assessee in carrying out labelling 'MRF' on toys using its machinery would squarely fall within the ambit of operational activity, hence eligible for deduction u/s 80HHC.
2015-TIOL-1181-HC-AHM-IT
Mitul Gems Vs ACIT (Dated: April 28, 2015)
Whether the notice u/s 147 can be issued merely to justify the assessee's claim as SSI after the expiry of statutory period of four years - Whether formation of opinion without examining the issue on the basis of which reassessment notice has been issued to the assessee can be considered as legal.
2015-TIOL-1180-HC-AHM-IT
Shree Ram Builders Vs ACIT (Dated: April 1, 2015)
Whether reassessment proceedings initiated merely and solely at the instance of the audit party by the AO and there was no independent application of mind by the AO, then such proceedings cannot be sustained.
2015-TIOL-1179-HC-AHM-IT
CIT Vs Gujarat Foils Ltd (Dated: April 13, 2015)
Whether the addition made on account of suppression of production by showing excess scrap, was rightly deleted by Tribunal when in the statement recorded u/s 132(4) the Director of the assessee accepted that scrap generation was being entered into register on an estimate basis – Whether the assessment order u/s 143(3) is void ab initio if the notice u/s 143(2) of the Act was issued beyond the period of limitation i.e. beyond the period of 12 months or the end of the month for which the return was filed u/s 139.
2015-TIOL-1178-HC-AHM-IT
Joy Global (UK) Ltd Vs DDIT (Dated: April 22, 2015)
Whether if any claim is made by the assessee before the AO calling in question the jurisdiction of AO within a specified time period, AO is directed to consider the same in

accordance with law and on merits before the assessment is made.

[2015-TIOL-1177-HC-AHM-IT](#)

Principal Commissioner of Income Tax Vs India Gelatine And Chemicals Ltd (Dated: April 27, 2015)

Whether the AO has the authority to make disallowance u/s 14A merely on the basis that the assessee failed to justify that the investment was made out of the interest free funds and disallowed certain amount on adhoc basis - NO: HC

[2015-TIOL-1173-HC-AHM-IT](#)

CIT Vs Harshad Babulal Makwana (Dated: April 22, 2015)

Whether the Department cannot make an addition on the ground of unexplained investment, when the source of the share application money made by assessee has been explained as advance received by him from the investor company, and the AO himself has admitted that such advance is given to assessee through banking channel.

[2015-TIOL-1172-HC-MUM-IT](#)

DIT Vs M/s Shri Vile Parle Kelavani Mandal (Dated: March 23, 2015)

Whether income generated from giving various halls and properties of the institution on rentals on Saturdays, Sundays and on public holidays, when they are not required for educational activities, cannot be said to be a business which is not incidental to attain the objects of the trust - Whether income earned from such incidental activity cannot be brought to tax.

[2015-TIOL-1171-HC-AHM-IT](#)

CIT Vs Nagindas T Kapadia (Dated: April 13, 2015)

Whether the addition made by the AO will against the question of law, when the assessee has not offered the expenditure incurred and did had not claimed deduction of the same.

[2015-TIOL-1170-HC-AHM-IT](#)

Principal Commissioner of Income Tax Vs Girishkumar Ramanlal Chokshi And Brothers (Dated: March 25, 2015)

Whether when the assessee has given complete particulars regarding share purchase, daily transactions of gold in commodity futures market are produced before the AO , it is still possible for the Revenue authority to treat hedging loss as speculation loss.

[2015-TIOL-1169-HC-KOL-IT](#)

CIT Vs M/s Kamarhatty Company Ltd (Dated: April 22, 2015)

Whether an appeal beofre the HC shall be treated as premature, when the Tribunal has remanded the matter to the AO and the question is yet to be answered by the AO.

2015-TIOL-1168-HC-P&H-IT
CIT Vs M/s Freedom Board And Paper Mills (Dated: April 23, 2015)
Whether when the assessee has given complete particulars regarding the books of accounts maintained by it, can the same be rejected by the AO and a reference to DVO can only be made on no basis - Whether without rejecting the books of account of the assessee and by making reference to only the report of DVO, the action of AO to make addition is justified in law.
2015-TIOL-1167-HC-MUM-IT
CIT Vs M/s Rupam Pictures Pvt Ltd (Dated: April 16, 2015)
Whether it is for the Revenue's counsel to satisfy the Registry, if its the Registry which is indicating that it has not issued any notice to the opposite party simply because it was not provided with the paper-books or additional copies of the Reference paper-books.
2015-TIOL-1165-HC-KOL-IT
Kalpna Industries Ltd Vs DCIT (Dated: April 20, 2015)
Whether d eduction of expenditure on account of share issue expense claimed under Section 35D cannot be in excess of the provision contained in Sub-section 3 which is 2.5% of the total capital employed.
2015-TIOL-1163-HC-KOL-IT
CIT Vs Smt Mina Deogun (Dated: April 20, 2015)
Whether the period for which the asset was held by the previous owner, is also liable to be included to the period of holding of the property by the present assessee - YES: HC
Whether income arising out of a property belonging to joint owners by doctrine of blending, is liable to be treated as 'income from house property' u/s 22 and not income from other sources u/s 56 - YES: HC
Also see analysis of the Order
2015-TIOL-1162-HC-MAD-IT
CIT Vs M/s Kongoor Textile Process (Dated: April 20, 2015)
Whether an assessee can be denied admissible deduction u/s 80-IA and assessment can be reopened again for purpose of computation of current year income u/s 80I or 80IA, where all losses and other deductions have been already set off against the income of previous year - NO: HC
2015-TIOL-1161-HC-MUM-IT

DIT Vs Jaslok Hospital And Research Centre (Dated: April 20, 2015)

Whether when the facts are identical to the Assessment order under consideration, then, there is no difficulty in applying and following its views for the earlier assessment years - Whether the amounts charged or surcharges levied should not be treated as income from the activities of the trust.

[2015-TIOL-1160-HC-MUM-IT](#)

Mahesh N Thakkar Vs ACIT (Dated: April 27, 2015)

Whether there is a distinction between furnishing of wrong particulars and making wrong calculation of particulars furnished - Whether in case AO has not given a personal hearing or an opportunity to the Assessee before imposing penalty and without pointing out a defect in the AO's order, penalty can be set aside.

[2015-TIOL-1159-HC-MUM-IT](#)

CIT Vs Nitish Rameshchandra Chordia (Dated: March 30, 2015)

Whether distance of agricultural land belonging to assessee within the meaning of section 2(14)(iii)(b) is required to be measured in terms of the approach by road and not by the straight line distance method - YES: HC

Whether a consideration received out of sale of agricultural land can be treated as business income for the purpose of income tax - NO: HC

Whether distance between municipal limits and assessed property is to be measured having regard to the shortest road distance and not as per straight line distance - YES: HC

Whether capital gain arising from a transaction in respect of agricultural land can be considered as business income - NO: HC

[2015-TIOL-1158-HC-MUM-IT](#)

M/s Vijay Udhyog Vs CIT (Dated: April 9, 2015)

Whether a manufacturing company is required to manufacture the goods by its own plant and machinery, at its own factory, for purpose of claiming deduction u/s 80I - NO: HC

Whether such deduction can be denied to an assessee being a manufacturing concern, on ground that the new industrial unit used for manufacturing purposes is not owned by the assessee - NO: HC

[2015-TIOL-1157-HC-DEL-IT](#)

CIT Vs Sukarma Finance Ltd (Dated: April 15, 2015)

Whether in case for the previous year, a part of the stock in trade was converted into investments, would it become conclusive as to fact that realization out of purchase and sale of shares was by way of income from business.

2015-TIOL-1156-HC-DEL-IT
Uday Punj Vs CIT (Dated: April 24, 2015)
Whether when all the requisite information as required by the AO was furnished by the assessee, the mere treatment of business loss as speculation loss by AO does not automatically warrant inference of concealment of income - NO: HC
2015-TIOL-1155-HC-AHM-IT
CIT Vs Shree Raghupati Fibers Pvt Ltd (Dated: April 10, 2015)
Whether the addition made u/s 68 with respect to unsecured loan and peak credit of squared up loans does fall under any of heads of income specified by the Act and therefore liable to be set off against unabsorbed depreciation.
2015-TIOL-1154-HC-AHM-IT
CIT Vs Ocean Agro (India) Ltd (Dated: March 24, 2015)
Whether the deduction of Provident Fund & ESI collected from employees can be allowed u/s 36(1)(va) if the payment was made within due date prescribed under the relevant Acts and the provisions of Section 43B would not be applicable in that case.
2015-TIOL-1147-HC-MUM-IT
CIT Vs M/s Sane And Doshi Enterprises (Dated: April 9, 2015)
Whether income from letting out of property has to be treated as income from property where the assessee had constructed a building of which it is owner - Whether expenses on account of incomplete work are allowable where the entire sale proceeds of the premises had been credited to the Profit & Loss Account and proportionate cost of the premises lying unsold with the assessee, including premises given on licence had already been taken to the Profit & Loss account and there was a proportionate cost carried forward as closing stock which also included pro-rata provision for incomplete works - Whether interest paid on the partners' capital which was related to the premises which were let out by the assessee is allowable as deduction u/s 24(b) while computing income of the assessee under the head "Income from house property".
2015-TIOL-1146-HC-MAD-WT
CIT Vs Sri A Y Prabhakar (Dated: February 24, 2015)
Whether when the additions have been deleted by the Tribunal and the same has not been challenged by the Revenue, there is no basis to sustain the levy of penalty levied under Section 18(1)(c) of the Act.
2015-TIOL-1143-HC-MUM-IT
CIT Vs M/s Salgaonkar Mining Industries Pvt Ltd (Dated : April 23, 2015)
Whether addition in income be made for provision for doubtful debt on the ground, that the provision for doubtful debt are doubtful for recovery and therefore cannot be equated with liability, as entire provision represented advances towards sister concern

and not trade debts and that it was an adhoc provision made towards advances of doubtful recovery and therefore cannot be treated as unascertained liability u/s 115JA. - Whether interest u/s 234B&C of the Act, is payable when assessee has not computed and paid advance tax.

[2015-TIOL-1142-HC-MUM-IT](#)

CIT Vs M/s Pashupati Capital Services Pvt Ltd (Dated : April 24, 2015)

Whether mark to market loss in Future & Options can be allowed to the assessee who is dealing in financial market on account of closing of the year in derivative transactions.

[2015-TIOL-1141-HC-MUM-IT](#)

CIT Vs Kailash Jyoti No 2 Chs Ltd (Dated : April 24, 2015)

Whether acquisition of TDR (additional FSI) would amount to capital gains in hand of assessee when assessee has not incurred any cost on acquisition of TDR of additional FSI.

[2015-TIOL-1140-HC-MUM-IT](#)

CIT Vs M/s Aventis Pharma Ltd (Dated : April 22, 2015)

Whether software expenses incurred by assessee for purchase of basic software necessary for computer operations is revenue expenditure or capital expenditure. - Whether disallowance be made u/s 14A of the Act when interest bearing funds are used for business purpose only.

[2015-TIOL-1139-HC-AHM-IT](#)

CIT Vs M B Stockholding Pvt Ltd (Dated : April 23, 2015)

Whether accumulated profit is to be added in current profit while determining the amount of deemed dividend u/s. 2(22) (e) of the Act.

[2015-TIOL-1138-HC-AHM-IT](#)

Ajay Kumar J Patel Vs DCIT (Dated : April 22, 2015)

Whether it is a fit case to remand the matter to the Tribunal to decide the appeal afresh in accordance with law and on merits, when it is found that the ground which was raised before the Tribunal and the decision which was relied upon by the assessee has not been dealt with by the Tribunal.

[2015-TIOL-1137-HC-ALL-IT](#)

M/s MKU Armors Pvt Ltd Vs UoI (Dated : February 23, 2015)

Whether a writ shall not be entertained under Article 226, when the assessee has the option to approach Assessing Authority and place all material on record, who will make appropriate investigation into the facts and pass appropriate orders.

2015-TIOL-1134-HC-MAD-IT
CIT Vs M/s Vidya Thangakumar (Dated : April 20, 2015)
Whether on the basis of the change of opinion, the power u/s 143(3) of Act can be invoked - Whether profit on sale of any asset can be treated as Business Income when property is acquired by way of settlement and assessee have sold it in pieces, after collecting the development charges.
Also see analysis of the Order
2015-TIOL-1133-HC-MUM-IT
CIT Vs M/s HSBC Securities And Capital Markets (India) Pvt Ltd (Dated : April 20, 2015)
Whether if the parties involved are clients of the assessee and from whom brokerage is collected by raising bills, in that case, there is any dispute that it is this very tax which is collected by the assessee - Whether in case a certain loss is found to have occurred on account of error trade conducted by assessee on behalf of clients, then the claim will have to be accepted as business loss.
2015-TIOL-1132-HC-AHM-IT
Trivedi Corporation Pvt Ltd Vs ITO (Dated : April 22, 2015)
Whether AO should check whether the employees and employer contribution in PF is made within the grace period time before disallowing the same on the ground that it is not paid within the due date of filing return of income u/s 43B of the Act.
2015-TIOL-1131-HC-AHM-IT
Gujarat State Land Development Corporation Ltd Vs DCIT (Dated : April 28, 2015)
Whether despite of the fact that the assessee has been granted personal hearing and has deposited 50% of the amount due from him, the elapse of time period agreed can be the basis for rejection of his appeal - NO: HC
2015-TIOL-1130-HC-AHM-IT
CIT Vs Axis Bank Ltd (Dated : April 1, 2015)
Whether the assessee is liable to pay tax on the interest component where the assessee was a banking company to which the Banking Regulation Act, 1949 applied and was a credit institution - Whether the transaction by the assessee-lessor and lessee is in substance a financial lease/transaction and the assessee is liable to pay the interest tax on the interest component where as per the agreement, the lessee was required to pay monthly installment which is termed as monthly lease rent and the lessor was to get much more amount than the purchase value of the equipment and the assessee had purchased the equipment as per the requirement of the lessee and from the manufacturer suggested by the lessee and even the equipment can be used only by the lessee as per its requirement and the equipment was to be delivered by the manufacturer / supplied to the lessee and the delivery of the equipment was directly to be given by the manufacturer / supplier to the lessee and the equipment

was required to be insured by the lessee and the expenses for repairing and maintenance of the equipment were to be borne by the lessee.

[2015-TIOL-1126-HC-DEL-IT](#)

Religare Finvest Ltd Vs CIT (Dated : April 17, 2015)

Whether assessee can challenge both legality of assumption of jurisdiction as well as the merits of the items sought to be taxed in the revisional proceedings when CIT's order does not address the assessee's objections.

[2015-TIOL-1121-HC-DEL-IT](#)

CIT Vs Caryaire Equipments India Pvt Ltd (Dated: April 15, 2015)

Whether assessee is entitled for deduction u/s 80 IA of Act, when it has two units out of which unit - 1 has stopped its manufacturing activities and is only doing job work outsourced to it by Unit-2.

[2015-TIOL-1120-HC-ALL-IT](#)

Ghaziabad Development Authority Vs CIT (Dated: April 13, 2015)

Whether where assessee does not respond to show cause notice for conduct of special audit and appointment of auditor then can later on assessee raise objection to such special audit by filing writ petition.

[2015-TIOL-1119-HC-KAR-IT](#)

Shri J P Mrithunjay Singh Vs ITO (Dated: April 13, 2015)

Whether determination of the market value of immovable property based on the agreement for sale is justified when said agreement is held not to be a valid agreement.

[2015-TIOL-1118-HC-AHM-IT](#)

CIT Vs Ocean Agro (India) Ltd (Dated: March 23, 2015)

Whether AO can allow, after proper verification, the payment made to PF & ESI on the basis of actual payment during the relevant previous year - Whether the deduction of PF and ESI collected from employees can be allowed u/s. 36(1) (va) if the payment is made within due date prescribed under the relevant Acts and the provision of Section 43B are not applicable.

[2015-TIOL-1116-HC-DEL-IT](#)

Honda Cars India Ltd Vs CIT (Dated: April 21, 2015)

Whether stay of demand be allowed to assessee, till the disposal of appeal by Tribunal, when assessee has already paid substantial part of demand and case is pending for no default of assessee.

2015-TIOL-1115-HC-AHM-IT
M/s E-Infochips Ltd Vs DCIT (Dated: April 7, 2015)
Whether assessment can be reopened after four years of assessment on the ground that the "Software License Fees" paid to the foreign companies was in nature of "Royalty" and thus, was Capital Expenditure.
Also see analysis of the Order
2015-TIOL-1114-HC-MUM-IT
CIT Vs Mahindra Spicers Ltd (Dated: April 16, 2015)
Whether full initial contribution to the Superannuation Fund can be claimed as deduction from the total income.
2015-TIOL-1113-HC-MUM-IT
M/s Rushab Enterprises Vs ACIT (Dated: April 15, 2015)
Whether genuinity of a loan transaction can be doubted, where the payment is made through account payee cheques and the assessee has also paid interest on such loans after deduction of TDS and accordingly filed TDS returns - NO: HC
Whether the AO has power to reopen an assessment, in absence of any tangible material required for formation of his reason to believe that income chargeable to tax has escaped assessment - NO: HC
2015-TIOL-1112-HC-MUM-IT
CIT Vs M/s Sharda Worldwide Exports Pvt Ltd (Dated: April 17, 2015)
Whether before the amounts of bad debts are written off it need not be established that the debts had become irrecoverable completely before the write off takes place.
2015-TIOL-1111-HC-DEL-IT
CIT Vs Jcdecaux Advertising India (P) Ltd (Dated: April 23, 2015)
Whether the exercise which is a pre-requisite to the commencement or proposed set up, would be treated as that connected with commencement of business - Whether it is only after the business is set up that the previous year of that business commences - Whether in that previous year only, the expenses incurred in the business can be claimed as permissible deductions.
2015-TIOL-1110-HC-AHM-IT

CIT Vs Tapagachha Sangh Mota (Dated: March 25, 2015)

Whether even in the absence of any provision in the trust with respect to "dissolution clause", the trust is to be considered as genuine - Whether in such case the genuineness of trust is established and the trust would be entitled to registration u/s 12 AA, subject to fulfillment of conditions under Section 12 AA.

[2015-TIOL-1109-HC-ALL-IT](#)

Rinmat Regional Management And Technical Literary Society Vs Valuation Officer Income Tax Office (Dated: April 13, 2015)

Whether it cannot be said that assessment order has been completed, when the report of the DVO is awaited.

[2015-TIOL-1108-HC-P&H-IT](#)

Sudhir Kapoor Vs ITO (Dated: April 10, 2015)

Whether if there is an apparent mistake, an assessee could point out the same in the order passed u/s 264 - Whether in case the amount of demand outstanding on conclusion of the reassessment proceedings was more than Rs.1 lac, on the income which is chargeable and which had escaped assessment, the same would have to be seen at the time of issuing notice u/s 149.

[2015-TIOL-1103-HC-AHM-IT](#)

Devendra Somabhai Naik Vs ACIT (Dated: April 22, 2015)

Whether an assessment can be reopened even after expiry of six years u/s 150, for giving effect to any finding or direction passed by an authority in any proceedings under the Income Tax Act by way of appeal, reference or revision - YES: HC

Whether the said finding or direction of the authority is required to be given effect to, while initiating assessment/reassessment proceedings, when such direction has been set aside by the Tribunal in appeal proceedings - NO: HC

[2015-TIOL-1102-HC-KAR-IT](#)

CIT Vs M/s E4E Health Care Business Services Pvt Ltd (Dated: April 10, 2015)

Whether carried forward losses cannot be set off before claiming deduction under Section 10A of the Act when benefit under Section 10A of the Act is a deduction.

[2015-TIOL-1096-HC-AHM-IT](#)

Chandrakant Keshavram Singapuri Vs ITO (Dated: March 11, 2015)

Whether when the method adopted by the assessee for computation of capital gains was incorrect, it confers jurisdiction on the AO to initiate the reassessment proceedings to reopen the assessment u/s 147 beyond the period of four years, even if the assessee has truly and fully disclosed the material fact necessary for the purpose of assessment - NO: HC

[Also see analysis of the Order](#)

[2015-TIOL-1095-HC-MUM-IT](#)

CIT Vs M/s Saimangal Investrade Ltd (Dated: April 16, 2015)

Whether claim of loss can be allowed by setting aside outcome of investigation conducted by the JPC and SEBI, and following the decision on another case on identical facts.

[2015-TIOL-1094-HC-DEL-IT](#)

CIT Vs Arvind Khanna (Dated: April 15, 2015)

Whether assessee can be said to have satisfied the requirement of Section 68 of Act, especially the creditworthiness of the donor and the genuineness of the transaction for the various Assessment Years or it has to be independently established by other materials such as bank statement etc.

[2015-TIOL-1093-HC-KAR-IT](#)

CIT Vs Nous Infosystems Pvt Ltd (Dated: April 6, 2015)

Whether the loss of STP unit cannot be set off against the profits of STP unit and only the profits of the STP unit should be taken into account when computing exemption under Section 10A of the Act - Whether for the purpose of computing deduction under Section 10A of the Act only total turnover of the business carried on by the undertaking alone should be considered instead of taking into account the total turnover of the entire business carried on by the assessee. - Whether for the purpose of computing deduction u/s 10A of the Act, expenditure incurred in foreign currency to be excluded from the value of total turnover.

[2015-TIOL-1092-HC-AHM-IT](#)

Principal Commissioner Of Income Tax Vs J Upendra Construction Pvt Ltd (Dated: March 30, 2015)

Whether an addition can be made to assessee's income with respect to difference between the cost of construction determined by the DVO and shown by the assessee merely on the basis of Department's valuation officer report.

[2015-TIOL-1091-HC-PATNA-IT](#)

Bhupesh Kumar Sikshan Evam Vikas Sansthan Vs DGIT (Dated: February 2, 2015)

Whether application for exemption u/s u/s 10 (23C) (iv) of the Act can be rejected on the ground that copies of audited accounts for the last three years alongwith affidavit reflecting the accounts and annual receipts of income is not filed.

[2015-TIOL-1082-HC-KAR-IT](#)

M/s Diffusion Engineers Ltd Vs DCIT (Dated: April 17, 2015)

Whether expenditure incurred under an agreement for acquiring technical know how can be treated as revenue expenditure, where the ownership and control over such technical know-how remains with actual owner, and the right to use such know how ceases on the termination of agreement - YES: HC

Whether period of agreement itself is a determinative test to arrive at the nature of expenditure being revenue or capital - NO: HC

Whether Section 35AB can be attracted in a case, where the amount expended by assessee towards procurement of 'technical know-how' is revenue in nature - NO: HC

[Also see analysis of the Order](#)

[2015-TIOL-1081-HC-MAD-IT](#)

M/s Winner Dairy (P) Ltd Vs DCIT (Dated: April 8, 2015)

Whether the Department has to provide sufficient time to pay the demand amount.

[2015-TIOL-1080-HC-DEL-IT](#)

Vatika Ltd Vs CIT (Dated: April 6, 2015)

Whether the submissions of the assessee in the High Court amount to re -appreciation of circumstances at the third appellate level - Whether in case the interpretation of a document made in certain circumstances require interpretation of law, there can be no question of law in that situation.

[2015-TIOL-1079-HC-DEL-IT](#)

CIT Vs M/s Motherson Auto P Ltd (Dated: April 13, 2015)

Whether there is a stipulated matrix of factors which are to be taken into consideration at the time of determination of goodwill - Whether the weight attached by Revenue to the monopoly enjoyed by the assessee in respect of the product manufactured, the continuous functioning are sufficient basis for valuation of goodwill.

[2015-TIOL-1078-HC-MUM-IT](#)

CIT Vs Shri Ramesh Dattatraya Kulkarni (Dated: April 9, 2015)

Whether Optional Early Retirement Scheme and the amounts paid under this scheme are eligible for exemption under section 10(10C).

[2015-TIOL-1077-HC-MUM-IT](#)

CIT Vs M/s Indian Rare Earths Ltd (Dated: April 13, 2015)

Whether there is no occasion for the AO to reopen the assessment without any tangible material which formed a live link to the formation of reason to believe escapement of income - Whether mere description of the depreciation claimed as "terminal depreciation" could not have justified the conclusion reached by the AO for reopening of assessment.

[2015-TIOL-1076-HC-MUM-IT](#)

CIT Vs Mahendrakumar Bhabutmal Oswal (Dated: March 23, 2015)

Whether reduction by the assessee, in the total income as compared to the income declared during search, was rightly allowed by the Tribunal in the block assessment if certain sales which have been questioned, were explained by the assessee.

[2015-TIOL-1075-HC-AHM-IT](#)

Principal Commissioner of Income Tax Vs Ram Shipping Industries Pvt Ltd (Dated: April 16, 2015)

Whether the definition of deemed dividend u/s 2(22)(e) includes registered as well as beneficial shareholders - Whether in case any shareholder in the assessee Company who had taken any loan or advance from another Company in which such shareholder is also a shareholder having substantial interest, provisions of section 2(22)(e) can be made applicable in such case.

[2015-TIOL-1074-HC-AHM-IT](#)

DIT Vs Vanchhara Tirthadhipati-Chintamani Paraswaprwabhu (Dated: March 24, 2015)

Whether dissolution clause is not necessary in the deed of charitable trust - Whether assessee being a public charitable trust, should the deed not have a clause that upon dissolution no asset will go to any trustee, donor settler etc.

[2015-TIOL-1066-HC-KAR-IT](#)

Dell India Pvt Ltd Vs JCIT (Dated: April 7, 2015)

Whether the AO is empowered u/s 147 to issue notice for reopening the assessment, if he has "reason to believe", and it is not in his domain at that stage to conclusively prove the escapement of such income to tax - YES: HC

Whether it is necessary for an AO to arrive at any conclusion at preliminary stage of invoking section 147 particularly when there is no material whatsoever available before him to accept the contention of assessee - NO: HC

Whether where the assessee has failed to establish that the deferred revenue is actually included as its income in the subsequent A.Ys, it can be held that reasons assigned by the AO for reassessment suffers from any jurisdictional error - NO: HC

Whether in case of escapement of income, the burden lies on assessee to demonstrate that a particular revenue which is disputed, has been offered to tax in current or

subsequent A.Ys - YES: HC

Whether exercise of extraordinary jurisdiction under Article 226 of Constitution of India can be denied, merely on ground of having alternate and efficacious remedy available with the assessee - NO: HC

[Also see analysis of the Order](#)

[2015-TIOL-1065-HC-MUM-IT](#)

Nivi Trading Ltd Vs UoI (Dated: April 7, 2015)

Whether authority for reopening of assessment u/s 147 requires only "reason to believe", and not the established fact of escapement of income - YES: HC

Whether reopening of assessment on basis of "reasons to believe" is sustainable, where there is no rational and intelligible nexus between the reasons and the belief formed by the AO - NO: HC

Whether issuance of notice u/s 148 can be sustained, when reasons for reopening is not founded on the satisfaction of AO that income chargeable to tax has escaped assessment - NO: HC

Whether reassessment can be initiated u/s 147 on ground that the gift was made without consideration, where the same is not mentioned under 'reasons to believe' for such reopening - NO: HC

[2015-TIOL-1064-HC-MUM-IT](#)

CIT Vs M/s S Kumars Nationwide Ltd (Dated: April 15, 2015)

Whether employees contribution deposited beyond the period specified in para-38 of the Employees Provident Fund Scheme, 1952, but within grace period of 5 days is entitled to deduction u/s.36(1)(va) of the Act.

[2015-TIOL-1063-HC-MUM-IT](#)

CIT Vs Shri Suresh L Wadhwa (HUF) (Dated: April 22, 2014)

Whether benefit of exemption u/s 80-IB(10) can be denied to an assessee, where the criteria of minimum area of 1 acre required u/s 80IB(10)(a) and period of project completion u/s 80IB(10)(d) has been sufficiently complied with - NO: HC

[2015-TIOL-1062-HC-MUM-IT](#)

DIT Vs M/s Women's India Trust (Dated: March 23, 2015)

Whether if the occasional sales or the trust's own fund generation are for furthering the objects but not indicative of trade, commerce or business, in that case the benefit of exemption in case of a trust would still be available - Whether in case the trust is set up for advancement of any other object of general public utility, that will cease to be charitable purposes as the activities in which the trust is involved cannot be termed as carrying on of trade, commerce or business.

[2015-TIOL-1061-HC-KOL-IT](#)

Anand Kumar Agarwal Vs CIT (Dated: March 31, 2015)

Whether the bottles of liquor, a consumable article, can be considered as a 'valuable article or thing' by ignoring the meaning of its preceding words 'money, bullion, jewellery' as appeared in Section 132(1)(c) - Whether in case it is noted that during assessment assessee has a large number of bottles in his possession, can the AO assume that the said bottles were purchased out of undisclosed income and value them at a pre-determined rate.

[2015-TIOL-1060-HC-KAR-IT](#)

CIT Vs M/s KLN Agrotechs Pvt Ltd (Dated: January 5, 2015)

Whether where on repayment of Loan amount with interest certain amount is waived by Bank and assessee has offered waived amount for tax then can payment of interest amount if disallowed as deduction u/s 43B of Act, be subsumed with amount of waived Principal amount so as to avoid a situation of department having the cake as well as eating it, which would mean subjecting the assessee to double jeopardy.

[2015-TIOL-1059-HC-KAR-IT](#)

CIT Vs M/s Quest Informatics Pvt Ltd (Dated: January 5, 2015)

Whether the assessee is eligible for section 10A deduction, if the STPI unit is a new undertaking and not formed by splitting up of existing unit and reconstruction of business already in existence.

[2015-TIOL-1044-HC-AHM-IT](#)

JCIT Vs Colourman Dyechem Pvt Ltd (Dated: April 8, 2015)

Whether when the subsidy sanctioned by the State is not for buying capital assets and same was received after commencement of production it is to be construed as revenue receipt.

[Also see analysis of the Order](#)

[2015-TIOL-1043-HC-MAD-IT](#)

CIT Vs M/s Mallow International (Dated: April 7, 2015)

Whether if the business undertaking is in windmill power generation and textile exports and it has claimed the benefit of deduction u/s 80IA, having exercised its option and its losses have been set off already against other income of the business enterprise, the assessee falls within the parameters of Section 80IA.

[2015-TIOL-1042-HC-MUM-IT](#)

Techniplex Vs CBDT (Dated: March 23, 2015)

Whether tax benefits under I-T Act can be availed by an undertaking only, if such undertaking has minimum number of thirty units and the industrial park have been notified by the CBDT u/s 80IA - YES: HC

Whether such tax benefits can be claimed by only undertaking notified by Central Government and not to any other person who develops and operates the notified industrial park for any reason - YES: HC

Whether it is open to the CBDT to furnish certificates contrary to the provisions of Municipal Act - NO: HC

Whether the CBDT is entitled to sit in a judgment over the issuance of said certificates or the contents thereof as if it is an appellate authority - NO: HC

Whether approval of competent authority regarding completion of project can be ascertained, in absence of completion or full occupational certificate - NO: HC

Whether application for availing benefit of Information technology park scheme can be rejected on grounds of violation of such scheme, without proving any actual violations of the same made by assessee - NO: HC

[2015-TIOL-1041-HC-DEL-IT](#)

CIT Vs Mis Greysam And Co (Dated: April 13, 2015)

Whether purchase expenses can be disallowed on the ground that the identity of supplier is not confirmed to be existing as they did not respond to the notice served upon them by Revenue.

[2015-TIOL-1040-HC-MUM-IT](#)

M/s R W Promotions P Ltd Vs ITAT (Dated: April 8, 2015)

Whether merely because the assessee has challenged the order of the Tribunal in an Appeal u/s 260A before the High Court, it does mean that the power under section (2) of section 254 cannot be invoked either by the assessee or by the revenue - Whether if the Tribunal had passed an order after considering the application made by the assessee on its merits and in accordance with law, refusal of the Tribunal to go ahead and reject the application only on the ground that the assessee has invoked the appellate powers of higher Court is sustainable in law.

[2015-TIOL-1039-HC-MUM-IT](#)

CIT Vs Shri Wilson Wilfred Valadares (Dated: March 26, 2015)

Whether inability to prove a liability would amount to furnishing of inaccurate particulars for the purpose of imposing penalty under Section 271(1)(c) - NO: HC

[2015-TIOL-1038-HC-KOL-IT](#)

CIT Vs Mahesh Chandra Mantri (Dated: April 8, 2015)

Whether the addition made by the AO of sum declared as dividend, is not valid, when it is known that any payment can take the character of dividend if it is shown that there were accumulated profits lying with the company, Revenue had never contended that any accumulated profit is lying with the company.

[2015-TIOL-1037-HC-KAR-IT](#)

Shrikanth Vs UoI (Dated: January 19, 2015)

Whether it is a violation of the human right, when the Authorities have proceeded to regularise the services of similarly situated persons, and have regularised the services of only two persons by not extending the same benefit to assessee.

[2015-TIOL-1031-HC-KOL-IT](#)

CIT Vs M/s Savi Commercial Pvt Ltd (Dated: March 19, 2015)

Whether income alone can be taken into account in deciding what is the assessee's principal source of business - Whether in a case where loss resulting out of dealing in shares is more than the income arising out of loans and advances, it can be said that the principal business of assessee is not of granting loans and advances.

[2015-TIOL-1030-HC-KOL-IT](#)

M/s Sicpa India Ltd Vs CIT (Dated: April 1, 2015)

Whether omission to serve notice of appeal coupled with failure on the part of assessee to serve notice of appeal, inspite of the opportunity being granted after time prescribed by rules to serve had expired, it leaves no other option before the High Court except to dismiss the appeal.

[2015-TIOL-1029-HC-MUM-IT](#)

CIT Vs Tainwala Chemicals And Plastics India Ltd (Dated: April 16, 2015)

Whether penalty can be imposed merely because a claim which is not sustainable on merits has been raised.

[2015-TIOL-1028-HC-MUM-IT](#)

CIT Vs M/s Fine Developers (Dated: April 16, 2015)

Whether the Registry must ensure preparation of complete paper book in accordance with the Rules, and send intimation of admission of the Appeal enclosing therewith a copy of the order so as to enable the Tribunal to act accordingly.

[2015-TIOL-1027-HC-MUM-IT](#)

CIT Vs K H Kapadia (Dated: April 9, 2015)

Whether a case can be decided on merit by the court when paper work is not complete, necessary books are not filed or court should wait for sometime allowing assessee to remove these office objections within the given and stipulated time.

[2015-TIOL-1026-HC-MUM-IT](#)

CIT Vs M/s Indian Rare Earths Ltd (Dated: April 13, 2015)

Whether if the write off is on account of deterioration in the condition of the non-moving stores as the assessee's plants were located in remote places, this method of accounting having been adopted in the earlier years, can it be said that the value of the closing stock as declared by the assessee is not in accordance with the principles laid down under the provision of Section 145A(a) -NO: HC

[2015-TIOL-1025-HC-MUM-IT](#)

CIT Vs M/s Lok Housing & Constructions Ltd (Dated: April 13, 2015)

Whether once income had not accrued to the assessee in the real sense, then the original return represents wrong statement which can be corrected by the assessee by filing a revised return - Whether hypothetical income can be brought to tax in the hands of the assessee on such count.

[2015-TIOL-1024-HC-MUM-IT](#)

CIT Vs M/s Onward E-Services Ltd (Dated: April 16, 2015)

Whether when an assessee has revised its claim of expenses on which TDS was deposited after the end of relevant previous year, such revised claim of expenses has to be allowed as an expense in that very year only - YES: HC

[2015-TIOL-1023-HC-MUM-IT](#)

CIT Vs Ovira Logistics Pvt Ltd (Dated: April 17, 2015)

Whether section 43B contemplate liability to pay the service tax before actual receipt of the funds in the account of the assessee - Whether liability to pay service tax into the treasury will arise only upon the assessee receiving the funds and not otherwise - Whether when services are rendered, the liability to pay the service tax in respect of the consideration payable will arise only upon the receipt of such consideration.

[2015-TIOL-1022-HC-DEL-IT](#)

CIT Vs Anshika Consultants Pvt Ltd (Dated: April 16, 2015)

Whether if after assessment, the investigation report which was specifically called from the concerned department, was available but not discussed by the AO, this could be a reason to made addition in assessee's income as per section 68 - Whether while arriving at a conclusion, if the AO did not consider it worthwhile to make any further enquiry but based his order on the high nature of suspicion to determine that the amount had been routed from the assessee's account to the share applicants' account, the addition so made is justified.

[2015-TIOL-1021-HC-AHM-IT](#)

Principal Commissioner of Income Tax-5 Vs Ashwin Kantilal Raval (Dated: March 31, 2015)

Whether an amount paid as interest by an assessee can be allowed as a business expenditure, even in case such assessee has not shown any corresponding business income - Whether when there is no material before the Revenue to reject the valuation of work -in-progress, which was supported by certificate of structural engineer, it can be held that there is mistake in the order of the AO to accept the valuation of closing work -in-progress on the basis of certificate of the structural engineer.

[2015-TIOL-1020-HC-AHM-IT](#)

CIT Vs Puranmal Dhanumal Shah (HUF) (Dated: March 23, 2015)

Whether in case an assessee has discharged his initial burden, it was for the Assessing Officer to examine the evidence produced by assessee further and hold necessary inquiry in that respect - Whether when such AO has failed to discharge its responsibility, can the assessee be denied benefit of such deduction.

[2015-TIOL-1019-HC-KAR-IT](#)

M/s The Totgars Co-Operative Sale Society Ltd Vs ITO (Dated: March 25, 2015)

Whether the income by way of interest on deposits held with scheduled banks, bonds and other securities is chargeable to tax under the head 'Income from other sources' without allowing any deduction in respect of cost of funds and proportionate administrative and other expenses under section 57.

[2015-TIOL-1012-HC-MUM-IT](#)

CIT Vs Indian Petrochemicals Corporation Ltd (Dated: April 8, 2015)

Whether mere payment of lumpsum consideration in relation to lease rent and maintainance of a pipeline, is required to be apportioned over entire period of lease, for claiming deduction on the same - NO: HC

Whether where registration fees and stamp duty are merely a duty on the instrument and not on the transaction covered by the instrument, the necessity to apportion the expenditure in that behalf would not arise - YES: HC

Whether where undisputed facts and legal principles have been consistently applied and followed by the Tribunal, the questions framed by Tribunal can neither be termed as perverse nor vitiated by any error of law - YES: HC

[Also see analysis of the Order](#)

[2015-TIOL-1007-HC-DEL-IT](#)

Niagara Hotels And Builders (P) Ltd Vs CIT (Dated: March 25, 2015)

Whether income from license granted for use of terrace is to be treated as income from property where the terrace floor has been handed over to the licensee not only for setting up the tower/mast on which antenna is to be mounted but also for construction of a room where the watch/ ward staff can be stationed and space used for storage purposes.

[Also see analysis of the Order](#)

[2015-TIOL-1006-HC-DEL-IT](#)

Commissioner Vs Diamond Proteins P Ltd (Dated: April 6, 2015)

Whether the direction to cancel the addition made by the AO is valid in the circumstances of the case, where substantial amounts of unexplained investment is explained by assessee during assessment process.

[2015-TIOL-1005-HC-MUM-IT](#)

CIT Vs M/s SBI Dhfl Ltd (Dated: April 8, 2015)

Whether no interest expenditure can be allocated to the earning of the tax free income received by the assessee on tax free bonds - Whether the inquiry of the interest free funds being available on the assets side and in the absence of sufficient proof of such availability, the presumption cannot be raised.

[2015-TIOL-1004-HC-KAR-IT](#)

CIT Vs M/s Span Design And Development (P) Ltd (Dated: January 12, 2015)

Whether transfer of assessee's file to different circle, for carrying out centralized assessment, can be said to be unsustainable, in case such transfer is indispensable for proper & speedy assessment - NO: HC

[2015-TIOL-1003-HC-KAR-IT](#)

CIT Vs Sun Microsystems India Pvt Ltd (Dated: April 6, 2015)

Whether the order cannot be said to be erroneous as it is prejudicial to the interests of the revenue or taken up for revision under Section 263, merely because no reasons had been given, even though the order of the AO was in terms of the amended provision of Section 10A(4).

[2015-TIOL-1002-HC-AHM-IT](#)

CIT Vs Dharmendra Industries Ltd (Dated: March 17, 2015)

Whether it can be said that the Tribunal has committed any error, if it is found that the claim of the assessee claiming depreciation on machinery and electric plant is

bona fide and it is the case of the revenue to prove that the depreciation claim is false or manipulated by the assessee.

[2015-TIOL-1001-HC-AHM-IT](#)

CIT Vs Parmar Builders & Developers (Dated: April 8, 2015)

Whether if material used for framing assessment u/s 158BC was collected during the survey and not search proceedings u/s 132, assessment proceedings initiated under Section 158 BC are valid as per law.

[2015-TIOL-1000-HC-P&H-IT](#)

CIT Vs Dhruv Fabrics (Dated: April 10, 2014)

Whether the AO is entitled to record his satisfaction with regard to the person other than the person with respect to whom the search was made u/s 132 even after the completion of assessment proceedings u/s 158BC in respect of the searched person - NO: HC

[2015-TIOL-999-HC-P&H-IT](#)

Jagraon Rice Mills Vs CIT (Dated: March 24, 2015)

Whether it is the duty of the assessee to discharge/establish which of the statements were correct, when there are differences in the valuation of the closing stock, purchase account and the sales account - Whether the AO has rightly made an addition on account of unexplained investment in unaccounted purchases and unexplained cash credits, if the assessee has failed to discharge such onus.

[2015-TIOL-998-HC-RAJ-IT](#)

CIT Vs M/s Vijay Solvex Ltd (Dated: March 17, 2015)

Whether deduction u/s 80-I can be claimed on the reduced balance after taking into account the benefit taken u/s 80HH. - Whether section 80I and 80HH are independent sections i.e can deduction be claimed under both sections on the gross total income.

[2015-TIOL-993-HC-KOL-IT](#)

CIT Vs Khadim Shoes Pvt Ltd (Dated: April 8, 2015)

Whether transaction between the assessee and its supplier is in the nature of work done by the supplier on behalf of the assessee i.e. 'outsourcing' and liable for TDS or it is a transaction in the nature of sell and purchase, on principal to principal basis when goods are purchased on the basis of sample.

[2015-TIOL-992-HC-KOL-IT](#)

Kolkata Port Trust Vs DDIT (Dated: August 14, 2014)

Whether when on registration of assessee u/s 12AA, it becomes entitled for refund of tax paid with interest, then should Revenue insist on following any particular procedure or comply with any formality.

[2015-TIOL-987-HC-MUM-IT](#)

CIT Vs M/s Silvassa Wooden Drums (Dated: April 07, 2015)

Whether the Tribunal's order cannot be termed as perverse, when the facts and circumstances are identical in the case of the very Assessee, decided in previous years.

[2015-TIOL-986-HC-AHM-IT](#)

Luvara Land Loosers Sahakari Mandali Ltd Vs UoI (Dated: April 01, 2015)

Whether condonation of delay be allowed when assessee has failed to justify the reason for filing the appeal belatedly.

[2015-TIOL-983-HC-MUM-IT](#)

M/s Sterling Construction And Investments Vs ACIT (Dated: April 9, 2015)

Whether damages received by an assessee in lieu of specific performance of contract can be treated as capital gain in the hands of assessee, where the assessee has accepted such damages on account of refusal of his claim for specific performance by the court - NO: HC

Whether where the assessee's claim to specific performance of the agreement is rejected in a suit, the alternative claim for monetary damages for breach of agreement cannot be taxed as the assessee's income under the head capital gains - YES: HC

Whether where any interim order is given in assessee's favour by making him entitled to receive a sum stipulated in the Court's order and eventually ending the Suit for claim of specific performance being refused, it can be said as relinquishment of assessee's right, title or interest in the stipulated property - YES: HC

[Also see analysis of the Order](#)

[2015-TIOL-982-HC-MUM-IT](#)

CIT Vs M/s Hindustan Construction Co Ltd (Dated: April 9, 2015)

Whether the AO and the CIT(A) can be said to have erroneously rejected the claim, once there is no dispute that expenditure incurred by the assessee on scientific research is of a capital nature.

[2015-TIOL-981-HC-MUM-IT](#)

DIT Vs M/s Sumitomo Mitsui Banking Corpn (Dated: April 16, 2015)

Whether deletion of penalty initiated u/s 271(1)(c) on ground of a proper finding of fact and admitted position, can be said to raise a substantial question of law - NO: HC

[2015-TIOL-980-HC-MUM-IT](#)

M/s Alliance Space Pvt Ltd Vs ITO (Dated: March 27, 2015)

Whether reopening of assessment is justified where notice under section 148 was issued just one week after the issuance of the assessment order and when there was no lack of disclosure or suppression of any material facts and all queries of department were answered by the assessee or the subscribers in question and where the notice u/s 148 did not contain any tangible reasons for reopening of the assessment.

[2015-TIOL-979-HC-DEL-IT](#)

CIT Vs Commercial And Associates Pvt Ltd (Dated: April 7, 2015)

Whether the assessee can claim deduction under section 80HHC on commission received from Indian parties on transfer of export orders.

[2015-TIOL-978-HC-KAR-IT](#)

DIT Vs M/s Dakshina Kannada Koota (Dated: January 12, 2015)

Whether if the receipts from commercial activities are more compared to the overall receipts of the charitable organization, it can lead to the conclusion that the activities of the trust or institution are not genuine or the activities are not being carried out in accordance with the objects of the trust or institution.

[2015-TIOL-977-HC-P&H-IT](#)

CIT Vs M/s Apeejay Education Society (Dated: March 10, 2015)

Whether registration granted u/s 12AA(3) can be rejected in case the activities of the society are found non-genuine during the years involved as the funds of the assessee society were being siphoned off by debiting bogus purchase of software - Whether in case the assessee institute is imparting education, it is eligible for registration u/s 12AA even after ignoring the fact that while granting registration, the CIT has not satisfied himself about the objects and main activity of imparting education.

[2015-TIOL-976-HC-KOL-IT](#)

Anand Silver Pvt Ltd Vs CIT (Dated: March 17, 2015)

Whether if the assessee was given appropriate opportunities of being heard repeatedly to adduce evidence to rebut the proof adduced by the revenue in support of a certain, the assessee failed to discharge its burden, it is still possible to grant an opportunity of remand.

[2015-TIOL-975-HC-KOL-IT](#)

Duncan International (I) Pvt Ltd Vs CIT (Dated: April 7, 2015)

Whether if at the time of claiming deduction, there is no doubt in the mind of assessee as to allowance of such deduction for bad debt, any subsequent change in law is sufficient to render such allowance illegal - NO: HC

[2015-TIOL-974-HC-KOL-IT](#)

CIT Vs M/s Naresh Kumar And Co Pvt Ltd (Dated: April 8, 2015)

Whether the interest paid or incurred by the assessee for earning exempt income becomes an expenditure allowable u/s 36 - Whether in case revenue has not brought on record any concrete evidence to prove direct nexus between such borrowed funds being utilised for interest free investments, is to be held that no part of such interest can be disallowed u/s 14A.

[2015-TIOL-969-HC-MUM-IT](#)

Prakash K Kankariya Vs JCIT (Dated: March 16, 2015)

Whether mere statement of a party in respect of availability of cash balance in assessee's account which is utilized for making investment, is sufficient for discharging the burden on assessee to prove the source of the said cash funds - NO: HC

Whether voluntary acceptance of undisclosed income or suppression of material facts in the books of accounts, by the assessee, is sufficient for negating the undisclosed investment made by him - NO: HC

[2015-TIOL-968-HC-P&H-IT](#)

Sh Subhash Chander Malik Vs DCIT (Dated: March 18, 2015)

Whether an assessee is entitled for claiming deduction u/s 36(1)(ii), if he has failed to establish that the payments by him to the concerned persons are by way of commission - NO: HC

Whether presence of a fortuitous circumstance that the concerned persons belong to the highest tax bracket and therefore, no loss has been suffered by the revenue, is sufficient for negating the literal interpretation u/s 36(1)(ii) - NO: HC

Whether the grant of deduction u/s 36(1)(ii) can be decided on the basis of conjectures and speculations regarding the recipients assessment or their ability to meet the demand for tax - NO: HC

[2015-TIOL-967-HC-P&H-IT](#)

All India Steel Re-Rollers Association (Regd) Vs UoI (Dated: April 1, 2015)

Whether each member of the association has to separately file a petition, when there is a wide disparity in electricity consumption from mill to mill for the required quantity of oil yield.

[2015-TIOL-966-HC-KAR-IT](#)

CIT Vs M/s Saptharishi Credit (Dated: March 20, 2015)

Whether if a Co-operative Bank is exclusively carrying banking business, then the income derived from the said business cannot be deducted in computing the total income of the assessee and thus, will be liable for tax - Whether the assessee is not a Co-operative bank, if it is not carrying on exclusively banking business and if it does not possess a license from the Reserve Bank of India to carry on business, then it is not a Co-operative bank - Whether Section 80P is applicable on the assessee, as it is applicable to co-operative banks and also to credit co-operative societies.

[2015-TIOL-965-HC-KAR-IT](#)

CIT Vs Sri Peter Kennedy (Dated: January 23, 2015)

Whether the liability to pay interest u/s 201(1) and 201(1)(a) for default in payment of TDS can be levied on the individual, who was acting merely as an administrator - Whether such administrator can be held as defaulter in case no payments were made to in his individual capacity and the payments were made by the Trust.

[2015-TIOL-964-HC-AHM-IT](#)

Pushaben Chimanbhai Patel Vs ITO (Dated: April 1, 2015)

Whether exercise of powers u/s 147 and reopening of any assessment require the AO to form a tentative or prima facie opinion regarding underassessment or escapement of income - YES: HC

Whether initiation of reassessment proceedings u/s 147 without satisfying the stipulated conditions mentioned under the said provision, is sustainable - NO: HC

[2015-TIOL-956-HC-MUM-IT](#)

CIT Vs M/s Hanil Era Textiles Ltd (Dated: April 7, 2015)

Whether entire claim of dividend income cannot be disallowed, attributing to administrative expenditure towards earning the dividend income.

[2015-TIOL-950-HC-P&H-IT](#)

CIT Vs M/s Kudu Industries (Dated: March 3, 2015)

Whether salary paid to Mr. R.S.Saluja can be concluded as unreasonable merely on the basis of profits & turnover of the firm as well as average salary being paid to the management personnel by its group company, which has more than 13 times the turnover than the assessee firm.

[2015-TIOL-949-HC-KAR-IT](#)

CIT Vs Sri Peter Kennedy (Dated: January 23, 2015)

Whether the liability to pay interest u/s 201(1) and 201(1)(a) for default in TDS payment can be imposed on the individual, who was acting merely as an administrator - Whether such administrator can be held as a defaulter in case no payments were made in his individual capacity and the payments were made by the

Trust.

[2015-TIOL-948-HC-AP-IT](#)

CIT Vs Pennar Profiles Ltd (Dated: February 11, 2015)

Whether deduction of any sum, being interest payable under clause (d) of Section 43B, shall be allowed if such interest has been actually paid - Whether any interest referred to in that clause, which has been converted into a loan or borrowing, shall also be deemed to have been actually paid.

[2015-TIOL-946-HC-MUM-IT](#)

CIT Vs M/s Shantivijay Jewels Ltd (Dated: April 7, 2015)

Whether the assessee is entitled for claiming set off or carrying forward losses of subsequent assessment years against the business profit of Section 10A unit - YES: HC

[2015-TIOL-945-HC-MUM-IT](#)

CIT Vs M/s Fortaleza Developers (Dated: April 9, 2015)

Whether the quantum of deduction to be claimed u/s 80IB(10), depends on the mode of distribution of shares amongst members of the AOP as income of AOP was taxable at the maximum marginal rate - NO: HC

[2015-TIOL-941-HC-MUM-IT](#)

DIT Vs M/s Jasubhai Foundation (Dated: April 1, 2015)

Whether exemption u/s 10 can be granted to an assessee, whose income forms a part of the income from property held under trust - Whether such income would be allowed as exempt u/s 11, only if the same has been applied for charity purposes.

[Also see analysis of the Order](#)

[2015-TIOL-936-HC-DEL-IT](#)

CIT Vs Daikin Air-Conditioning India Pvt Ltd (Dated: March 27, 2015)

Whether every expenditure incurred in the terms of the technical know-how agreement regardless of nomenclature, shall be treated capital in nature.

[2015-TIOL-931-HC-DEL-IT](#)

Hcl Technologies Vs ACIT (Dated: April 15, 2015)

Whether the assessee's failure to avail the benefit of a statutory provision like section 10A, cannot create an estoppel precluding it from availing such benefit in the future.

Whether when assessee claims section 10A deduction separately for each unit, it must show that each is a separate undertaking with a separate STPI approval.

Whether when the assessee has multiple STPI units registered under a single 'mother'

license, each STPI unit cannot be considered as a separate undertaking for the purpose of claiming the section 10A deduction.

[Also see analysis of the Order](#)

[2015-TIOL-930-HC-KAR-IT](#)

CIT Vs Shriram Chits (Karnataka) Pvt Ltd (Dated: January 9, 2015)

Whether bid loss be allowed to the assessee as it is following Completed Contract Method of accounting where it has to wait till the completion of the chit period for each individual chit running during the course of year for determining the actual amount of bidloss.

[2015-TIOL-929-HC-MUM-IT](#)

Arun Toshniwal Vs DCIT (Dated: April 13, 2015)

Whether the payment under an agreement not to compete is a capital receipt or a revenue receipt.

[2015-TIOL-928-HC-AHM-IT](#)

CIT Vs M/s G H Vijapura And Co (Dated: March 20, 2015)

Whether addition in the income of assessee be made on account of discrepancies found between receipts as per TDS certificates and the receipts shown as income by the assessee in its return of income, claimed to be due to Mobilization Advance. - Whether appellate authority has committed error in admitting fresh evidence, without following due process under the I. T. Rules.

[2015-TIOL-927-HC-P&H-IT](#)

Punjab State Civil Supply Corporation Ltd Vs UoI (Dated: April 9, 2015)

Whether stay of demand can be allowed to assessee even when assessee not paying the demand or not agreeing to do so in instalment.

[2015-TIOL-926-HC-P&H-IT](#)

Rawalwasia I spat Udyog Pvt Ltd Vs CESTAT (Dated: April 10, 2015)

Whether the assessee is bound by the concession recorded in the Tribunal's order assuming that the concession was made.

[2015-TIOL-925-HC-DEL-IT](#)

M/s Esjaypee Impex Pvt Ltd Vs CTO (Dated: March 30, 2015)

Puducherry Value Added Tax Act, 2007 - Whether the attachment made under the Act, can be directed to be lifted and the assessee shall be permitted to operate the account, if the assessee has already paid 50% of the penalty amount apart from the

entire tax paid.

[2015-TIOL-924-HC-DEL-IT](#)

Shravan Gupta Vs ACIT (Dated: April 6, 2015)

Whether a summon order passed on the basis of criminal complaint filed by the Department is liable to be quashed, when the Department had not disclosed vital information to the Court which was received from the assessee at the time of filing the complaint - YES: HC

Whether a complaint for wilful failure to produce documents can be instituted, although when the pre-summoning evidence was recorded, the statements of bank accounts have already been received for the purpose of assessing the tax - NO: HC

[Also see analysis of the Order](#)

[2015-TIOL-923-HC-MAD-IT](#)

CIT Vs S P Thavamani (Dated: March 18, 2015)

Whether where tribunal has passed the order following the judgement in a previous case, then the said order should be revised when there is a change in the said judgement made by the SC.

[2015-TIOL-922-HC-MAD-WT](#)

M/s Vyline Glass Works Ltd Vs ACWT (Dated: March 11, 2015)

Whether the Tribunal, while exercising the power of rectification, can recall its order if it is satisfied that on account of mistake, manifest error or omission attributable to the Tribunal, prejudice is caused to the party.

[2015-TIOL-921-HC-AHM-IT](#)

Panchratna Real Estate Pvt Ltd Vs CCIT (Dated: March 20, 2015)

Whether action of Revenue forfeiting the bid amount paid by the assessee company in respect of the property under auction is justified on account of breach of terms and conditions of sale.

[2015-TIOL-920-HC-KERALA-IT](#)

M/s Midland Latex Products Ltd Vs CIT (Dated: February 16, 2015)

Whether it cannot said to be a change of opinion, if the AO at the first instance, has ignored the very particular binding statutory provision, that by itself, will be sufficient ground on which the assessment order could be re-opened.

[2015-TIOL-919-HC-KAR-IT](#)

M/s Mallige Medical Centre Pvt Ltd Vs JCIT (Dated: January 19, 2015)

Whether expenditure incurred towards higher education of a professional whose services would be available to the assessee in its business justify for allowance u/s 37(1) of the Act on the ground that there is direct nexus between the expenses incurred with the business, which the assessee is carrying on.

[2015-TIOL-915-HC-DEL-IT](#)

XL India Business Services Pvt Ltd Vs ITO (Dated: March 23, 2015)

Whether stay of demand be allowed to assessee for more than 365 days when its case could not be heard by tribunal till date for reason not attributable to the assessee.

[2015-TIOL-910-HC-MAD-IT](#)

CIT Vs Balaji Educational And Charitable Public Trust (Dated: March 24, 2015)

Whether based on loose sheets and cash seized and without making any enquiry it can be held that for all the assessment years the assessee received capitation fee for admission of students in the management quota - Whether the donations received by the assessee partake the character of capitation fee where there is no element of involuntary nature of donation and no investigation was done to show that any parent or student has complained about the nature of donation - Whether Trust would be entitled to the benefit of exemption u/s 11 where Chief Commissioner of Income Tax having jurisdiction over the case has notified under Section 10(23C)(vi) that there was no applicability of section 11 or 13 - Whether it can be said that assessee trust has violated the provisions of Section 13(1)(d), where with regard to seizure of cash from the chairman of the trust, the Assessing Officer had accepted the disclosure of the cash as the income of the individual.

[Also see analysis of the Order](#)

[2015-TIOL-909-HC-P&H-IT](#)

Sanatan Dharam Shiksha Samiti Vs CCIT (Dated: March 25, 2015)

Whether in case the income tax authority has not complied with the order of its higher authority in entirety, the order of assessment can be passed by such authority without considering such instructions. - **PUNJAB & HARYANA : HIGH COURT**

[2015-TIOL-908-HC-KAR-IT](#)

CIT Vs M/s Sapharishi Credit Co-Operative Society Ltd (Dated: March 20, 2015)

Whether provisions of Section 80P(4) of the Act, would apply to Cooperative Society - Whether the assessee who provides credit facility to its members would be counted as Co-operative Bank.

[2015-TIOL-907-HC-MAD-IT](#)

M/s Paridhan Exports Vs ACIT (Dated: March 18, 2015)

Whether if the assessee is engaged in money lending business, interest income forms part of its 'Business Income' since the assessee is also engaged in the business of

money lending or it has to be considered as 'Income from Other Sources'.

[2015-TIOL-906-HC-DEL-IT](#)

Riddhi Promoters Pvt Ltd Vs CIT (Dated: March 27, 2015)

Whether it is not sufficient that the identity of the share applicant or the creditor shall be established, but the assessee also has to further satisfy the Revenue as to the genuineness of the transaction and creditworthiness of the share applicant/individual who is advancing amounts.

[2015-TIOL-905-HC-MUM-IT](#)

CIT Vs Mumbai Metropolitan Regional Iron And Steel Market Committee (Dated: April 1, 2015)

Whether after grant of registration u/s 12A of Act from back date, assessments already done for previous years be de novo assessed for allowing exemption benefit.

[2015-TIOL-904-HC-DEL-IT](#)

Krishak Bharati Coop Ltd Vs CIT (Dated: April 6, 2015)

Whether a part of the relief granted to the assessee u/s 80-I could be withdrawn by taking recourse of section 154 - Whether the question that an assessee is entitled to deduction under section 80-I or not, is of debatable nature - Whether a mistake apparent on the record within the meaning of Section 154 must be an "obvious" and "patent" mistake and not something which can be established by a long drawn process of reasoning on points on which there may be conceivably two opinions.

[2015-TIOL-903-HC-KOL-IT](#)

Shri Krishnapada Chanda Vs CIT (Dated: March 31, 2015)

Whether no penalty can be imposed u/s 271D, when the findings have proved that the assessee was under a belief that there was a great urgency for taking a cash loan - Whether such urgency can be a reasonable cause, covered by Section 273B.

[2015-TIOL-902-HC-P&H-IT](#)

M/s Maken Cement Industries Vs CIT (Dated: April 6, 2015)

Whether if the assessee is following mercantile system of accounting, it can contend for the first time during the adjudication proceedings before Tribunal that the amount of transport subsidy actually received only has to be taxed.

[2015-TIOL-901-HC-ALL-IT](#)

M/s Hardayal Charitable And Educational Trust Vs CIT (Dated: March 27, 2015)

Whether a donation cannot be treated as income of the assessee, when the assessee is still in the process of constructing the building for charitable purpose, from such

donation.

[2015-TIOL-897-HC-DEL-IT](#)

Nortel Networks India International Inc Vs DDIT (Dated: March 25, 2015)

Whether HC should grant stay of demand beyond 365 days when case is pending before Tribunal for hearing and circumstances and the ends of justice so warrant.

[2015-TIOL-894-HC-MUM-IT](#)

M/s Punit Construction Company Vs CIT (Dated: April 1, 2015)

Whether when discrepancies are found in the claim of the assessee that in a short span of time it moved the wind mills from one location to another and installed them, depreciation can be disallowed - YES: HC

[Also see analysis of the Order](#)

[2015-TIOL-893-HC-MUM-IT](#)

CIT Vs Shri Manish D Innani (Dated: January 9, 2015)

Whether deduction u/s 88E deserves to be granted, when the amount of income tax on the income arising from taxable securities transactions referred u/s 88E(1) is equal to the amount calculated by applying the average rate of income on such income - YES: HC

Whether where total income in a previous year includes any income arising from taxable security transactions, the assessee will be entitled to deduction from the amount of income tax on such income arising from such transactions - YES: HC

[2015-TIOL-892-HC-MUM-IT](#)

M/s Hemant Traders Vs ITO (Dated: March 31, 2015)

Whether the occurrence of survey operations necessitate reassessment in every case - Whether in case neither the survey report nor any other material indicates that any income chargeable to tax for the relevant assessment year has escaped assessment, reassessment made u/s 147 is still valid.

[2015-TIOL-891-HC-MUM-WT](#)

Dynaent Air Systems Pvt Ltd Vs ITAT (Dated: January 9, 2015)

Whether the ITAT has jurisdiction to rectify mistakes which is not apparent on record and which is established by a long drawn out process of reasoning - NO: HC

Whether it is open to the Tribunal to rectify its order by deciding application of any provision, when the same is not urged before the Tribunal at the time of hearing - NO: HC

[2015-TIOL-890-HC-MAD-IT](#)

I Jaheer Ali Vs CIT (Dated: March 17, 2015)

Whether the CIT(A) has rightly passed the order dismissing the appeal preferred by the assessee for non-prosecution, if there is no representation for the assessee - Whether in the interest of justice, one more opportunity shall be given to the assessee.

[2015-TIOL-889-HC-AP-IT](#)

Deccan Industrial Products Vs ACIT (Dated: January 21, 2015)

Whether the income obtained from sale of license granted for procuring the raw material for manufacturing finished products for its exports, mean that the sale of advance license has nexus with the business of manufacturing and sale of finished product - Whether such income can be treated as income from business or it is incidental in nature.

[2015-TIOL-888-HC-AHM-IT](#)

Jinkal Dineshbhai Virvadiya Vs ACIT (Dated: January 23, 2015)

Whether the AO is justified in rejecting the application of the Assessee u/s 132B (First Proviso) in respect of seized of cash when there were inherent contradictions in the stand of the assessee regarding the source of the asset and the source of the asset was not explained.

[2015-TIOL-887-HC-KOL-IT](#)

CIT Vs Maithan International (Dated: January 21, 2015)

Whether an order can be passed u/s 263, merely on the basis that no enquiry has been made by the AO to analyse the creditworthiness of the assessee - Whether when payment by cheque does not establish the creditworthiness of the lender, mere examination of the pass-book or the bank statement or the letter of confirmation or the balance sheet of the lender is enough to prove the same.

[2015-TIOL-882-HC-MP-IT](#)

M/s M P Veener And Plywood P Ltd Vs CIT (Dated: February 25, 2015)

Whether when as per a state notification, the subsidies were given to the assessee to assist the new industries at the commencement of business in order to carry on their business, such payments would have to be considered as supplementary trade receipts - Whether the character of subsidy in the hands of recipient, whether revenue or capital will have to be determined, having regard to the purpose for which the subsidy is given - Whether for such determination, is the source of fund received, is material.

[2015-TIOL-881-HC-RAJ-IT](#)

CIT Vs Om Metals And Mineral (P) Ltd (Dated: January 13, 2015)

Whether the provision made by the assessee for meeting the liability incurred under the gratuity scheme would be entitled to deduction out of the gross receipts for the accounting year during which the provision is made for the liability - Whether if the historical trend indicates that large number of sophisticated goods were being manufactured in the past and if the facts established show that defects existed in some of the items manufactured and sold, in that case provision made for warranty in respect of the army of such sophisticated goods is entitled to deduction from the gross receipts u/s 37 .

[2015-TIOL-880-HC-MUM-IT](#)

CIT Vs M/s Karma Energy Ltd (Dated: March 18, 2015)

Whether when the AO has no evidence on record to establish that the price of windmills paid by the assessee was not the actual price or that the price was inflated, the addition can be made on the basis of a presumption that the cost of each windmill was inflated - Whether the payments made for sharing of utilities do attract the provisions of TDS under section 194C - Whether the AO is justified to make disallowance for non deduction of TDS u/s 40(a)(ia).

[2015-TIOL-879-HC-MAD-IT](#)

M/s Patco Investment And Consultancy Vs ACIT (Dated: February 2, 2015)

Whether loss incurred from sale/purchase of securities, by a company engaged in trading of stocks & shares, can be treated as business loss - YES: HC

Whether such loss can be disallowed u/s 14A by merely treating the transactions in shares as a transaction of dividend stripping, in absence of any provision warranting the same - NO: HC

[2015-TIOL-878-HC-MAD-IT](#)

Director Of Income Tax Exemptions Vs M/s Sri Arunachala Smaranamrutam Trust (Dated: January 5, 2015)

Whether Revenue is justified in refusing the grant of registration of Trust at the threshold itself.

[2015-TIOL-875-HC-ALL-IT](#)

CIT Vs M/s Auto Sales Properties (Dated: March 10, 2015)

Whether rental income derived by a partnership firm from its regular business of leasing out of properties, can be treated as 'income from house property' - NO: HC

Whether when property from which income has been derived is used as a business property and exploitation of such property is in the nature of business of assessee, the rental income so derived will be treated as 'income from business and profession' - YES: HC

[Also see analysis of the Order](#)

[2015-TIOL-872-HC-DEL-IT](#)

Acb India Ltd Vs ACIT (Dated: March 24, 2015)

Whether for the purpose of computing deduction u/s 14A, rule 8D encompasses average value of investments of which income is not part of the total income.

[2015-TIOL-871-HC-AHM-IT](#)

CIT Vs Gujarat State Police Housing Corporation Ltd (Dated: April 6, 2015)

Whether the interest temporarily earned on the grant received from the Government can be included in the income of the assessee.

[2015-TIOL-870-HC-MUM-IT](#)

CIT Vs M/s Gammon Rizzani JV (Dated: March 30, 2015)

Whether order passed by commissioner will be upheld when there is a vital discrepancy in the show cause notice issued u/s 263 of Act and the matters covered in final order.

[2015-TIOL-869-HC-KOL-IT](#)

M/s Binani Cement Ltd Vs CIT (Dated: March 23, 2015)

Whether when construction or acquisition of new facility is abandoned at the work -in-progress stage, such expenditure incurred results in any enduring advantage - Whether in case such expenditure, when written off in the books, has to be allowed as revenue expenditure u/s 37.

[2015-TIOL-868-HC-MUM-IT](#)

CIT Vs M/s B J Development Corporation (Dated: March 30, 2015)

Whether principal condition within the meaning of section 158BD of the Act, is not satisfied for want of inherent jurisdiction where block assessment of assessee is done for on money received by another person for project jointly undertaken with assessee.

[2015-TIOL-867-HC-MUM-IT](#)

Tata Business Support Services Ltd Vs DCIT (Dated: March 26, 2015)

Whether initiation of reassessment proceedings can be said to have been based on 'change of opinion', when it is clear from the assessment order that the AO has applied his mind while granting a deduction, which is sought to be reopened - YES: HC

Whether it is open to the AO to reopen any assessment without recording any basis for the same, when there is true and full disclosure of the material facts by assessee in compliance of the notice u/s 147 - NO: HC

[2015-TIOL-866-HC-MUM-IT](#)

Vimal R Ambani Vs DCIT

Whether for the purpose of computing the property income u/s 23, the ALV of 1/3rd share in the self occupied property has to be taken as the sum equivalent to the standard rent under the Rent Control Act - Whether at the time of determining the annual letting value in respect of properties which are subject to rent control legislation and in cases where the standard rent has not been fixed, AO could determine the same in accordance with the relevant rent control legislation.

[2015-TIOL-865-HC-MAD-IT](#)

CIT Vs K Jayakumar (Dated: March 4, 2015)

Whether in order to determine the value of construction of a property, CPWD rates of metropolitan cities can be applied to commercial-cum-residential complex constructed at small town.

[2015-TIOL-864-HC-MUM-IT](#)

CTO Vs M/s Ram And Co (Dated: March 16, 2015)

Whether the penalty cannot be imposed, merely on the ground that the assessee was not successful in substantiating its claim

[2015-TIOL-859-HC-DEL-IT](#)

CIT Vs M/s Malibu Estate P Ltd (Dated: March 18, 2015)

Whether the project completion method and the percentage completion method, both can achieve the same result - Whether addition made by the AO as deemed sales, stating that the assessee should have used appropriate method of accounting for revenue recognition, which was AS-7 is wrong, when the Revenue has accepted the method used by the assessee in previous years.

[2015-TIOL-858-HC-DEL-IT](#)

Canon India Pvt Ltd Vs DCIT (Dated: March 27, 2015)

Whether there is no bar for grant of stay, if the Court is of the opinion that the it would be in the interest of justice.

[2015-TIOL-857-HC-MUM-IT](#)

CIT Vs M/s Asgard Properties Pvt Ltd (Dated: March 30, 2015)

Whether the date of indexation must be reckoned as the date on which the final agreement was registered and not the date on which the flat was promised to be handed over to the Assessee, even when major payments have been made on that year and only a small sum remained to be paid.

[2015-TIOL-856-HC-MAD-IT](#)

CIT Vs Hackbridge Hewittic & Easun Ltd (Dated: March 4, 2015)

Whether a non-compete fee paid to assessee in relation to his cessation from certain manufacturing activities giving its exclusive right to the purchaser, can be taxed by treating it as purchase of goodwill - NO: HC

Whether transfer of some technical know how and other advantages by an assessee to the joint venture company (of which the assessee is a part) would constitute transfer of goodwill, if the assessee continues with its business using its own trade name & licenses - NO: HC

[2015-TIOL-855-HC-KERALA-IT](#)

Dr Hafeez Rehman Padiyath Vs DCIT (Dated: February 11, 2015)

Whether the Department cannot sought to modify the earlier arrangement for continuation of the stay against recovery of the balance amounts, when the appeals preferred by the assessee against the assessment orders have been pending consideration before the CIT(A) for over three years.

[2015-TIOL-854-HC-KERALA-IT](#)

IBS Software Services Pvt Ltd Vs UoI (Dated: March 20, 2015)

Whether proceedings u/s 147 initiated to reassess escaped income, beyond four years, is sustainable on the ground of assessee's failure to "fully and truly disclose all material facts" - NO: HC

Whether it is the duty of the AO to examine the claim of exemption u/s 10A sought by a newly incorporated company - YES: HC

Whether failure of the AO to examine such claim can be negated on the premises, that the assessee has not disclosed full and true disclosure of facts - NO: HC

Whether when the essential and basic documents necessary to be examined before grant of exemption, is not gone into, then only the AO will be the defaulting party, and not the assessee - YES: HC

Whether extension of limitation period of four years is warranted u/s 153, when there is no absence of full and true disclosure by the assessee at the time of grant of exemption u/s 10A - NO: HC

[2015-TIOL-849-HC-ALL-IT](#)

Arun Gupta Vs UoI (Dated: February 4, 2015)

Whether at the time of making reassessment, when all the primary facts have been disclosed, the assessee is further required to provide any further assistance by way of disclosure to the AO - Whether in case a notice u/s 148 has been issued without the jurisdictional foundation u/s 147 being available to AO, the notice and subsequent proceedings would be considered without jurisdiction and would be liable to be quashed - Whether fresh ground of appeal which is not part of the reasons to believe, can form the basis to initiate the re-assessment proceedings under Sections 147.

[2015-TIOL-841-HC-DEL-IT](#)

CIT Vs Indian Railway Finance Corporation Ltd (Dated: March 23, 2015)

Income Tax - capital recovery of leased assets - lease equalisation charges.

Whether when retrospective revision of rate of interest has occurred in the assessment year in question, the assessee will be entitled to claim these as a legitimate expense.

[2015-TIOL-840-HC-KERALA-IT](#)

G Sunilkumar Vs DDIT (Dated: March 6, 2015)

Income Tax - writ - Sections 143(3) & 153C

Keywords - cross examine - illegality of the search

Whether the appellate authority has to consider the request of the assessee for an opportunity to cross examine the witnesses and the Authorised Officer of the Department in accordance with the applicable provisions - Whether the assessing authority will have to first prove that it has the jurisdiction to initiate proceedings under Section 153A, before deciding the issue on merits, which shall be on the basis of such search conducted.

The assessee is an individual. A search was conducted and thereafter, the AO had passed an assessment order

[2015-TIOL-839-HC-KAR-IT](#)

CIT Vs M/s E 4 E Application Services P Ltd (Dated: February 16, 2015)

Income Tax - Sections 10A & 271(1)(c)

Keywords - CBDT Circular No.1 of 2005 - penlaty - reconstruction of business

Whether the benefit of Section 10A will still be available to the assessee even when an existing unit gets converted into a STPI unit.

[2015-TIOL-838-HC-KAR-IT](#)

CIT Vs M/s Daimler Chrysler Research & Technology India (P) Ltd (Dated: February 16, 2015)

Income Tax - Sections 10A, 80HHC & 80HHE

Keywords - interest income - total turnover

Whether the Assessing Authority has to exclude the expenses both on the total turnover as well as the export turnover, while computing deduction under Section 10A.

[2015-TIOL-837-HC-AHM-IT](#)

CIT Vs Chorwadi Mataji Mandir Trust (Dated: March 25, 2015)

Income Tax - Section 12AA.

Keywords: Trust - denial of registration - dissolution clause.

Whether if the trust deed does not provide for "dissolution clause", the Commissioner can deny registration under Section 12AA of the Act, even if objects of the trust are genuine in nature.

[2015-TIOL-836-HC-AHM-IT](#)

Shri Bhagwandas D Vachhani Vs ACIT (Dated: February 11, 2015)

Income Tax - Sections 68, 69 & 132(4)

Keywords: agricultural income - erroneous estimate - search - protective assessment - block assessment - cash deposits - advancing loan - inflation

Whether addition u/s 69 in the hands of assessee, an HUF, can be made on substantive basis - Whether while forming an opinion, the AO has to apply reasonable prudence but thereafter, if the reasonable prudence is applied and the opinion is formed, such would become the ultimate finding of fact as to whether the explanation can be treated as sufficient or not - Whether in case findings of fact by the lower appellate Court are based on evidence, the High Court in second appeal has the authority to substitute its own findings on reappraisal of evidence merely on the ground that another view was possible - Whether once the ultimate fact-finding Authority has arrived at the reasonable assessment of the income, we do not find that the same should be upset by undertaking the process of re-appraisal of the evidence.

[2015-TIOL-828-HC-DEL-IT](#)

Aroon Purie Vs CIT (Dated: March 27, 2015)

Income tax - Section 2(24), 10(17A) & 17.

Keywords - award - excellence in journalism - expression of recognition - income from other sources - prize money & revenue receipt.

Whether prize money received for excellence in journalism is an income - NO: HC

Whether such prize money can be taxed under the head 'Income from Other Sources' - NO: HC

Whether the nomenclature given to a payment is determinative of the true nature of the receipt - NO: HC

Whether prize money is a payment of personal nature akin to a gift which has no element of quid pro quo and is thus to be construed as capital receipt - YES: HC

Whether the provisions of Sec 10 come into play only when a receipt is determined to be revenue in nature - YES: HC

[Also see analysis of the Order](#)

[2015-TIOL-827-HC-MUM-IT](#)

CIT Vs M/s Santogen Silk Mills Ltd (Dated: March 25, 2015)

Income Tax - Sections 28(iv) & 41(1).

Keywords: waiver - one time settlement - loan - capital nature receipt.

Whether the principal amount of loans retained by the assessee on account of one time settlement, constitute its income as per section 28(iv) and not u/s 41(1) - Whether even if the waiver accrued as a taxable benefit in the hands of the firm, the loan waived can still be considered as of capital nature.

[2015-TIOL-826-HC-MUM-IT](#)

CIT Vs Dharamsi Moraji Chemicals Co Ltd (Dated: March 19, 2015)

Income Tax - Sections 32A, 37(4), 40A(5), 80I & rule 6B.

Keywords: Motor car - perquisite value - production incentives - exgratia payments.

Whether if the AO has worked out details on the basis of items disclosed in the Profit and Loss account once, it can raise any substantial question of law on review of the order as per the directions given by the Tribunal - Whether an addition can be made by the Assessing Officer on account of exgratia payments made to retiring employees.

[2015-TIOL-825-HC-KERALA-IT](#)

Set Free Churches India Vs CIT (Dated: March 12, 2015)

Income Tax - Section 12AA.

Keywords - application for registration - amendment deed - rectified the mistake.

Whether the registration denied will be against the interests of justice, when the defects pointed out by the CIT have been cured by the assessee and the CIT without consideration of such material that was produced by the assessee has passed an order.

[2015-TIOL-824-HC-KAR-IT](#)

CIT Vs M/s Kumergode Investments Ltd (Dated: January 13, 2015)

Income Tax - Section 263.

Keywords: reassessment of income - capital gain on sale of shares - stock in trade - solitary transaction.

Whether if the assessee has sold certain shares in a solitary transaction and the same was not treated as stock in trade, the income arising from sale of shares has to be assessed under the head 'Capital Gains'.

[2015-TIOL-823-HC-MAD-WT](#)

CWT Vs T V Sundaram Iyengar And Sons Ltd (Dated: March 19, 2015)

Wealth Tax - Section 27A

Keywords - Market Value - WDV

Whether written down value of the cars and jeeps can be taken as the market value for the purposes of wealth tax.

[2015-TIOL-817-HC-MAD-WT](#)

M/s South India Structural Vs DCWT (Dated: March 10, 2015)

Wealth Tax - Sections 40(1), (2) & (3).

Keywords: leasehold property - wealth tax - asset - land & building - immovable property - land appurtenant.

Whether the building as such, constructed on a leasehold property, could be termed as an asset in terms of Section 40(3) and, therefore, the net wealth of the company has to be determined in terms of Section 40 (2) for the purpose of levy of wealth tax under Section 40 (1) - Whether in case the value of the building alone is taken as composite value for the purpose of computation of value of land and building for wealth tax purpose, such computation can be challenged as illogical.

[2015-TIOL-814-HC-MAD-IT](#)

CIT Vs M/s Shriram Chits (Tamilnadu) Pvt Ltd (Dated: March 18, 2015)

Income Tax - bad debts - chit subscribers - loss

Whether the defaulted amount paid by the assessee shall be treated as a bad debt, when the Revenue has not denied that such payment made during business had resulted in a loss of the chit amount.

[2015-TIOL-809-HC-DEL-IT](#)

CIT Vs Radha Appearals Pvt Ltd (Dated: March 18, 2015)

Income Tax - Section 153C.

Keywords - non-existent entity - scheme of amalgamation.

Whether the assessment order of the original assessee will have any legal validity when it has been amalgamated to form a new entity and the original assessee has been dissolved.

[2015-TIOL-808-HC-MUM-IT](#)

CIT Vs Smt Shashikala M Shetty (Dated: March 17, 2015)

Income Tax - Sections 54EC & 54F.

Keywords - adventure in nature of trade - sale of property - stock in trade.

Whether even after the redevelopment and reconstruction, the assessee intends to enjoy the rental income as before by letting the units to tenants, then the sale of such property shall be treated as a capital asset.

[2015-TIOL-807-HC-KAR-IT](#)

M/s Vimal Constructions Vs ITO (Dated: January 29, 2015)

Income Tax.

Keywords - application of mind - hasty adjudication - medical certificate - notified defects - reasonable opportunity of being heard.

Whether in case there is lack of application of mind, non-consideration of the prayer for adjournment sought on medical ground by the advocate, even in that case denial of reasonable opportunity to the assessee would render the order passed as irrational, liable to be interfered with.

[2015-TIOL-806-HC-MUM-IT](#)

CIT Vs Yashwantrao Chavan Smruti Nyas (Dated : March 24, 2015)

Income Tax - Section 11.

Keywords - educational activities - exemption - search - seizure - trust.

Whether an assessment once completed, can be reopened merely on the basis that certain documents have been seized from the office premises of the assessee during search and seizure proceedings.

[2015-TIOL-805-HC-DEL-IT](#)

Krown Agro Foods Pvt Ltd Vs ACIT (Dated : March 27, 2015)

Income Tax - Sections 115JC, 143(3), 147, 148 & 153C.

Keywords - normal factory expenses - reassessment - reasons to believe - suspicion based assessment - wages.

Whether if the reasons to believe recorded do not show as to on what basis AO has formed a reasonable belief that a certain amount has escaped assessment, can the reassessment be made on the basis of suspicion only.

[2015-TIOL-804-HC-MUM-IT](#)

CIT Vs Sinhgad Technical Education Society (Dated : March 25, 2015)

Income Tax - Sections 11, 12A, 12AA, 132, 153A & 153C.

Keywords - Association of Persons - agricultural income - jewellery - special audit - seizure - search.

Whether the machinery provided u/s 153C read with section 153A equally facilitates inquiry regarding existence of undisclosed income in the hands of a person other than searched person.

[2015-TIOL-803-HC-P&H-IT](#)

M/s Jindal Steel And Power Ltd Vs CIT (Dated : March 2, 2015)

Income Tax - Section 281.

Keywords - application for stay - adjournment.

Whether stay of the relevant year, dependent upon the assessment for the previous years can be granted, if the assessee does not seek any adjournment whatsoever before the Tribunal in respect of the appeals filed by it pertaining to the previous assessment years.

[2015-TIOL-798-HC-MUM-IT](#)

CIT Vs Capetown Mercantile Co Pvt Ltd (Dated: March 17, 2015)

Income Tax - Sections 133A, 132(1) & 145(3).

Keywords: search - survey - rejection of books - associate concern - common order - partial relief.

Whether when the view of the Tribunal is in accord with its earlier factual conclusion, rejection of books could be considered as an attempt by the revenue to seek re - appreciation and re-appraisal of the facts already decided.

[2015-TIOL-797-HC-MUM-IT](#)

Gagan Trading Company Ltd Vs ITO (Dated: July 9, 2014)

Income Tax - Sections 143(2) & 148 - Constitution of India - Article 226.

Keywords - inordinate delay - reopening of assessment & time barred.

Whether AO can delay proceedings and subsequently plead helplessness by stating that assessment proceedings will become time barred if it is not completed before 31 st March - NO: HC

[2015-TIOL-794-HC-MUM-IT](#)

CIT Vs M/s Baba Promoters And Developers (Dated: March 17, 2015)

Income Tax - Sections 80IB(10), 143(3), 260A & 263.

Keywords - development and construction - residential project.

Whether if there is a n issue on which a specific view has been taken by the Tribunal itself, the Commissioner can invoke powers u/s 263 on the same issue, only to record a different view.

[2015-TIOL-793-HC-MAD-IT](#)

M/s Integrated Finance Co Ltd Vs JCIT (Dated: March 12, 2015)

Income Tax - Section 145.

Keywords - hire purchase agreement - interest - income accrued - sum of digits method - mercantile system.

Whether when at the time of assessing income from a hire purchasing transaction, it has been proved that Equated Monthly Installment method followed by assessee for the purpose of computing tax on interest did not show any suppression of income, it is still possible for the Revenue to contest that treatment followed.

[2015-TIOL-789-HC-MUM-IT](#)

CIT Vs M/S Bombay Dyeing And Manufacturing Company Ltd (Dated: March 19, 2015)

Income Tax

Keywords - loan - forward contracts - exchange fluctuation - cost of assets.

Whether gain arising out of settlement of forward contracts as per RBI guidelines, with authorised dealers, can be allowed to an assessee as capital receipts not liable to tax.

[2015-TIOL-788-HC-DEL-IT](#)

CIT Vs Microwave Communications Ltd (Dated: March 23, 2015)

Income Tax - Section 35ABB

Keywords: license fee - amortisation of expense - technical collaboration - telecommunications - paging services

Whether the licence fee payable by telecom service providers to the Department of Telecommunications, for the period prior to 31st July, 1999 is to be treated as a capital nature expenditure.

[2015-TIOL-787-HC-MUM-IT](#)

M/s Kumar Khandsari Works Vs CIT (Dated: March 11, 2015)

Income Tax - Section 36(1)(iii).

Keywords - Borrowings - Closure of Business - Interest.

Whether interest paid on borrowed fund is deductible u/s 36(1)(iii) of Act, when business for which funds were borrowed has already been closed.

[2015-TIOL-786-HC-MUM-IT](#)

CIT Vs Shri Rajendra Sahadev Dhurat (Dated: March 18, 2015)

Income Tax - Sections 2BA & 10(10C).

Keywords - Exgratia amount - VRS.

Whether assessee who received exgratia amount under VRS is entitled for deduction when he has taken benefit of exemption u/s 10(10C) of the Act.

[2015-TIOL-785-HC-MUM-IT](#)

CIT Vs Sabina Khan (Dated: March 10, 2015)

Income Tax - Sections 44AB, 68, 143(2), 144 , rule 46A(1).

Keywords: gifts - gross receipts - remand report - estimated profits.

Whether gift received by an assessee from her non resident sister can be considered as a gift given by a close relative who is a capable donor - Whether such gift received can be considered as income from undisclosed sources even if the assessee has produced sufficient evidence before the concerned authorities.

[2015-TIOL-784-HC-MAD-IT](#)

Southern Sizing Mills Vs DCIT (Dated: March 18, 2015)

Income Tax - Sections 143(1) & 143(2).

Keywords - weaving charges - one person signing - master weaver - rejection of books.

Whether books of accounts maintained by the assessee can be rejected merely on the basis that one person has signed invoices for wages on behalf of all the persons as per the industry practice followed - Whether in case the books of accounts were properly maintained and produced before the Department, it is possible for the Revenue to apply law of averages in order to determine expenses incurred by the assessee.

[2015-TIOL-783-HC-MAD-IT](#)

CIT Vs Jayprakash Ramchand Pol (Dated: March 17, 2015)

Income Tax - Sections 2BA & 10(10C).

Keywords - ex-gratia amount - Exit Option Scheme - Voluntary Retirement Scheme.

Whether the assessee who has retired under the Voluntary Retirement Scheme termed as "Exit Option Scheme" is entitled for deduction u/s 10(10C) read with section 2BA - Whether the same amount is required to be brought to tax, if the assessee had taken benefit of exemption under section 10(10C).

[2015-TIOL-782-HC-MAD-IT](#)

DCTO Vs A R Impex (Dated: March 4, 2015)

Income tax

Keywords - Quashing of Notice - Release of Goods.

Whether Revenue should make misc petition to HC for not passing an order to release of goods on receipt of tax, as Revenue always has liberty to take consequential action in default of payment of tax.

[2015-TIOL-781-HC-MAD-IT](#)

CIT Vs M/s Atlas Export Enterprise (Dated: March 17, 2015)

Income Tax - Section 32(1)(ia)

Keywords: additional depreciation - distribution of power - manufacture - production

Whether generation of electricity by windmill amounts to production of an article or thing - Whether in case such assessee has treated windmill as a separate business, can it be denied additional depreciation u/s 32(1)(ia).

[2015-TIOL-780-HC-MAD-IT](#)

Autolec Industries Ltd Vs JCIT (Dated: March 17, 2015)

Income Tax - depreciation - plant & machinery - energy saving devices

Whether in the absence of any specific material on the legal issue, there can be any dispute in the manner in which the issue of depreciation was considered by the assessing officer during the assessment proceedings - Whether the expenditure incurred on replacement of plant and machinery can be considered as capital in nature.

[2015-TIOL-779-HC-DEL-IT](#)

CIT Vs Jain Export Pvt Ltd (Dated: March 13, 2015)

Income Tax - Section 271(1)(c)

Keywords - loss on sale of shares - penalty - sale of shares

Whether Section 271(1)(c) does not compel the Revenue to initiate proceedings imposing penalty in all cases where findings were adverse against the assessee at a given point of time, leading to addition of amounts or disallowance - Whether the lack

of proper explanation undoubtedly justifies the addition however, the penalty proceedings required satisfaction of a higher threshold of proof, thus when confirmed the basis for it, ultimately cannot be faulted.

[2015-TIOL-778-HC-MUM-IT](#)

Plus Paper Food Pac Ltd Vs ITO (Dated: March 25, 2015)

Income tax - Sections 32(2), 143(3), 147 & 148

Keywords - bad debts written off - brought forward loss - long term capital gain - escaped assessment - reopening of assessment - reason to believe - scrutiny assessment & unabsorbed depreciation

Whether the expression 'reason to believe' u/s 147 can be interpreted arbitrarily, to reopen assessment on basis of mere "change of opinion" - NO: HC

Whether it is open for the AO to review the assessment, in the garb of reopening - NO: HC

Whether inconsistency and contradiction in the 'reasons' recorded for 'reopening of assessment', would undermine the want of "proper satisfaction" in terms of statutory provision of Section 147/148 - YES: HC

Whether reopening u/s 148 is justified, in case the "reason to believe" is founded on guess work or speculation - NO: HC

[2015-TIOL-777-HC-MUM-IT](#)

CIT Vs M/s Mul Health Care Products Ltd (Dated: March 17, 2015)

Income Tax - Section 158BC

Keywords - Block assessment proceedings - Bogus purchases - Raw material

Whether addition on account of bogus purchases can be made, based on loose sheets available with the assessee, when regular books of accounts and other documents reflect the said purchases.

[2015-TIOL-776-HC-HP-IT](#)

CIT Vs Ms Megha Dadoo (Dated: March 17, 2015)

Income Tax - Section 80IC

Whether the assessee can be said to be engaged in manufacturing of the product (Route Marker) for the purpose of deductions u/s 80IC when produced by the assessee was commercially different from its raw material and further, it is commercially known to be different in the market.

[2015-TIOL-775-HC-KAR-IT](#)

CIT Vs M/s Domicile Developers (Dated: March 6, 2015)

Income Tax - land developer - purchase - seller - burden of proof

Whether if assessee claims that he made the payment of a certain amount to sellers, which has also been accepted by the Revenue in the returns filed by such sellers, the Department can turn around and claim that the burden of proof of payment by the assessee has been shifted on the Revenue.

[2015-TIOL-774-HC-MAD-CUS](#)

M/s Blue Breeze Enterprises Vs Asst Commissioner of Customs (Dated: March 9, 2015)

Customs – Amendment of Shipping Bill – Speaking order - Opportunity was not given to the petitioner before passing orders and there is no speaking order at all, it is only a correspondence between the parties - The respondent ought not to have passed an order, without hearing the petitioner and he could have given an opportunity of hearing to the petitioner, before passing any order - Impugned order is set aside and the matter is remanded to the original authority. (para 6).

[2015-TIOL-770-HC-P&H-IT](#)

CIT Vs M/s Rajendra Construction (Dated: March 10, 2015)

Income Tax - Sections 143(3) & 263

Keywords - Fall in the gross profit - Prejudicial to the interest

Whether AO's order can be held as erroneous because he did not check certain parameters while assessing income of assessee.

[2015-TIOL-769-HC-AHM-IT](#)

Niko Resources Ltd Vs Uoi (Dated: March 24, 2015)

Income Tax - Sections 2(31), 80IA & 80IB(9) - The constitution of India - Articles 14 & 300A

Keywords: Production Sharing Contract - mining - extraction of minerals - contract area - block - contractor - undertaking - commercial production - mineral oil - natural gas - person - vested interest

Whether the insertion of Explanation to Section 80-IB(9) of the Income Tax Act, 1961 by Finance (No.2) Act, 2009 with retrospective effect from 1.4.2000 explaining the meaning of the term "undertaking" is unconstitutional and ultra vires to Article 14 of the Constitution of India - YES: HC

Whether the Explanation added to Section 80-IB(9) has levied income tax on all wells or cluster of wells and all undertakings, except the first one which commences commercial production for which still seven years tax holiday is available - YES: HC

Whether when the legislature has by inserting an Explanation widened the existing tax net which would be applicable for different periods depending upon the date of

starting commercial production, the same would be a substantive change that could only be construed prospective in operation, unless otherwise mentioned - YES: HC

Whether in absence of any specific definition of mineral oil under Section 80-IB of the Act, any reference to mineral oil in its natural, commercial and technical sense will include petroleum products and natural gas - YES: HC

Whether the expression "mineral oil" include and encompass within itself, both, petroleum products and natural gas - YES: HC

Whether a person can be deprived of his property merely by an executive fiat, without any specific legal authority or without the support of law made by a competent legislature - NO: HC

Whether in absence of contract, is there any vested interest which requires the continuance of a legislative policy however expressed in a system of taxation - NO: HC

Whether in case a unit is able to conduct or perform commercial production of mineral oil, it would become an undertaking irrespective of the fact it is engaged in production of the very same product - YES: HC

[Also see analysis of the Order](#)

[2015-TIOL-768-HC-DEL-IT](#)

New Delhi Television Ltd Vs DCIT (Dated: March 24, 2015)

Income tax - Beyond 365 days - Stay of Demand - Writ petition

Whether HC can grant stay of demand till the final disposal of appeal, which is pending before Tribunal.

[2015-TIOL-767-HC-MAD-IT](#)

CIT Vs Noorul Islam Educational Trust (Dated: March 20, 2015)

Income Tax - Writ - Section 127.

Whether transfer of the case of the Assessee by CIT u/s 127(2)(a) from one place to another was justified when for making effective assessment and also for having coordinate enquiry and investigation, such transfer is must and the same would not create any prejudice to the Assessee? Whether section 127(2)(a) is a machinery provision and the CIT is having power of transfer even without assigning any reason.

[2015-TIOL-766-HC-ALL-IT](#)

CIT Vs M/s Motilal Duli Chand (Dated: March 10, 2015)

Income tax - commission payment & commercial expediency

Whether any commission payment made by assessee can be disallowed on mere ground that such payment is not necessary - NO: HC

Whether such commission can be disallowed, in case it is clear that the amount of commission paid is not excessive in comparison to the nature of assessee's business - NO: HC

[2015-TIOL-765-HC-AHM-IT](#)

CIT Vs Nischay Fab Pvt Ltd (Dated: March 3, 2015)

Income Tax - Avoid Tax - Compensation to lessee - MOU

Whether Assessee's claim towards compensation to the lessee for cost of improvement can be allowed or be treated as payments made with a motive to avoid taxes.

[2015-TIOL-764-HC-AHM-IT](#)

CIT Vs Gujarat Urban Development Company Ltd (Dated: March 5, 2015)

Income tax - earlier decision - interest income & substantial question

Whether any substantial question of law can be said to arise, when it is found that the issue is already covered by earlier decision of the same Court - NO: HC

[2015-TIOL-763-HC-RAJ-IT](#)

CIT Vs Gems Paradise (Dated: February 18, 2015)

Income tax - Section 80HHC

Keywords - custom clearance - export of goods & sale to foreign tourist voucher

Whether declaration in the form of 'sale to foreign tourist voucher', for sale made against the convertible foreign exchange with the undertaking that the goods will not be gifted or sold in India, is sufficient proof for export out of India - YES: HC

Whether a proof of customs clearance of baggage is required to be provided to establish the export of goods out of India for the purpose of deduction of profits on such sales u/s 80HHC - NO: HC

[2015-TIOL-754-HC-DEL-IT](#)

CIT Vs M/s DD Industries Ltd (Dated: March 13, 2015)

Income Tax - Sections 36(1)(iii), 143(3).

Keywords - commercial expediency - legal obligation - security deposit - borrowed funds - business connection - interest.

Whether if an assessee is possessed with mixed funds which include its own funds in sufficient quantity, a general presumption has to be made that its own funds were utilized for giving advances - Whether in case it has been proved beyond doubt that adequate funds were available with the assessee for making advances, in the past the Revenue had accepted the assessee's plea in this regard and not brought the amounts

to tax u/s 36 (1) (iii), it can be subsequently brought to tax for no reason - Whether once it is established that there was nexus between the expenditure and the purpose of the business, which need not necessarily be the business of the assessee itself, can the Revenue claim otherwise.

[2015-TIOL-753-HC-RAJ-IT](#)

CIT Vs M/s Gem Plaza (Dated: February 16, 2015)

Income tax - Section 80HHC.

Keywords - convertible foreign exchange - clearance of baggage - export transactions - foreign tourist & sale of goods.

Whether declaration in the form of sale to foreign Tourist Voucher, for sale made against the convertible foreign exchange with the undertaking that the goods will not be gifted or sold in India, is sufficient proof for export out of India - YES: HC

Whether genuinity of such export transactions can be doubted only in case of doubt regarding clearance at Custom Stations - YES: HC

Whether proof of customs clearance of baggage must be provided to establish the export of goods out of India for the purpose of deduction of profits on such sales u/s 80HHC - NO: HC

[2015-TIOL-752-HC-MAD-IT](#)

M/s P&C Constructions Pvt Ltd Vs JCIT (Dated : March 12, 2015)

Income Tax - Writ - Keywords - stay application - TDS.

Whether the assessee cannot contend that the order passed in the stay petition is wrong, if it is willing to pay the entire arrears amount in instalments.

[2015-TIOL-748-HC-KAR-IT](#)

CIT Vs M/s Intel Technology India Pvt Ltd (Dated: March 3, 2015)

Income tax - Section 143(2).

Keywords - assessment - jurisdictional defect & non-existing entity.

Whether framing of assessment against the non-existing entity is a jurisdictional defect, and not a procedural irregularity which can be rectified - YES: HC

[2015-TIOL-747-HC-DEL-IT](#)

CIT Vs VRM India Ltd (Dated: March 18, 2015)

Income tax - Sections 80-IA(4) & 80-IB(10).

Keywords - contractor - development and building - exemption u/s 80-IB - housing

projects & turnkey projects.

Whether contracts for housing projects awarded to an assessee by the Government or its instrumentalities under turnkey projects, will be eligible for benefit of exemption u/s 80-IB - YES: HC

Whether such exemption u/s 80-IB can be denied to an assessee by holding that it had not developed a housing project, on mere ground that the said instrumentalities had paid for development of such project carried out by the assessee - NO: HC

Whether mere fact that the said instrumentalities owns such projects, would be sufficient for disallowing benefit of exemption u/s 80-IB - NO: HC

[2015-TIOL-744-HC-KAR-IT](#)

CIT Vs M/s Ankita Electronics Pvt Ltd (Dated: March 3, 2015)

Income Tax - Sections 40A(2), 68, 143(3), 147, 148, 260A, 271(1)(c).

Keywords - interest on loan - inaccurate particulars - penalty for concealment - remuneration - salary.

Whether if tax imposed on assessee is under challenge and the appeal filed by assessee against the assessment proceedings has been admitted by the High Court on the substantial question of law, the penalty of concealment of income u/s 271(1)(c) can still be imposed - Whether mere admission of appeal by the High Court on the substantial questions of law makes it apparent that the additions made to assessee's income are debatable.

[2015-TIOL-743-HC-MUM-IT](#)

CIT Vs Nrc Ltd (Dated: March 17, 2015)

Income Tax - Sections 36 (1) (vii) & 36 (2).

Keywords - Bad debts written off - Interest - Loan.

Whether when assessee is engaged in manufacturing activities, then bad debts written off can be allowed on the ground that loan was given in the normal course of business.

[2015-TIOL-742-HC-MAD-IT](#)

CIT Vs Shri Subba Reddy (Huf) (Dated: January 27, 2015)

Income Tax - Section 80IB(10).

Keywords - built up area - buyer of flat - car park area - common areas and facilities - ownership.

Whether car park area could be considered as 'built up area' of the residential unit for the purpose of computing deduction under Section 80IB(10) - Whether in case the provisions of section 80IB(10) were violated after completing a certain portion of the residential house property, deduction u/s 80IB can be allowed on proportionate basis.

[2015-TIOL-741-HC-MUM-IT](#)

CIT Vs M/S Tejaskiran Pharmachem Industries Pvt Ltd (Dated: February 18, 2015)

Income Tax - Sections 2(22)(e), 143(1)(a), 147, 148 & 150.

Keywords - deemed dividend - loans - reasons for reopening - reassessment.

Whether an assessment can be reopened merely on the basis that loans were taken by some companies without even indicating the manner in which these loans are hit by the provisions of deemed dividend - Whether such reassessment notice can be issued merely on the basis of directions of the CIT(A) - Whether even in case the assessment has been processed u/s 143 (1)(a) for the purposes of reopening of assessment, condition stipulated for invoking jurisdiction under Section 147/148 has to be satisfied.

[2015-TIOL-735-HC-MUM-IT](#)

CIT Vs M/s Johnson And Johnson Ltd (Dated: March 16, 2015)

Income Tax - Section 148

Keywords - Reassessment - Reopening - Sale at lower Price

Whether reassessment of case is valid when assessee has not been provided with reasons of reopening and hence it could not object to the same.

[2015-TIOL-733-HC-MAD-IT](#)

CIT Vs S K Usman Ali (Dated: February 25, 2015)

Income tax - Stock Book - Undervaluation of Stock.

Whether it is correct to delete the addition on the basis that the stock report furnished by the assessee though morally bad cannot be a reason for making the addition, particularly when in assessee's own case in respect of the earlier year on the similar set of facts, the matter has been remitted back to the authorities concerned.

[2015-TIOL-732-HC-MAD-IT](#)

CIT Vs M/s Stads Ltd (Dated: March 11, 2015)

Income Tax - Sections 28(iv), 47(iv), 144 & 148

Keywords: amalgamation - general reserve - perquisite - revenue nature transactions - combined share capital

Whether the amounts transferred by the assessee company to the General Reserve on amalgamation is to be considered as an amount in the nature of benefit or perquisite taxable u/s 28(iv).

[2015-TIOL-731-HC-AHM-IT](#)

CIT Vs Lincoln Pharmaceuticals Ltd (Dated: March 11, 2015)

Income Tax - Sections 80IB, 147 & 148

Keywords: SSI unit - reassessment of income - deduction u/s 80IB - investment - fixed assets - reopening of income

Whether if initiation of reassessment proceedings was done beyond the period of four years and there was no suppression and / or omission on the part of the assessee, such a reassessment is valid.

[2015-TIOL-730-HC-MUM-IT](#)

CIT Vs Thane Bharat Sahakari Bank Ltd (Dated: March 17, 2015)

Income tax - Face Value - Loss - Market Price

Whether disallowance of loss of shifting classified securities, is justified, when assessee's claim that based on RBI's circular it has written off difference between the purchase price and the face value of the security.

[2015-TIOL-724-HC-DEL-IT](#)

Toluna India Pvt Ltd Vs DIT (Dated: March 11, 2015)

Income Tax - extending interim stay - period of stay.

Whether extension of stay shall be granted, if the Tribunal is in the midst of hearing the appeal, and for the interest of justice that the stay order has to be granted till the disposal of the appeal.

[2015-TIOL-722-HC-DEL-IT](#)

CIT Vs Subrata Roy (Dated: March 17, 2015)

Income Tax - Sections 2(22)(e), 254(2)

Keywords: Deemed dividend - trade debt - loan or advance - lifting of corporate veil - credit balances - conduit or device - legal fiction - logical conclusion

Whether in order to attract provision u/s 2(22)(e), only loans advanced to registered shareholders could be considered for the purpose of recognising deemed dividend - YES: HC

Whether two separate transactions of loan, one by the firm in which the assessee is a partner, to the assessee and the other by a company, in which assessee is a MD, to that firm, can be considered as one transaction merely on the basis of book entries - NO: HC

Whether when there is no material on record to show that funds of such company

were utilized by the firm to advance loan to the assessee, provisions of deemed dividend can be applied on the basis of surmises only - NO: HC

[Also see analysis of the Order](#)

[2015-TIOL-721-HC-MUM-IT](#)

CIT Vs Synthetic Hydrocarbons (Dated: March 18, 2015)

Income Tax - assumption of cash component - consideration paid by cheque - cross examination - details of purchase

Whether when the AO accepts the sale transaction of the assessee then, consideration in respect thereof ought to have been accepted that the sum paid by way of cheque is the only component in the transaction.

[2015-TIOL-720-HC-MAD-IT](#)

CIT Vs Voora Property Developers Pvt Ltd (Dated : March 9, 2015)

Income Tax - Sections 80IB(10), 143(2) & 263

Keywords - CBDT Circular dated 4th May 2001 - condition of minimum area - eligible for deduction

Whether when the project fulfils the criteria for being approved as a housing project, then, deductions cannot be denied under Section 80IB(10), merely because the assessee had obtained separate plan permits for the six blocks - Whether once the project is approved in accordance with Development Control Rules, the assessee will be entitled to 100% deduction on the entire project approved by the Local Authority.

[2015-TIOL-719-HC-P&H-IT](#)

Haryana State Pollution Control Board Vs CIT (Dated: March 9, 2015)

Income Tax - Sections 10(23C)(iv) & 12AA

Keywords - appeals pending - entitled to exemption - stay application

Whether the assessee's stay application will be said to have not appropriately considered if the only ground on which it was rejected is due to the pendency of the appeal - Whether such rejection of stay on this ground is valid.

[2015-TIOL-712-HC-AHM-IT](#)

CIT Vs Jolly Fantasy World Ltd (Dated: March 9, 2015)

Income tax - Sections 132, 143(2), 158BC & 254

Keywords - additional ground - block assessment - proceedings u/s 158BC - undisclosed income & warrant authorization

Whether it is open to the Revenue to agitate questions regarding permissibility of additional grounds raised by assessee before the Tribunal, after final order is passed by the Tribunal - NO: HC

Whether failure of Revenue to controvert any material findings of the Tribunal by adducing contemporaneous record, can be treated as denial of opportunity by the Tribunal to the Revenue - NO: HC

Whether participation by the assessee in earlier round of litigation either before the AO or the Tribunal or consequently before the AO can operate as a bar to the assessee to challenge the jurisdictional authority of AO u/s 158BC - NO: HC

Whether block assessment u/s 158BC can be carried out, in the absence of any warrant of authorization in the name of assessee u/s 132 - NO: HC

Also see analysis of the Order

[2015-TIOL-711-HC-DEL-IT](#)

CIT Vs Crock Buildwel Pvt Ltd (Dated: March 11, 2015)

Income tax - Sections 68 & 69

Keywords - double treatment - investment - stock inventory & transaction of vendors

Whether findings made by the CIT (A) can be declared as inadvertant, if the CIT(A) before rendering his decision has himself additionally called for the returns for subsequent years as well as returns of the associate concerns - NO: HC

[2015-TIOL-710-HC-MUM-IT](#)

CIT Vs M/s J R Diamonds Pvt Ltd (Dated: March 11, 2015)

Income Tax - Borrowing - Interest paid

Whether interest free loans advanced by the assessee to its sister concern were for the business purpose without appreciating the fact that commercial expediency was not proved by the assessee.

[2015-TIOL-709-HC-RAJ-IT](#)

CIT Vs Jewels Emporium (Dated: February 16, 2015)

Income Tax - Section 80HHC

Keywords - Convertible foreign exchange - Foreign tourists - Proof of custom clearance.

Whether deduction u/s 80HHC of the Act can be allowed when there is no finding to the effect that the goods are cleared at any of the Customs station.

[2015-TIOL-708-HC-DEL-IT](#)

CIT Vs Lall Construction Co (Dated: March 9, 2015)

Income Tax - Section 44AD

Keywords - Average rate of profit - Books of Accounts - NP Rate.

Whether net profit rate can be estimated at lower than what has been claimed by the assessee on the ground that books of accounts has been rejected and average of the profit rate for previous years has been taken as base for determination.

[2015-TIOL-707-HC-RAJ-IT](#)

CIT Vs M/s Mangalam Arts (Dated: February 10, 2015)

Income Tax - Section 80HHC

Keywords - Custom clearance - Deduction - Foreign tourist.

Whether deduction can be allowed u/s 80HHC of Act, on the counter sales to foreign tourists when the assessee has failed to prove that the goods have undergone custom clearance.

[2015-TIOL-702-HC-AHM-IT](#)

CIT Vs Devendrasingh Delsingh Bhagtana (Dated: March 11, 2015)

Income tax - Sections 41(1), 68, 133(6), 142(1), 143(1) & (2).

Keywords - bogus liability - cessation of liability & sundry creditors.

Whether interference of a jurisdictional High Court is required in the matter of disallowance u/s 41(1), when the Tribunal therein has deleted any addition made such provision relying upon the decision of said High Court - NO: HC

[2015-TIOL-701-HC-PATNA-IT](#)

Hemant Kumar Ghosh Vs ACIT (Dated: February 5, 2015)

Income tax - Sections 69, 132, 143(2) & 158BC.

Keywords - block period - gifts - source of income & undisclosed income.

Whether the burden to offer satisfactory explanation as to the source of income remains with the assessee, even if the entries are in the name of the wife and children or any near relation of the assessee - YES: HC

[2015-TIOL-700-HC-DEL-IT](#)

CIT Vs Mahavir Concast Ltd (Dated: March 11, 2015)

Income Tax - Sections 36(1)(iii), 40A(2)(b), 115JB & 145(3).

Keywords: rejection of books - interest - gross sales - commission - loan.

Whether when the assessee is possessed of sufficient interest-free funds, and it lends money, in the absence of other material, it can be presumed that such interest-free funds would be invested or advanced as interest-free loans or advances.

[2015-TIOL-699-HC-PATNA-IT](#)

ACIT Vs M/s Bihar State Electronics Development Corporation Ltd (Dated: January 30, 2015)

Income Tax - Sections 36(1)(iii) & 43B.

Keywords - business purpose - interest on borrowed capital.

Whether interest on borrowed capital by the assessee is to be allowed, even if assessee has not charged any interest on the advances given by it, out of such borrowed funds if such advances are for business purpose - Whether such interest on borrowed funds by the assessee ought to be allowed as deduction under Section 36(1)(iii).

[2015-TIOL-698-HC-AHM-IT](#)

CIT Vs Chartered Speed Pvt Ltd (Dated: March 3, 2015)

Income Tax - Section 68.

Keywords - creditworthiness of purchaser - unexplained income.

Whether once the initial burden is discharged by the assessee, it would be for the Revenue to show that the transaction was bogus - Whether it can be said that the initial burden is discharged so far as explanation to be considered under section 68, if the person concerned is in existence and has actually paid the amount from his account by cheque.

[2015-TIOL-697-HC-MAD-IT](#)

Sunil Kapoor Vs CIT (Dated: February 25, 2015)

Income tax - Sections 2(22)(e), 143(1) & (2).

Keywords - advances to shareholders - deemed dividend & money lending business.

Whether two different transactions can be claimed to be treated as a single transaction, if both the transactions are done by a single entity - NO: HC

Whether loan & advances made by a company to its shareholder from the profit reserve account, would fall within the purview of Section 2(22)(e), if such company is not in the business of money lending - YES: HC

Whether such loan & advances are liable to be treated as "deemed dividend" - YES:
 HC

[Also see analysis of the Order](#)

[2015-TIOL-696-HC-PATNA-IT](#)

National Insurance Co Ltd Vs UoI (Dated: February 5, 2015)

Income Tax - Sections - 194A (3) (ix), 197.

Keywords: TDS - award - ad-interim compensation - Motor accident claim.

Whether in case, the interest component of the payment to be made on the basis of award of the Motor Accident Claims Tribunal exceeds Rs.50,000/- , payer is obliged to deduct TDS on the same - Whether in such circumstances, it is open to the District Judge to hold to the contrary.

[2015-TIOL-693-HC-KAR-IT](#)

Sri M Balakrishna Hegde Vs DCIT (Dated: January 20, 2015)

Income Tax - Section 132.

Keywords - Block assessment - Search.

Whether block assessment done is valid when assessee challenged the validity of Search conducted.

[2015-TIOL-692-HC-KAR-IT](#)

Jindal Praxair Oxygen Company Ltd Vs State Of Karnataka (Dated: February 5, 2015)

Income Tax - Writ - Sections 62 & 63.

Keywords - Ad-interim stay - Bank guarantee.

Whether assessee be allowed the stay for the payment of 50% of the disputed amount when Tribunal has power to grant stay even for higher amount.

[2015-TIOL-688-HC-RAJ-IT](#)

CIT Vs S Kasliwal And Company (Dated: February 18, 2015)

Income Tax - Section 80HHC

Keywords - exports - custom goods - convertible foreign exchange - counter sale

Whether for the purpose of availing deduction of profits u/s 80HHC, a proof of Customs clearance of baggage must be provided to establish the export of goods out

of India - Whether deduction u/s 80HHC in respect of counter sales made to the foreign tourists can be claimed, even if the assessee has failed to file any to the effect that the goods were cleared at any of the custom stations.

[2015-TIOL-687-HC-MUM-IT](#)

DIT Vs Bombay Panjrapole Trust (Dated: March 10, 2015)

Income Tax - Sections 11 & 115BBC.

Keywords - religious trust - anonymous donations - unidentified donors

Whether an assessee engaged in taking care of animals is to be considered as engaged in activities of charitable as well as religious nature - Whether exemption u/s 11 would be given to such an assessee, even in case it has received anonymous donations.

[2015-TIOL-684-HC-KAR-IT](#)

Syed Siraj Ahmed Vs CIT (Dated: January 5, 2015)

Income Tax – Sections 54F, 143(1)(a), 147 & 148.

Keywords - exemption – fair market value - capital gain.

Whether the AO had sufficient reasons to reopen assessment on the ground of over-valuation of property, when the AO after recording his opinion addressed a letter to the office of sub-registrar seeking more details on the date of issue of notice u/s 148 - YES - HC

Whether addition or improvements made on a habitable asset acquired by the assessee is liable for the benefit u/s 54F - Yes - HC

[2015-TIOL-683-HC-MUM-IT](#)

DIT Vs Fellowship Of Physically Handicapped (Dated: March 10, 2015)

Income Tax - Sections 11 & 12A.

Keywords - House Property - Rental Income.

Whether assessee's income is chargeable as business income or income from house property when assessee is renting out its property for advertisements and cell phone towers and also renting out the hall for marriages, party etc. as incidental to its main activity and not maintaining separate books of account.

[2015-TIOL-682-HC-MUM-IT](#)

CIT Vs M/s India Securities Ltd (Dated: March 9, 2015)

Income Tax - Sections 50 & 70(3).

Keywords - long term capital loss - non-performing assets - short term capital gains.

Whether depreciation on non-performing assets allowed in respect of non-performing assets in previous years, can be disallowed in the relevant year, when the revenue has not pointed out any reasons as to why the order of the Tribunal for earlier years should not be followed in this Assessment Year.

[2015-TIOL-681-HC-MAD-IT](#)

CIT Vs M/s Saiyana Warehouse Pvt Ltd (Dated : February 24, 2015)

Income Tax - Keywords - fiduciary relationship of landlord & tenant - income from warehousing.

Whether income from warehousing shall be charged under the head income from business only and not income from house property.

[2015-TIOL-680-HC-P&H-IT](#)

ITO Vs Sudesh Sharma (Dated: February 9, 2015)

Income Tax - Sections - Indian Penal Code - Sections 418, 465, 468 & 471.

Keywords - liable for criminal prosecution - preparing false documents - refund - TDS certificates.

Whether the mere fact that an assessee had prepared the income tax return on behalf of the 'main assessee', ipso facto, is not a ground, to hold assessee-accused guilty for the commission of pointed offences in the absence of 'main assessee' - Whether the assessee - Advocate, who has just submitted the income tax return on behalf of main assessee, cannot possibly be and indeed could not legally be held liable for criminal prosecution for procuring the documents by main assessee in order to attract the penal provisions of offences in question.

[2015-TIOL-679-HC-MUM-IT](#)

CIT Vs M/s Smsl-Uanrci (JV) (Dated: March 2, 2015)

Income Tax - Sections 143(3) & 153A.

Keywords - Contract Work - TDS - JV.

Whether income earned by the joint venture company can be taxed in the hand of one of the members of the assessee company.

[2015-TIOL-673-HC-ALL-IT](#)

CIT Vs Sh Sunil Chandra Gupta (Dated: March 11, 2015)

Income Tax - Sections 132B(1), 134, 234A, 234B & 234C.

Keywords - advance tax - adjustment - search and seizure.

Whether advance tax liability can be adjusted against the cash lying in the account of the Revenue which was seized from the assessee during search and seizure operation - YES - HC

Whether under such circumstances interest can be charged u/s 234A, 234B and 234C on the assessee for failing to meet its advance tax liability - NO- HC

[Also see analysis of the Order](#)

[2015-TIOL-672-HC-DEL-IT](#)

R L Traders Vs ITO (Dated: March 9, 2015)

Income Tax - Section 145(2).

Keywords - quantitative tally of ingredients - total turnover.

Whether the Department can reject the turn-over figures and make addition merely on an assumption that the assessee has not maintained quantitative details of ingredients.

[2015-TIOL-671-HC-MAD-IT](#)

CIT Vs M/s Roots Industries India Ltd (Dated : March 10, 2015)

Income Tax - Sections 80I, 80IA & 80IB.

Keywords - profit-linked incentives - deduction u/s 80IA - eligible business.

Whether in case, a set off has taken place in an earlier year against the other income of the assessee, the Revenue can rework the set off amount and bring it to tax on notional basis.

[2015-TIOL-670-HC-MAD-IT](#)

M/s Prasad Productions Pvt Ltd Vs DCIT (Dated : February 25, 2015)

Income Tax - Section 80IA.

Keyword - set off of losses.

Whether the loss in the year earlier to the initial assessment year already absorbed against the profit of other business cannot be notionally brought forward and set off against the profits of the eligible business even if there is no such mandate provided in section 80-IA(5).

[2015-TIOL-669-HC-DEL-IT](#)

CIT Vs Soyuz Industrial Resources Ltd (Dated: February 27, 2015)

Income Tax - Sections 143(1), 147, 148, 151, 153 & 292B.

Keywords - reissue of notice - lack of jurisdiction - reassessment - grant of sanction.

Whether for the purpose of making reassessment, Commissioner of Income Tax has the authority to sanction re-assessment proceedings through issuance of notice u/s 148.

[2015-TIOL-668-HC-DEL-IT](#)

CIT Vs Amit Jain (Dated: March 3, 2015)

Income Tax - Section 143(1).

Keywords - business income - short term capital gains - share income.

Whether when the Revenue has accepted assessee's contentions in the past years, it becomes necessary for it to point out some unique or distinctive material to differentiate the assessee's activities for the subject assessment year, in order to disallow the similar transaction.

[2015-TIOL-667-HC-AHM-IT](#)

CIT Vs Akar Laminators Ltd (Dated: March 3, 2015)

Income Tax - Section 144.

Keywords - best judgment assessment - failure to produce documents - examination.

Whether if a notice has been issued calling upon the assessee to produce certain documents, which the assessee has failed to produce, the AO is required to exercise its powers judiciously to examine and to find out to what extent, the disallowance could be made - Whether in such a case disallowance can be made without any discussion and on a mere ground that the assessee failed to produce the document in support thereof.

[2015-TIOL-666-HC-DEL-IT](#)

CIT Vs Tilak Raj Anand (Dated: March 11, 2015)

Income Tax - Sections 69A, 69C, 132(4A) & 153A.

Keywords - unexplained expenditure - search - residential property.

Whether in the absence of dates mentioned in the concerned pages of the seized notes, in view of the note "old account" at the end of the calculation, addition could be made during the course of block assessment - Whether such addition to the assessee's income is possible, even if no particular amount was attributable for a specified year.

[2015-TIOL-661-HC-MUM-IT](#)

M/s Yash Society Vs CCIT (Dated: March 12, 2015)

Income tax - Sections 10(22A), 10(23C)(iiia), 10(23C)(via) & Rule 2CA.

Keywords - benefit of exemption - generation of profit - philanthropic purpose & utilization of surplus funds.

Whether benefit of exemption u/s 10(23C) can only be granted to the institutions which cater to variety of illness and suffering as a service to the society and solely for philanthropic purpose and not for the purpose of profit - YES: HC

Whether achieving of huge surplus and the consequent utilization of such surplus funds to generate assets, is sufficient to draw an inference that the institution does not solely exist for philanthropic purposes - YES: HC

Whether any exemption granted for earlier A.Ys can be claimed to be of any consequence, for purpose of claiming the said exemption as a matter of right for subsequent A.Ys - NO: HC

Whether exemption u/s 10(23C) can be granted to an institution merely on basis of its memorandum, when the actual conduct of the institution is different from the objectives of memorandum - NO: HC

[Also see analysis of the Order](#)

[2015-TIOL-660-HC-MUM-IT](#)

CIT Vs M/s Godrej Agrovet Ltd (Dated: March 9, 2015)

Income Tax - Rule 8D.

Keywords - applicability of decision - expenditure on exempt income.

Whether the Department should follow the decision, when an identical issue of the same assessee had already been decided in which disallowance was limited to 2% of the exempt income and the same was held to be fair and reasonable.

[2015-TIOL-659-HC-MUM-IT](#)

CIT Vs M/s S M Construction (Dated: March 3, 2015)

Income Tax - Sections 45 & 271(1)(c).

Keywords: penalty for concealment - capital gains - inaccurate particulars of income.

Whether the disclosure of an amount made by the assessee as a part of its notes to accounts as well as a letter alongwith its claim of not being taxable along with the Return of Income, can be considered as a complete disclosure of all facts - Whether the fact that the explanation of assessee is not accepted in quantum proceedings would ipso facto become a reason to levy penalty for concealment on the assessee.

[2015-TIOL-658-HC-MAD-IT](#)

Premkumar K Khatri Vs ITO (Dated : February 18, 2015)

Income Tax - Sections 41, 143(3) & 153.

Keywords - cessation of liability - insufficient drawings.

Whether the AO needs to reopen the assessment of the year in which purchases were made from third parties to examine if such purchases were bogus or not, when credit balances are lying in the names of third parties for long number of years and no purchases are made by assessee from such parties - Whether reopening of assessment is necessary if Section 41(1) does not apply and it has to be determined how the credit balances shall be treated.

[2015-TIOL-657-HC-ALL-IT](#)

M K J Corporation Vs CIT (Dated: March 11, 2015)

Income Tax - Sections 44(A)(B), 80 HHC, 143(3), 147 & 148.

Keywords - manufacture - export - sale of scrap.

Whether proceeds earned from sale of scrap by an exporter although primarily engaged in the sale of shoe uppers can be included in the term of "turnover" - NO - HC

Whether assessment can be reopened in such a case when the matter pertains to merely accounting principles - No - HC

[2015-TIOL-656-HC-MUM-IT](#)

CIT Vs M/s Jagnandan Singh And Party (Dated: March 10, 2015)

Income Tax - Sections - 143, 147 & 148.

Keywords - Reopening of assessment - Source of Income.

Whether reopening u/s 147 of the Act is valid when the source of Rs. 7.6 Crores remained unidentified.

[2015-TIOL-655-HC-MUM-IT](#)

CIT Vs K F Bioplants Pvt Ltd (Dated: March 2, 2015)

Income Tax.

Keywords - condonation of delay - miscommunication - notice of motion.

Whether before seeking condonation of delay, Revenue would have to consider whether the condonation of delay would cause gross prejudice to the other side - Whether a n unintentional lapse on part of a litigant would normally cause the doors of

judicature permanently closed before him.

[2015-TIOL-654-HC-KAR-IT](#)

CIT Vs Industrial Hydraulics Pvt Ltd (Dated: March 3, 2015)

Income Tax - Sections 50B, 80-IA & 154.

Keywords - Capital Gain - Conversion of unit - Sale.

Whether assessee is entitled for claiming deduction u/s 80-IA when more than 20% of old plant and machinery were used in the reconstructed unit as contemplated under Sub-section (3) of Section 80-IA.

[2015-TIOL-653-HC-MUM-IT](#)

Bharat Sekhsaria Vs CIT (Dated: March 2, 2015)

Income Tax - Sections 154, 250, 253(1)(a), 271, 271A & 272A.

Keywords - additional grounds of appeal - rejection - non maintainable.

Whether if the grounds of Appeal taken by the assessee before Tribunal do not arise out of the order of the CIT (A) as the CIT (A) had dismissed these grounds in limine, Tribunal is also bound to disregard these grounds while passing its order.

[2015-TIOL-648-HC-DEL-IT](#)

CIT Vs Kei Industries Ltd (Dated: March 13, 2015)

Income Tax - Sections 2(45), 10B, 70, 71, 72, 80A, 80AB & 143(3).

Keywords: manufacture of cables - set off of losses - exemption - deduction.

Whether an assessee is entitled to set off losses incurred in the eligible unit u/s 10B with the positive income of the other non-eligible units - Whether the scheme of the Act relating to the charge of income tax makes it possible for any deduction to be allowed once the total income is determined.

[2015-TIOL-641-HC-MUM-IT](#)

M/s International Computers Indian Manufacture Ltd Vs CIT (Dated: March 12, 2015)

Income tax - Sections 32 & 35D

Keywords - amortization of preliminary expenses - capitalized expenditure - depreciation - issue of shares & reference jurisdiction u/s 256(1)

Whether depreciation on part of expenditure incurred on the issue of shares which

was later capitalised by the assessee can be claimed for deduction u/s 32 - NO: HC

Whether expenditure incurred on issuance of shares which were capitalised by the assessee can be equated with the expenditure incurred for installation of plant and machinery, for purpose of claiming depreciation u/s 32 - NO: HC

Whether it is feasible for the High Court to consider diverse aspects while exercising reference jurisdiction u/s 256(1), when the question referred by the Tribunal are specific in nature and cannot be artificially broadened - NO: HC

[Also see analysis of the Order](#)

[2015-TIOL-640-HC-MUM-IT](#)

CIT Vs M/s Srusti Diam (Dated: March 4, 2015)

Income tax - Sections 143(3), 147 & 148

Keywords - change of opinion - excessive labour charges - escaped assessment & reassessment

Whether reassessment u/s 147 can be treated as valid, in case no tangible material has been obtained warranting such reopening of assessment - NO: HC

Whether reopening during subsequent A.Y on the basis of a material can be sustained, in case the same material was assessed by the AO as accepted, during earlier A.Ys - NO: HC

[2015-TIOL-639-HC-MUM-IT](#)

CIT Vs M/s H V Axles Ltd (Dated: February 23, 2015)

Income Tax - Sections 43 & 47

Keywords - depreciation - 100% subsidiary of transferor company - transfer of shares

Whether the assessee will be allowed depreciation on the assets acquired from Tata Motors Ltd. at the cost at which they are acquired, without considering if the assessee continued to be 100% subsidiary of the transferor company or ceased to be 100% subsidiary of Tata Motors Ltd.

[2015-TIOL-638-HC-ALL-IT](#)

CIT Vs Smt Nirmala Keshwani (Dated: March 11, 2015)

Income tax - Sections 143(3), 153A & 153C

Keywords - proceedings u/s 153A - satisfaction of AO - search & seizure

Whether proceedings u/s 153A can be initiated, when the requirement of "due satisfaction" of AO has not been complied with - NO: HC

[2015-TIOL-637-HC-KAR-IT](#)

CIT Vs M/s Manipal Health Systems Pvt Ltd (Dated: March 9, 2015)

Income tax - Sections 133A, 192, 194-I, 194J & 201(1)

Keywords - consultancy charges - employer employee relationship - fees for professional services - payment to doctors - rent & TDS

Whether a professional consultant shall be deemed to be an employee of the company - NO: HC

Whether mere payment of consultancy charges to the doctors towards rendering their professional skill and expertise, is sufficient for establishing employer-employee relationship between the doctors & the hospital - NO: HC

Whether mere mentioning of non-competition clause in an agreement between consultant doctors and the hospital, will invalidate the nature of profession carried on by the doctors - NO: HC

Whether payment made to such doctors which is in the nature of professional fees, are liable to deduction u/s 192, in case the consultant doctors are not getting any salary - NO: HC

Whether such payments are liable to be taxed u/s 194J - YES: HC

Whether a conditional order issued by the CIT u/s 10(23C)(via), will absolve the assessee from its obligation to the deduction of TDS liability - NO: HC

Whether an obligation to deduct TDS u/s 194-I can be discharged, by foreseeing in advance the compliance or non-compliance of the exemption conditions as stipulated u/s 10(23C)(via) - NO: HC

Whether TDS liability u/s 194-I is dependent on the tax liability or entitlement to exemption of the recipient - NO: HC

[2015-TIOL-636-HC-MAD-IT](#)

M/s Nandhi Dhall Mills Vs CIT (Dated: February 16, 2015)

Income tax - Sections 269SS & 271D

Keywords - acceptance of loan in cash & penalty

Whether any loan availed in cash in contravention of section 269SS, is punishable with levy of penalty u/s 271D, in case there is no valid explanation for acceptance of loan in cash - YES: HC

[2015-TIOL-635-HC-DEL-IT](#)

Sunworld Infrastructure Pvt Ltd Vs ITO (Dated: March 5, 2015)

Income tax - Section 143(2)

Keyword - time barred notice u/s 143(2)

Whether a notice u/s 143(2) issued beyond expiry of six months from the date of filing original return, is valid - NO: HC

Whether mere transfer of record from jurisdiction of one ITO to another would constitute transfer of case u/s 127 - NO: HC

Whether notice u/s 143(2) issued by the ITO of a different jurisdiction before transfer of such records will be valid, for the purpose of determining limitation period u/s 143(2) - NO: HC

[2015-TIOL-626-HC-MAD-IT](#)

MR G Raveendran Vs CIT (Dated: February 18, 2015)

Income tax - Sections 10(3), 15, 17(1) & 28(va)

Keywords - capital receipt - employer employee relationship - non-competition fee - revenue receipt & salary

Whether a non-competition fee received by an assessee under a negative covenant or restrictive agreement was liable to be treated as capital receipt till 31st Mar, 2003 - YES: HC

Whether such non-competition fee can be taxed u/s 28(va) only w.e.f 1st Apr, 2003 - YES: HC

Whether any payment to an individual in lieu of the non-competition agreement in order to prevent such assessee from embarking on a similar business, can be treated as salary - NO: HC

Whether the said payment can be termed as salary u/s 17(1), even in the absence of a pre-condition of employer employee relationship on the required date - NO: HC

Whether compensation received under a non-competition agreement can be treated as payment in lieu of salary, whereby the assessee has restrained himself from setting up any business or joining any employment so as to open competition - NO: HC

[Also see analysis of the Order](#)

[2015-TIOL-625-HC-ALL-IT](#)

CIT Vs Smt Lata Ben Shah (Dated: February 10, 2015)

Income Tax - Sections 68, 131, 250(4) & Rules 46A

Keywords - Gift - Undisclosed income

Whether passing order based on additional evidence is justified without giving an opportunity to the AO to examine the same under Rule 46A of the Rules of 1962.

[2015-TIOL-624-HC-MUM-IT](#)

DIT Vs The Indo Italian Chambers of Commerce And Industry (Dated: March 3, 2015)

Income Tax - Sections 2(15) & 11

Keywords - Business Activity - Charitable Purpose - Trade fairs

Whether assessee is entitled for exemption u/s. 11 of Act, when assessee is involved in organize trade fair which is normally treated as business activity as not leading to any benefit to the general public at large.

[2015-TIOL-623-HC-MAD-IT](#)

CIT Vs M/s Saka Marketing Services P Ltd (Dated: February 24, 2015)

Income tax - business loss - capital expenditure - existing business - foreign exchange fluctuations - forward cover - new venture & revenue expenditure

Whether any financial outlay drawn under an agreement for better conduct and improvement of the existing business, is revenue expenditure and is an allowable deduction for computing business profits of the existing company - YES: HC

Whether an agreement with another company for increasing potential & profitability of existing business can be treated as a new establishment, if the same is entered for acquiring technical know-how pertaining to already existing product in the line of the established business - NO: HC

Whether any expenditure can be treated as capital expenditure, if the same is incurred for supplementing the existing business and for the purposes of improving the operations & efficiency of the existing business - NO: HC

[2015-TIOL-622-HC-MAD-IT](#)

M/s Lucas TVS Ltd Vs ACIT (Dated: February 4, 2015)

Income Tax - Sections 80IA & 80HHC

Keywords - scrap sale - total turnover

Whether the proceeds generated from the sale of scrap would not be included in the total turnover, for computing the deduction u/s 80HHC.

[2015-TIOL-621-HC-MUM-IT](#)

CIT Vs Smt Leonie M Almeida (Dated: February 24, 2015)

Income Tax - Sections 158BD, 220(2) & 245D(1)

Keywords - application for settlement - undisclosed income

Whether if the demand stands reduced under order of Settlement Commission, interest will undergo revision correspondingly - Whether the interest levied by AO under section 220(2) will not be valid from the date of his assessment order to the date of final order passed by the Settlement Commission.

2015-TIOL-620-HC-MUM-IT
CIT Vs KEC International Ltd (Dated: March 5, 2015)
Income Tax - Sections 80A & 80HHB
Keywords - clubbing of income/losses - individual projects
Whether the assessee was entitled to deduction under Section 80HHB in respect of each project instead of netting up of profits from all the overseas projects - Whether under such circumstances, the assessee can claim deduction under Section 80HHB without setting off all the losses suffered in other foreign projects.
2015-TIOL-619-HC-KAR-IT
M/s Himatsingka Seide Ltd Vs DCIT (Dated: November 14, 2014)
Income tax - Sections 10B, 32 & 80HHC
Keywords - depreciation - deduction u/s 10B unit - seperate unit & total turnover
Whether deduction u/s 10B is available only in respect of the profits and the same can not be ignored when the entity incurs loss - NO: HC
Whether once the assessee has determined the loss in the 10B Unit, is there any requirement for the assessee to reduce the turnover of 10B Unit from the total turnover for purpose of computing deduction u/s 80HHC - NO: HC
Whether the AO is obligated to grant depreciation u/s 32, irrespective of the assessee furnishing the details of depreciation claim, in case any Exzplanation inserted by the Legislature says so - YES: HC
2015-TIOL-618-HC-RAJ-IT
M/s Anoopgarh Kraya Vikraya Sahakari Samiti Ltd Vs ACIT (Dated: February 23, 2015)
Income Tax - Sections 271(1)(c) & 274
Keywords - LTCG - Penalty - Undisclosed Income
Whether penalty u/s 271(1)(c) can be imposed when the claim of the assessee is debatable and there is no specific finding that the assessee has submitted false or incorrect accounts.
2015-TIOL-617-HC-MUM-IT
Virendra Kumar R Banthia Vs CIT (Dated: March 5, 2015)
Income Tax - Sections 154, 234A, 234B, 234C & 245D(4)

Keywords - Interest Payment - Rectification of order

Whether Settlement Commission can have recourse to rectification proceedings u/s 154, so as to levy interest u/s 234A, 234B and 234C of the Act.

[2015-TIOL-616-HC-MAD-IT](#)

CIT Vs K Jayakumar (Dated: February 4, 2015)

Income Tax - Construction Activity - Cost of Construction - CPWD rates - DVO Report

Whether CPWD rates cannot be applied to the commercial-cum-residential complex constructed at Coimbatore on the ground that Coimbatore is a small town.

[2015-TIOL-615-HC-MAD-IT](#)

CIT Vs Shri N Sundararaman (Dated: February 17, 2015)

Income Tax - Section 115H

Keywords - Concessional rate of tax - Non Resident - Procedural and substantive requirements

Whether assessee is entitled to the concessional rate of tax u/s 115H when the assessee has not satisfied the procedural and substantive requirements under Chapter XII A of the Act.

[2015-TIOL-614-HC-MAD-IT](#)

CIT Vs N Arumugam (Dated: February 25, 2015)

Income Tax

Keywords - Business Income - LTCG - Real Estate business.

Whether gains arising from sale of land/housing plots is business profit or liable to be assessed under capital gains, when assessee is considered to be engaged in real estate business.

[2015-TIOL-613-HC-MAD-IT](#)

CIT Vs M/s Roots Multiclean Ltd (Dated: March 10, 2015)

Income Tax - Sections 80I, 80IA & 80-IB.

Keywords - business undertaking - tax deduction.

Whether assessee is entitled to claim deduction u/s 80-IA of the Act when their losses have already been set off against other income of the business enterprise.

[2015-TIOL-612-HC-MUM-IT](#)

CIT Vs Saffire Hotels Pvt Ltd (Dated: March 2, 2015)

Income Tax - Sections 45(2), 133A & 269UL(3).

Keywords - Capital Gain - Construction Work - Survey - Sale of Land - Stock in Trade.

Whether section 45(2) of Act can be invoked on sale of land which was claimed to be the capital asset of the assessee at the inception which later on converted into Stock in Trade in the business of construction - Whether AO should decide the year of conversion or treatment of land into stockintrade inspite of the fact that the assessee is involved in construction business and the land under construction has been purchased for construction business only. - Whether onus is on the AO to corroborate his assertion that there is cash component received by the assessee in sale transaction with the purchaser ignoring the documentary evidence fund during the course of survey u/s 133A of the Act.

[2015-TIOL-611-HC-MAD-IT](#)

CIT Vs Hackbridge Hewittic & Easun Ltd (Dated: March 4, 2015)

Income tax - Sections 28(va) & 55(2)(a).

Keywords - capital receipt - non-compete fee - transfer of goodwill & restrictive covenant.

Whether a non-compete fee paid to assessee in relation to his cessation from certain manufacturing activities giving its exclusive right to the purchaser, can be taxed by treating it as purchase of goodwill - NO: HC

Whether transfer of some technical know how and other advantages by an assessee to the joint venture company (of which the assessee is a part) would constitute transfer of goodwill, if the assessee continues with its business using its own trade name & licenses - NO: HC

[2015-TIOL-612-HC-MUM-IT](#)

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[2015-TIOL-605-HC-MUM-IT](#)

CIT Vs M/s Tolani Shipping Co Ltd (Dated: March 3, 2015)

Income Tax.

Keywords - Business Income - Interest Income - Income from Other Sources.

Whether interest income earned by assessee can be categorised partly under the head Income from Other Sources and partly as Business Income without establishing direct nexus with that of the assessee's business.

[2015-TIOL-604-HC-MAD-IT](#)

CIT Vs Prasanthi Entertainers Pvt Ltd (Dated: February 18, 2015)

Income Tax - Keywords - CBDT Instruction No. [2 of 2005](#) - monetary limit

Whether an appeal before the HC is only maintainable, when each case shall individually satisfy the monetary limits i.e exceeding Rs.4,00,000.

[2015-TIOL-600-HC-DEL-IT](#)

CIT Vs M/s Jansampark Advertising And Marketing (P) Ltd (Dated: March 11, 2015)

Income tax - Sections 68, 131, 147 & 148.

Keywords - AO's obligation - accommodation entries - commission paid on entry - discharge of burden - escaped assessment - genuineness of transactions - reassessment - share application money - unexplained credit & unaccounted income.

Whether any addition to the income of the assessee can be made u/s 68, in the absence of any discrepancy in the evidences - NO: HC

Whether such addition can be sustained, if the AO has failed to pursue the matter for further enquiry in relation to any disputed share application money - NO: HC

Whether recourse to Section 147/148 can be taken, in absence of any circumspection or tentative impression regarding any unexplained sums found credited in the books of accounts to be brought within the mischief of Section 68 - NO: HC

Whether assessee's burden to adduce proof of identity can be treated as discharged, merely because the AO has failed in his obligation to confront the assessee or provide sufficient opportunity of hearing - NO: HC

Whether an Appellate Authority is justified in closing the matter and simply allowing the appeal even after noticing want of proper enquiry, in case the AO has failed to discharge his obligation to conduct a proper inquiry - NO: HC

Whether the obligation to examine the genuinity of transactions shifts on the Appellate Authorities, in case of failure of the AO to fulfill his obligation and due procedure - YES: HC

Whether flow of transactions through banking channels, is sufficient to establish the satisfaction as to the creditworthiness of the parties or the genuineness of such transactions - NO: HC

[2015-TIOL-596-HC-DEL-IT](#)

JRD Stock Brokers (P) Ltd Vs CIT (Dated: March 4, 2015)

Income Tax - Sections 132(4) & 158BFA(2)

Keywords: penalty - undisclosed income - gross credits - turnover - weight formula - unexplained cash deposits - accommodation entries

Whether an estimation of income tax logically based upon inference drawn in the case of block assessment procedure is per se excludable from the ambit of the penal provision - Whether in case the determination of income during the course of block assessment was based upon a material discovered, in the form of statement made by the assessee u/s 132(4), which has radically changed the character of the income originally declared, such assessment of income can be considered as illegal in nature - Whether penalty u/s 158BFA(2) could be levied in respect of income which was not undisclosed income but was determined on the basis of estimation on the application of Weight Formula on gross credits in various bank statements considered as turnover.

[Also see analysis of the Order](#)

[2015-TIOL-595-HC-DEL-IT](#)

CIT Vs Wellworth Construction Udyog Ltd (Dated: February 25, 2015)

Income tax - Sections 68, 143(3) & 147

Keywords - adverse assessment - genuiness of share applicants - income u/s 68 - remand report & share application money

Whether any amount received by the assessee as share application money is sufficient

for invoking section 68, on mere basis of suspicion - NO: HC

Whether section 68 can be invoked on the share application money without proceeding any further inquiry, in case the remand report clearly reveals the genuinity of the share applicants - NO: HC

Whether any adverse assessment against assessee can be drawn, in absence of any adverse comments in respect of explanation furnished by the assessee pertaining to cash deposits found during F.Y in the bank accounts of assessee - NO: HC

[2015-TIOL-594-HC-MUM-IT](#)

CIT Vs Amravati District Central Cooperative Bank Ltd (Dated: February 24, 2015)

Income Tax - Section 80P(2)(a)

Keywords - Banking Activity - Commission -Collection of Bills - Deduction

Whether assessee is entitled to deduction u/s 80P(2)(a), being commission on collection of electricity bills from customers. - Whether assessee is entitled to deduction u/s 80P(2)(a) for commission derived from Cotton Hundi business even though such an activity is not carrying on the business of banking itself but an activity in addition to the activity of carrying on the business of banking.

[2015-TIOL-593-HC-P&H-IT](#)

CIT Vs M/s A B Sugar Mills Ltd (Dated: February 16, 2015)

Income Tax - Rule 8D

Keywords - Disallowances - Quantum - Prospective effect

Whether Tribunal can determine the quantum of disallowance without assigning any reason only on the basis that Rule 8D of the Rules which operate prospectively.

[2015-TIOL-592-HC-PATNA-IT](#)

Union Bank of India Vs Tax Recovery Officer (Dated: January 16, 2015)

Income Tax - Writ - Sections 26(3) & 226(3)(ix)

Keywords - Rent - Show cause Notice

Whether it is open to the Tax Recovery Officer to fix higher rent or rate of rent and realize the same by invoking his coercive powers under the provisions of the Act.

[2015-TIOL-591-HC-AHM-IT](#)

CIT Vs Bhavinkumar M Dagli (Dated: February 16, 2015)

Income Tax - Sections 139(5), 142(1) & 271(1)(c)

Keywords: concealment of income - penalty - reappreciation of evidence - additional income

Whether if the first appellate authority and the second appellate authority, after the consideration of evidence has found that there was no concealment of income, further scrutiny by way of reappreciation of evidence in the appeal before the High Court would be considered as valid in law.

[2015-TIOL-589-HC-DEL-IT](#)

M/s Mayur Recreational And Dev Ltd Vs CIT (Dated: February 13, 2015)

Income Tax - Section 22.

Keywords - annual letting value - construction of the property - municipal valuation - property used by Directors as residence.

Whether the annual letting value ('ALV') of the properties shall be based upon municipal valuation and not based on the cost of the construction of the property and value of the land to the assessee.

[2015-TIOL-588-HC-P&H-IT](#)

Manoj Kumar Singhal Vs CIT (Dated: February 12, 2015)

Income Tax - Section 271(1)(c).

Keywords: penalty for concealment - furnishing of inaccurate particulars - gift - donor.

Whether if an assessee has clearly declared gifts received from an outsider in the accounts books, the mere fact that the donor was not found at the given address, can be a ground to impose penalty for concealment as if there is a conscious concealment of income or an intentional furnishing of inaccurate particulars.

[2015-TIOL-587-HC-MAD-IT](#)

M/s Jyothy Laboratories Ltd Vs DCIT (Dated: February 23, 2015)

Income tax - Sections 35DD, 92CA(4), 142(1), 143(2), 220(6), 246A & 271(1)(c).

Keywords - ALP - AE - brand promotion fees - brought forward loss - capital gain - discretionary power - extraordinary writ jurisdiction - management fees - penalty

Whether assessee can seek stay for total outstanding demand by way of a direction from the jurisdictional High Court, when assessee itself has accepted partial stay in respect of such demand and the said order is in force - NO: HC

Whether Income tax Act contains any specific provisions which vest power in the authorities to grant stay under the Act or permit the assessee to pay tax in instalments - NO: HC

Whether where the authority after having satisfied with the facts and circumstances of the case, has treated the assessee as not a defaulter for a particular amount, the stay in respect of such amount has been impliedly granted - YES: HC

Whether interference by jurisdictional High Court in form of extraordinary jurisdiction is warranted, where the Tribunals are acting within the limits of the powers assigned to them by the Legislature in a justifiable manner - NO: HC

[Also see analysis of the Order](#)

[2015-TIOL-586-HC-MAD-IT](#)

CIT Vs M/s Colorplus Fashions Pvt Ltd (Dated: March 2, 2015)

Income Tax - Sections 80IA, 80IB & 143(3)

Keywords: job work - deduction - manufacture

Whether an assessee who gets the work done by a job worker can claim to be an industrial undertaking - Whether deduction u/s 80IB can be denied to an assessee in case the assessee does not manufacture any goods by itself, but gets the same manufactured by others on job work basis.

[2015-TIOL-585-HC-DEL-IT](#)

CIT Vs Nishi Mehra (Dated: February 19, 2015)

Income Tax - Sections 142A & 153A.

Keywords: DVO - valuation officer - handicrafts - exports - declared value - understatement of income.

Whether ITAT has rightly interpreted scope, power and jurisdiction of the Assessing Officer in block assessment proceedings and the term "undisclosed income" - Whether in absence of any incriminating evidence that anything has been paid over and above than the stated amount, the primary burden of proof is on the Revenue to show that there has been an understatement or concealment of income - Whether the opinion of the DVO, per se, is an information and can be relied upon in the absence of other corroborative evidence.

[2015-TIOL-584-HC-DEL-IT](#)

CIT Vs Ansal Land Mark Township (P) Ltd (Dated: March 2, 2015)

Income Tax - Section 143(3)

Keywords: AS 9 - AS 7 - borrowing cost - method of accounting - guidance note issued by ICAI

Whether the guidance note issued by ICAI in a previous year can be the basis of addition made by the AO in the current financial year - Whether in case assessee has failed to provide for borrowing cost in the accounts, could the same be considered as a valid method of accounting.

[2015-TIOL-583-HC-MUM-IT](#)

CIT Vs M/s Krishna Capbox (P) Ltd (Dated: February 23, 2015)

Income Tax - Sections 133(6), 143(1), 143(2) & 263.

Keywords: enquiry - investment - survey - fixed assets - confirmation

Whether if a query is raised during assessment proceedings and responded to by the assessee, the mere fact that it is not dealt with in the Assessment Order, would lead to a conclusion that no mind had been applied to it.

[2015-TIOL-574-HC-DEL-IT](#)

Joint Investments Pvt Ltd Vs CIT (Dated: February 25, 2015)

Income Tax - Section 14A& Rule 8D

Keywords: interest - tax - refund

Whether, for the purpose of Sec 14A read with Rule 8D, there can be a situation where disallowance of expenditure can swallow the entire tax exempt income - NO: HC

Whether when the assessee itself has made some disallowance of expenditure in relation to dividend income, the AO can make greater disallowance without rejecting the computation of the assessee - NO: HC

[Also see analysis of the Order](#)

[2015-TIOL-573-HC-DEL-IT](#)

Bikram Singh Vs DCIT (Dated: February 27, 2015)

Income Tax - Writ - Sections 156, 220(6) & 226(3)

Keywords - Garnishee order - Undisclosed Income

Whether order of Revenue to the bank of assessee, to make payment of 50% of tax due from assessee, is justified, when appeal against the order of AO is pending before CIT(A).

[2015-TIOL-572-HC-DEL-IT](#)

CIT Vs Indian Farmer Fertilizer Co-Operative (Dated: March 3, 2015)

Income tax - Sections 143(1) & 244A

Keywords - advance tax payment - delayed payment of interest & income tax refund

Whether an assessee aggrieved by the delayed payment of income tax refund can claim interest, over and above the statutory interest payable u/s 244A - NO: HC

Whether a decision of Supreme Court dealing with any facts of a case prior to the insertion of Section 244A, can be considered as a binding authority in section 244-A related matter - NO: HC

[2015-TIOL-571-HC-MAD-IT](#)

CIT Vs M/s Thiru Arooran Sugars Ltd (Dated: February 24, 2015)

Income Tax - Section 254

Keywords - Miscellaneous Petition - Rectification

Whether application for rectification u/s 254, filed well within time becomes infructuous if the Tribunal takes it up for hearing only after the lapse of four years from the date of the order sought to be rectified.

[2015-TIOL-570-HC-MUM-IT](#)

Balwas Realty And Infrastructure Pvt Ltd Vs CBDT (Dated: February 20, 2015)

Income Tax - Sections 80IA(4) & 143(3).

Keywords: Stay - grant of personal hearing - CBDT approval - project - exemption

Whether in order to claim benefit of exemption u/s 80IA, applicant must be able to show on the face of it that the conditions of exemption have been completely satisfied by him - Whether conduct of assessee in putting before the Adjudicating Authority, figures which when confronted were substituted with new figures, application for stay filed by the assessee has to be entertained.

[2015-TIOL-569-HC-ALL-IT](#)

CIT Vs UoI (Dated: February 25, 2015)

Income Tax - Writ - Sections 158BC(c), 245-C & 245-D(4)

Keywords - Search operation - Undisclosed income

Whether order of settlement commission is illegal when it is passed without looking into the record and giving opportunity to parties.

[2015-TIOL-568-HC-ALL-IT](#)

CIT Vs M/s U P State Industrial Development Corp Ltd (Dated: February 2, 2015)

Income Tax - Sections 43B & 263

Keywords: disallowance u/s 43 - non application of mind.

Whether CIT is competent to exercise jurisdiction u/s 263 without appreciating the

fact that there is a prima facie case of disallowance u/s 43B which had left to be considered by AO.

[2015-TIOL-567-HC-AHM-IT](#)

DCIT Vs Inox Leisure Ltd (Dated: February 16, 2015)

Income Tax

Keywords - capital receipt - entertainment tax - revenue receipt.

Whether if the question which arises for consideration is already covered by a decision of the High Court, then no substantial question will arise for consideration, more particularly, when the judgment of the High Court is not stayed by the Apex Court.

[2015-TIOL-565-HC-P&H-IT](#)

CIT Vs Narender Kumar Gupta (Dated: January 8, 2015)

Income Tax - Sections 40(a)(ia), 40A(3), 69C & 194C.

Keywords: bogus transactions - net profit rate - contractor - construction

Whether when the Tribunal has abruptly directed AO to apply a net profit rate, without considering material collected, relevant facts and factors referred to by the AO, such an order passed by the Tribunal would be held as legal which is passed without assigning any ostensible reason.

[2015-TIOL-564-HC-MAD-IT](#)

Sanmar Speciality Chemicals Ltd Vs DCIT (Dated: February 18, 2015)

Income tax - Sections 115JB & 234B

Keywords - book profit - default - interest & payment of advance tax

Whether interest u/s 234B becomes leviable for default in payment of advance tax, when the book profit of a company is computed u/s 115JA - YES: HC

[2015-TIOL-563-HC-MAD-IT](#)

CIT Vs M/S Samrat Towers Consultants Pvt Ltd (Dated: February 17, 2015)

Income tax - Sections 80-0 & 263

Keywords - invocation of section 263 - maintainability of dispute - net tax effect & tower testing activity

Whether disputes relating to invocation of Section 263 on the tax liability pertaining to tower testing activities are maintainable before the High Court, in case the tax effect in such dispute is less than Rs. 4 lakhs - NO: HC

2015-TIOL-558-HC-DEL-IT
CIT Vs Raj Kumar Jain (Dated: February 20, 2015)
Income Tax - Keywords - market value - intervening death of original owner - sale deed
Whether the valuation of land will be upheld as per the original agreement of sale, even when the LRs of the owner, apparently refused to honour the agreement which eventually forced the purchaser to shell out the further amount mentioned in the original agreement, inspite of substantial amounts been paid earlier - Whether the present market value of such property will play any role, when the parties of such agreement, had ultimately agreed to abide by the statement recorded by the court during the year of original agreement, entered into.
2015-TIOL-557-HC-MAD-IT
CIT Vs M/s S S M Estates Ltd (Dated: February 24, 2015)
Income Tax - Business Income - Rental Income
Whether Godown/Warehouses rents received by the assessee are to be treated as business income or income from house property when assessee is involved in warehousing field.
2015-TIOL-556-HC-MAD-IT
Sancheti Motors Ltd Vs ITO (Dated: February 18, 2015)
Income tax - Sections 271(1)(c) & 271B
Keywords - delayed filing of audit report & penalty
Whether imposition of penalty in case of delayed filing of audit report is mandatory - NO: HC
Whether levy of such penalty is warranted, in case the delay is not intentional on part of the assessee - NO: HC
2015-TIOL-555-HC-AHM-IT
State Of Gujarat Vs Deluxe Tyre Retrading Co (Dated: January 16, 2015)
Income Tax - Sections 45(6) & 54
Keywords - Interest - Penalty - Refund
Whether interest u/s 54 is payable on refund arising from the the modified assessment - Whether Tribunal can exercise discretion in reducing the penalty amount when assessee has already paid principal amount of tax u/s 45(6).
2015-TIOL-554-HC-P&H-IT
M/s Piyush Shelters India Pvt Ltd Vs CIT (Dated: January 6, 2015)

Income Tax - Section 127.

Keywords: transfer of jurisdiction - reasonable opportunity of being heard - notice.

Whether in case a reference filed by the assessee give rise to an inference that the assessee was aware of a proposal to transfer jurisdiction, would this inference absolve the Revenue authority of its obligation to disclose the particulars of the proposed transfer to the assessee.

[2015-TIOL-553-HC-P&H-IT](#)

Nagesh Aggarwal Vs DDIT (Dated: February 9, 2015)

Income Tax - Section 27(1)(c) - Code of Criminal Procedure, 1973 - Section 482

Keywords - application for settlement - grant of immunity - making false statement - penalty - undisclosed income

Whether any penalty can be levied on the assessee, when there is already a continuation of criminal proceedings in relation to the same proceedings - Whether such penalty proceedings will be an abuse of process of law.

[2015-TIOL-551-HC-MAD-IT](#)

Raj Hans Towers Pvt Ltd Vs CIT (Dated: January 27, 2015)

Income Tax - Sections 132(4), 133A, 260A.

Keywords - construction - conclusive evidence - real estate - survey - search - surrender of income.

Whether in case, surrender of income made is in respect of a certain portion of receipt which has remained undisclosed in any of the contentions raised by the assessee before the lower authorities, the assessee would be able to defend itself before the High Court on the plea that surrender was not done voluntarily.

[2015-TIOL-550-HC-MAD-IT](#)

M/s Panasonic India Pvt Ltd Vs CCIT (Dated : February 12, 2015)

Income Tax - Writ - Keywords - interim order of stay - non-speaking order.

Whether the Department needs to consider the representation of the assessee, before passing the final orders on merit.

[2015-TIOL-549-HC-DEL-IT](#)

CIT Vs Shokeen Properties Pvt Ltd (Dated: February 18, 2015)

Income Tax - Sections 68, 133(6).

Keywords - advances - evidences - undisclosed income - unexplained cash credit.

Whether when the assessee has filed sufficient evidence, which are detailed enough in order to discharge its primary onus in terms of sec 68, addition on account of unexplained credit can still be warranted - Whether technical rules of evidence are applicable to income tax proceedings also - Whether attested photocopies, duly signed are admissible as evidence or they can be rebutted by AO on assumptions and sweeping observations.

[2015-TIOL-546-HC-ALL-IT-LB](#)

CIT Vs Muzafar Nagar Development Authority (Dated: February 5, 2015)

Income Tax - Sections 11, 12AA(2), 22(1), 250 (6A), 253(1)(c) & 254(2A).

Keywords: registration - deeming fiction - public functionary - Artificial Juridical Person - charitable trusts - 'shall' - 'may' - directory - mandatory.

Whether a legislative provision can be rewritten by referring to the notes on clauses which constitute background material to amplify the meaning and purport of a legislative provision - Whether while interpreting a provision, the Court has the power to introduce a deeming fiction where none has been provided - Whether when a public functionary is required to do certain thing within a specified time, the same is ordinarily directory in nature - Whether when the CIT has not disposed of the application of the assessee u/s 12AA within a period of six months, the registration would be deemed as granted to the trust.

[2015-TIOL-545-HC-MAD-IT](#)

M/s Kody Elcot Ltd Vs JCIT (Dated: February 10, 2015)

Income tax - Section 69C.

Keywords - deposits in current account - income of electro medical maintenance centre - service charges receipt - trading receipt & unexplained deposit

Whether income from "deposits in the current account" in Indian Overseas Bank can be treated as trading receipt, even if such deposits are accepted by the Directors of the Company as unexplained - NO: HC

Whether an unexplained income is required to be added to the total income of assessee, if it was not offered as income in the relevant A.Y - YES: HC

Whether service charges accrued and received by assessee on installation & commission of equipment for the relevant A.Y is liable to be added to income of assessee, in case the assessee is following mercantile system of accounting - YES: HC

[Also see analysis of the Order](#)

[2015-TIOL-544-HC-KERALA-IT](#)

K A Santhosh Kumar Vs UoI (Dated : January 9, 2015)

Administrative Tribunals Act, 1985.

Keywords - recruitment rules - extensive use of information technology.

Whether when restructuring of a department is carried out based on the institutional need to augment the productivity of that department, the prime requirement is the paramount public purpose sought to be achieved rather than a critical examination on the basis of relative and comparable personal aspirations of employees - Whether in case a rational and reasonable balance is struck in the modality adopted for restructuring, the judiciary could interfere with such process primarily because such restructuring is a matter purely in the realm of administration.

[2015-TIOL-543-HC-MAD-IT](#)

CIT Vs Smt K Indira (Dated : February 23, 2015)

Income Tax - Sections 80I, 80IA & 80IB.

Keywords: brought forward losses - deduction - set off of losses - reopening assessment - profit linked incentives.

Whether in order to compute deduction u/s 80-IA/80-IB in respect of profits derived from eligible business, ownership of that business is a necessity stipulation which only attracts the incentives - Whether once the set off is taken place in earlier year against the other income of assessee, can the Revenue rework set off amount and bring it to tax on notional basis - Whether it is required that losses or other deductions which have already been set off against the income of previous year should be reopened again for computation of current income u/s 80-I for the purpose of computing admissible deductions.

[2015-TIOL-542-HC-MUM-IT](#)

Mrs Komal Wazir Vs DCIT (Dated: February 23, 2015)

Income Tax - Sections 69, 158B, 158BA & 158BB.

Keywords - unexplained investment - jewelery - block assessment - purchase invoices - personal expenses.

Whether when assessee is able to satisfy the condition precedent in Section 158BB(1)(c)(B), the income can be reduced in determining the aggregate of the total undisclosed income for the block period - Whether at the time of marriage ceremony, the mere explanation by assessee that she has received the jewelery as gifts from her father and father-in-law is to be considered as a sufficient explanation of the jewelery in her possession - Whether invocation of Section 69 in these circumstances is completely unwarranted.

[2015-TIOL-541-HC-DEL-IT](#)

CIT Vs H P Goel (Dated: February 18, 2015)

Income Tax - Section 158BD.

Keywords - invalidity of notice - liability of assessee's father - Satisfaction Note - undisclosed income.

Whether Satisfaction Note and notice under Section 158BD, issued to the assessee

was valid, when amount received by the assessee on the father's behalf cannot be determinative in the facts and the books of purchaser showed that only a fraction of that sum was disclosed as sale consideration.

[2015-TIOL-540-HC-ALL-IT](#)

CIT Vs M/s Barnala Steel Industries Ltd (Dated: February 18, 2015)

Income Tax - Sections 145A, 147 & 148.

Keywords - Commission -Income escaped assessment -Re assessment.

Whether in the absence of any information received by the AO regarding escapement of commission income during the course of proceedings under Section 147, he can frame an opinion that assessee has escaped assessment of commission income on the ground that while making a fresh assessment of the entire income, he can also reconsider the question of claiming deduction on the commission paid by the assessee.

[2015-TIOL-536-HC-DEL-IT](#)

CIT Vs M/s Oriental Structural Engineers Pvt Ltd (Dated: February 10, 2015)

Income Tax – Section 2(31)

Keywords - Association of person.

Whether for the purpose of income tax, a proportion of the project receipts, commensurate with the risks/performance obligations, should be attributed to the assessee JV to whom tender had been awarded for the project and undertook significant risks and responsibilities for the completion of the project – Whether when the JV constituents are already taxed at maximum marginal rate, the AOP would again be liable to be taxed.

[Also see analysis of the Order](#)

[2015-TIOL-535-HC-DEL-IT](#)

CIT Vs M/s Indian Iron & Steel Co Ltd (Dated: February 13, 2015)

Income Tax - Sections 143(3), 147, 148, 154

Keywords: reopening - loss making company - contingent liability - reassessment

Whether the initiation of reassessment proceedings merely on the basis of audit report objections is permissible in law - Whether in case it is evident that same reasons which were the basis for proceedings u/s 147, were also the foundation for an admitted rectification u/s 154, reassessment can be made.

[2015-TIOL-534-HC-DEL-IT](#)

Tulip Engineering Pvt Ltd Vs ITO (Dated: February 9, 2015)

Income Tax - Sections - 143(2) & 147.

Keywords - Bogus transactions - Reassessment proceedings.

Whether onus of proof about the correctness of transaction of shares is complete, when assessee establishes the identity of the share applicant or investor.

[2015-TIOL-533-HC-MUM-IT](#)

Zulftkar Jeewanjee Moriswala Vs DCIT (Dated: February 18, 2015)

Income Tax - Section 200

Keywords: TDS - sale of immovable property - Non Residents Indians - co owner

Whether an assessee can be held to bear the penal or financial implications occurred on account of delay in uploading their Returns of Income on the fault of others.

[2015-TIOL-532-HC-MAD-IT](#)

Family Of SP S S SP Subramanian Chettiar Vs ITO (Dated: February 10, 2015)

Income Tax - Section 69B.

Keywords - Valuation officer - Books of Accounts.

Whether AO is entitled to resort to Section 69B of the Act and consequently refer the matter to the Departmental Valuation Officer, when books of account of assessee has not been rejected.

[2015-TIOL-531-HC-ALL-IT](#)

LG Electronics Vs DDIT (Dated: February 23, 2015)

Income Tax - Sections 147 & 148

Keywords: income escaped assessment - objections raised - issue of notice

Whether in case the issues raised in writ petitions before the High Court, are squarely covered by a previous year judgment of the court in case of similar assessee and the position has been well accepted by counsel appearing for respondents also, it could be challenged again on such agreed position.

[2015-TIOL-530-HC-RAJ-IT](#)

CIT Vs Sh Gouri Shankar Singhal (Dated: January 29, 2015)

Income Tax - Keywords - applicability of case relied - gross profit rate.

Whether the AO had rightly applied gross profit rate of 17.22%, after relying on a case while rejecting the books of accounts of the assessee, when the same was distinguishable on facts.

[2015-TIOL-528-HC-DEL-IT](#)

CIT Vs Engineers India Ltd (Dated: February 26, 2015)

Income tax - Sections 10(33), 14A, 115WE, 140A, 142(1), 143(2) & (3), 199, 244A & Rule 8D.

Keywords - dividend income - interest - excess deposit of tax - refund & self assessment tax.

Whether an assessee is entitled to claim interest u/s 244A on the excess self-assessment tax paid u/s 140A - NO: HC

Whether there is any specific provision in the Income Tax Act for guiding the assessee in computing its liability towards "self-assessment" in terms of Section 140A - NO: HC

Whether "date of payment of tax" is indispensable for purposes of calculating the liability of the Revenue towards interest on the amount of refund u/s 244A(1)(b) - YES: HC

Whether there is a general rule that whenever a refund of income tax paid in excess is to be made, the Revenue must necessarily pay interest on the refunded amount - NO: HC

Whether a claim for interest on excess payment voluntarily made can be sustained, if it is clear that such excess deposit was not pursuant to demand by the Revenue - NO: HC

[Also see analysis of the Order](#)

[2015-TIOL-527-HC-MAD-IT](#)

CIT Vs M/s Poppy's Knitwear Pvt Ltd (Dated: February 4, 2015)

Income Tax – Section 80-IA.

Keywords-business undertaking & losses.

Whether once the losses and other deductions have been set off against the income of the previous year, it should not be reopened again for the purpose of computation of current year income u/s 80IA of the Act and the assessee should not be denied the admissible deduction u/s 80IA of the Act.

[2015-TIOL-526-HC-DEL-IT](#)

CIT Vs Mohan Meakins Ltd (Dated: January 22, 2015)

Income Tax - Section 153A

Keywords - document or material seized - issue of notices - search

Whether merely the general nature of the documents seized at the concerned assessee's third parties who were issued notice under Section 153C, is not enough

and the Department shall render specific findings as to find the status of the documents, to connect the same with the assessee.

[2015-TIOL-525-HC-DEL-IT](#)

CIT Vs Shri Ramesh Chawla (Dated: February 13, 2015)

Income Tax - Section 44AE.

Keywords - gross receipts - TDS.

Whether an appeal can be considered as substantial questions of law calling for interference, when CIT(A) has elaborately dealt with every material placed on the record in a painstaking manner and has given appropriate reasons.

[2015-TIOL-524-HC-MAD-IT](#)

DIT Vs M/s Ravi Rajasimhan Charitable Trust (Dated: January 12, 2015)

Income Tax - Section 12AA.

Keywords - Incorporation - Registration of Trust.

Whether the assessee can be denied registration u/s 12AA right at the threshold level.

[2015-TIOL-523-HC-MAD-IT](#)

DIT Vs M/s Sri Arunachala Smaranamrutam Trust (Dated: January 5, 2015)

Income Tax - Registration - Trust.

Whether Revenue is justified in refusing the grant of registration of Trust at the threshold.

[2015-TIOL-522-HC-MAD-IT](#)

CIT Vs Eastman Spinning Mills Pvt Ltd (Dated: February 18, 2015)

Income Tax - Section 80IA.

Keywords - adjustment of losses - admissible deduction - profit-linked incentives - set off and carry forward.

Whether when losses and other deduction have set off against the income of previous year, it should be reopened again for the purpose of computation of current year income u/s 80I or 80IA - Whether an assessee could be denied the admissible deduction u/s 80IA on such basis - Whether in case, as against a decision rendered by HC, the Revenue has filed appeals before SC, in which only a notice was ordered and were not yet admitted by SC, the same can be considered as pending before the Apex court.

[2015-TIOL-519-HC-MUM-IT](#)

Vinod K Bhagat Vs Tax Recovery Officer (Dated: February 13, 2015)

Income tax - Rules 11 & 86

Keywords - attachment proceedings - disposal of appeal on merit & grievance letters

Whether failure of jurisdictional CIT to entertain an appeal, inspite of specific directions of the CCIT to treat assessee's grievance letters as appeals derived from the orders of attachment of assessee's property, can be said to be justified - NO: HC

Whether late disposal of appeal by the CIT merely relying upon the order of the TRO as conclusive, can be treated as disposal of appeals on merit - NO: HC

Whether disposal of assessee's appeal by the TRO under Rule 86 which was pending with the Jurisdictional CIT, before disposing of the attachment proceedings under Rule 11, is valid disposal - NO: HC

[2015-TIOL-514-HC-KERALA-IT](#)

Fr Sabu P Thomas Vs Uol (Dated: February 4, 2015)

Income Tax - Section 192.

Keywords - TDS, diversion of income by overriding title, application of income.

Whether tax is required to be deducted at source, from payments by way of salary / pension made by the Government, to persons who are members of religious congregations - Whether such payments accrued to the members of the religious congregations as their income and the subsequent diversion of that income to the religious congregation concerned was only a case of application of that income.

[2015-TIOL-513-HC-P&H-IT](#)

M/s Baldev Singh & Co Vs CIT (Dated: January 30, 2015)

Income Tax - Section 184, 185.

Keywords - partnership firm, partner.

Whether the statement by a third person cannot be read against the assessee - Whether ITAT was justified in holding the assessee as partner of the assessee firm - Whether a person who claims to be a partner cannot apportion liability to another without reference to any document and mere signatures on certain documents would not raise inference of a partnership.

[2015-TIOL-510-HC-MUM-IT](#)

Somerset Place Co-Operative Housing Society Ltd Vs ITO (Dated: February 13, 2015)

Income tax - Section 260A

Keywords - Notice of Motion, condonation of delay

Whether once the applicant by his own volition had decided to accept a judicial order, it is not open to the applicant at any time to assail the same for the reason that subsequently new decisions are rendered on that issue - Whether a new ruling can be a ground to the assessee for reviewing a previous judgment - Whether only because the applicant has succeeded on the same issue in subsequent year, the same cannot be said to be a sufficient cause so as to condone the delay of five years for the applicant to approach High Court in filing the appeal against the earlier order of the Tribunal.

[Also see analysis of the Order](#)

[2015-TIOL-509-HC-MAD-IT](#)

M/s Southern Travels Vs ACIT (Dated: January 20, 2015)

Income Tax - Sections 32(2), 71, 72, 147 & 148.

Keywords - Depreciation loss, capital gains.

Whether in view of the provisions of section 32(2)(iii), it is possible to set off the brought forward depreciation loss against capital gains - Whether the Tribunal was right in law in holding that the assessee is not entitled to set off of brought forward depreciation loss relating to AY 1997-98 against profit and gains arising from sale of business assets for AY 1999-2000?"

[2015-TIOL-508-HC-MAD-IT](#)

Tamilnadu Warehousing Corporation Vs DCIT (Dated : February 16, 2015)

Income Tax - Section 10(29)

Keywords - Supervision charges - Warehousing charges - Weigh bridge charges

Whether assessee is entitled for claiming exemption for income derived from warehousing charges, supervision charges, weigh bridge charges and other receipts on the ground that these receipts are incidental and connected with the business.

[2015-TIOL-507-HC-ALL-IT](#)

Ravi Dubey Vs CIT (Dated: February 18, 2015)

Income Tax - Sections 40(a)(ia) & 194C.

Keywords: cost of material - road construction - ex parte assessment - rent - labour - TDS

Whether when it is apparent from records that the assessee is not responsible to purchase raw materials, they are to be supplied by the main contractor, there could be any liability on the assessee to deduct TDS on purchase of these raw materials - Whether net profit rate has to be estimated with reference to the net payment only after excluding the cost of material supplied to assessee in terms of the contract - Whether in case Tribunal has ignored factual as well as legal position, there is contradiction regarding the facts recorded by the lower authorities and the same were

not adjudicated by the Tribunal properly, remand is a proper course of action.

[2015-TIOL-506-HC-DEL-IT](#)

CIT Vs Sivalik Cellulose Ltd (Dated: February 12, 2015)

Income Tax

Keywords - processing charges - rehabilitation scheme - short-payments - withdraw from management.

Whether addition made by the AO is valid, when there is a provision made only on account of a debit note towards salary payable and the same is accordingly charged to the expense account.

[2015-TIOL-505-HC-RAJ-IT](#)

CIT Vs Shree Prakash Soni (Dated: January 8, 2015)

Income Tax - Sections 132 & 148.

Keywords: gold ornaments - family diety - unexplained investment - search - seizure.

Whether addition made on account of unexplained gold ornaments found during search of the assessee's premises, is perverse and is vitiated as the same has been arrived at without giving any opportunity by AO to controvert the facts brought on record by the assessee for the first time before the Tribunal.

[2015-TIOL-504-HC-DEL-IT](#)

Mohan S Lakhani Vs ITO (Dated: February 11, 2015)

Income Tax - Section 143(2).

Keywords - issue of notice - statutory limitation period.

Whether it is the duty of the Revenue which needs to discharge the burden of proving due service of notice which was caused by law upon it - Whether the notice issued after the period of limitation cannot be held against the assessee, when there is no material to show that the notices issued were dispatched or sent through registered post at the assessee's address known to the Revenue.

[2015-TIOL-503-HC-RAJ-IT](#)

CIT Vs Krishi Upaj Mandi Samiti (Dated: January 16, 2015)

Income Tax - Sections 11(1)(a), 12A & 32.

Keywords - Capital Expenditure - Depreciation.

Whether assessee can claim depreciation on capital assets for which capital expenditure has already been allowed in the year under consideration.

[2015-TIOL-502-HC-MUM-IT](#)

CIT Vs M/s Bennett Coleman And Co Ltd (Dated: February 18, 2015)

Income Tax - Sections 147 & 148

Keywords - change of opinion - reassessment - review

Whether assessment can be reopened when all the issues which form the basis of the reopening notice, was a subject matter of consideration during the regular assessment proceedings - Whether reconsideration of the same material would amount to a review of an assessment order - Whether assessment can be reopened on the basis of change in opinion.

[2015-TIOL-501-HC-ALL-IT](#)

CIT Vs M/s Dhampur Sugar Mills Pvt Ltd (Dated: February 18, 2015)

Income Tax - Sections 43B & 143(3).

Keywords - Excess provision of gratuity.

Whether addition on account of undervaluation of Stock be made when it is due to change of method which is more scientific - Whether addition on account of sale price charged from sister concern be made on the ground that it is lower than average rate normally charged. - Whether depreciation can be charged on tubewell treating it as plant and machinery. - Whether AO should add back amount of excess provision of gratuity - Whether assessee should claim, the amount paid to Government for not fulfilling an obligation under Sugar Export Promotion Act, as business loss.

[2015-TIOL-492-HC-MUM-IT](#)

CIT Vs Ramesh D Panchal (Dated : February 4, 2015)

Income tax

Keywords - clerical mistake - recording of sale - suppressed sales.

Whether any addition to the returned income of the assessee can be made on ground of suppressed sales, if such suppression is made on account of a clerical mistake -
NO: HC

[2015-TIOL-491-HC-ALL-IT](#)

CIT Vs Shri Santosh Kumar Gupta (Dated : February 11, 2015)

Income Tax - Section - 263.

Keywords - Jurisdiction - Opportunity of hearing.

Whether CIT can revise an order made by an AO not subordinate to him in a case which is within the jurisdiction of the CIT.

[2015-TIOL-486-HC-MUM-IT](#)

Rallis India Ltd Vs CIT (Dated : February 23, 2015)

Income Tax - Section 55A

Keywords - Reference to District Valuation Officer

Whether the CIT(A) is entitled to make a reference to the District Valuation Officer u/s 250A(4) of the Act to determine the FMV of the property.

[2015-TIOL-483-HC-DEL-IT](#)

CIT Vs C J International Hotels Pvt Ltd (Dated : February 9, 2015)

Income Tax - Sections 2(22)(e), 201, 201A.

Keywords - deemed dividend - law of fiction - limitation period - retrospective amendment.

Whether judgments given in 2008 which interpreted a limitation period of 4 years in the absence of any statutory period in section 201 for initiating proceedings would be rendered invalid merely because the Parliament prescribed the time limit in 2009 and 2014 - Whether precedents are rendered ineffective when an amendment is made prospectively - Whether section 2(22)(e) can be applied to the assessee by treating a person as beneficiary shareholder who was not a shareholder of the present assessee but rather the shareholder of another concern which held shares in assessee company - Whether the law of fiction u/s 2(22)(e) should be applied in a limited manner.

[2015-TIOL-479-HC-DEL-IT](#)

CIT Vs Suzuki Motorcycle India Ltd (Dated: February 11, 2015)

Income Tax - Section 271(1)(c)

Keywords - long term capital loss - penalty - re-imburement of expenses

Whether assessee cannot be accused of having furnished inaccurate particulars or concealed income, when the capital loss claimed was on account of the subsequent sale made to M/s Patel Estate (P) Ltd. which was reversed and the amount received was returned - Whether the assessee is liable for any penal action under Section 271(1)(c).

[2015-TIOL-478-HC-MUM-IT](#)

Raman And Weil Pvt Ltd Vs DCIT (Dated: February 12, 2015)

Income tax - Sections 80IB, 143(3), 147, 148, 156 & 271

Keywords - commencement of manufacturing activity - change of opinion - disposal of

objection - factory licence - industrial undertaking - income escaping assessment & reopening

Whether once objection to reopening of assessment has been rejected, further reassessment proceedings can be initiated within four weeks from the date of such rejection - NO: HC

Whether issuing of demand notice u/s 156 and levy of penalty u/s 271 on the basis of such reassessment proceedings, is sustainable - NO: HC

Whether issuance of notice u/s 148 on the basis of reasons to believe that income eligible to tax has escaped assessment, is justified - YES: HC

Whether hiding of fact by the assessee during assessment that he did not possess factory license to manufacture, would prima facie amount to "reasons to believe" for purpose of issuing notice u/s 148 - YES: HC

[Also see analysis of the Order](#)

[2015-TIOL-477-HC-MAD-IT](#)

CIT Vs M/s Prabhu Spinning Mills Pvt Ltd (Dated: January 19, 2015)

Income Tax - Section - 80IA.

Keywords - Carry forward losses - Deduction - Eligible undertaking

Whether assessee is entitled to claim deduction under section 80-IA of the Act when there are no unabsorbed depreciation or loss of the eligible undertakings and the same are already absorbed in the earlier years.

[2015-TIOL-476-HC-AHM-IT](#)

ITO Vs Bharat A Mehta (Dated: February 3, 2015)

Income Tax - Sections - 69, 132 & 133A

Keywords - On money - Search operation - Unexplained investment

Whether assessee is liable for addition on account of unexplained investment on the basis of information received during search operation conducted at premises of vendor.

[2015-TIOL-475-HC-AHM-IT](#)

C B Suratwala And Sons Vs ITO (Dated: February 4, 2015)

Income Tax - Sections 143(2) & 144

Keywords - escapement of income - reassessment

Whether the view which has already been taken in previous tax appeals, shall be followed, when the facts and issue in the present appeal are identical with that of the

previous appeal.
2015-TIOL-474-HC-MUM-IT
CIT Vs Dr Rajesh M Parikh (Dated: January 27, 2015)
Income Tax - Sections 143(3), 144, 263 Keywords - short term capital gains - set off - shares - settlement date - revision u/s 263 - unexplained income Whether the transactions entered into by the assessee through a sub-broker would be considered as non-genuine merely because the shares purchased after delivery within the settlement cycle, were kept as collateral security by the sub broker as security for payment to be received from assessee.
2015-TIOL-473-HC-ALL-IT
CIT Vs Har Dayal Singh (Dated: January 23, 2015)
Income Tax - Addition of Income - Estimated income Whether total income can be reduced below the returned total income by Tribunal, when AO has made addition on estimate basis.
2015-TIOL-472-HC-KERALA-IT
K Avarahaji Vs ITAT (Dated: January 9, 2015)
Income tax. Keywords - delayed filing of appeal - review petition & sufficient cause for delay. Whether the scope of High Court is limited to re-hearing of appeal and take a different view with regard to condonation of delay, depending upon the facts & circumstances of each case - YES: HC
2015-TIOL-471-HC-DEL-IT
CIT Vs Moradabad Toll Road Company (Dated: February 11, 2015)
Income Tax - Section 201 Keywords - Assessee in default - Barred by time Whether no order can be made u/s 201(1) deeming a person to be an assessee in default at any time after the expiry of seven years from the end of the FY in which payment was made or credit was given.
2015-TIOL-470-HC-AHM-IT

Atir Textile Industries Pvt Ltd Vs DCIT (Dated: January 28, 2015)

Income Tax - Section 57(iii).

Keyword - Interest

Whether while considering the case to extend benefit u/s 57(iii) of the Act, it is mandatory for the AO to find out reason behind investment and, if the dominant purpose is not for making or earning some income, then deduction u/s 57(iii) of the Act shall not be available and to ascertain the purpose, the Courts may lift the veil.

[2015-TIOL-465-HC-ALL-IT](#)

CIT Vs Anil Kumar Chadha (Dated: February 18, 2015)

Income Tax - Sections 132, 158BC, 158BD.

Keywords - assets requisitioned - conditions precedent - issue of notice - search warrant - unexplained income.

Whether if there is neither any search warrant in the name of the assessee nor the assessee's assets were requisitioned, provisions of Section 158BC can be made applicable - Whether before the provisions of Section 158BD are invoked against a person other than the person whose premises have been searched u/s 132 or documents and other assets have been requisitioned u/s 132A, the conditions precedent have to be satisfied.

[Also see analysis of the Order](#)

[2015-TIOL-464-HC-MUM-IT](#)

CIT Vs M/s Allana Sons Ltd (Dated: February 6, 2015)

Income Tax - Sections 80HHC, 263.

Keywords - doctrine of merger - export incentives - manufacturing profits - retrospective amendment - trading loss.

Whether order passed by the AO can be considered as having been merged in the order of CIT(A) without appreciating the fact that the issue raised in the order passed by CIT u/s. 263 was not considered by AO in his assessment order.

[2015-TIOL-463-HC-MAD-IT](#)

M/s Ajmeer Sherriff And Co Vs ITO (Dated: February 2, 2015)

Income tax

Keywords - condonation of delay - gross negligence.

Whether condonation of delay can be granted, when the conduct on the part of assessee exhibits gross negligence and incorrect grounds - NO: HC

Whether an assessee can seek condonation of delay with a lackadaisical approach and nonchalant manner - NO: HC

[2015-TIOL-462-HC-ALL-IT](#)

Lal Chand Agarwal Vs CIT (Dated: February 18, 2015)

Income Tax - Sections 147, 148 & 149.

Keywords - reassessment - service of notice.

Whether the proceeding u/s 147 of the Act cannot be initiated without the service of notice as provided u/s 148 of the Act and that a service of notice is a pre-condition for framing an order u/s 147 of the Act - Whether the AO is required to record the reasons to believe and obtain a sanction from the competent authority before issuing notice u/s 148 of the Act.

[2015-TIOL-461-HC-DEL-IT](#)

GEBR Pfeiffer (India) Pvt Ltd Vs CIT (Dated: February 3, 2015)

Income Tax - Section 14A & Rule 8D.

Keywords - Dividend Income - Disallowance -Jurisdiction of AO.

Whether noting of dissatisfaction of the AO with the assessee's explanation, is mandatory requirement u/s 14D of Act, which can not be ignored or it is just the procedural requirement which can be assumed to be existing or implied from AO's action.

[2015-TIOL-460-HC-AHM-IT](#)

Bhavin Impex Pvt Ltd Vs CIT (Dated: February 13, 2015)

Income Tax - Sections - 10A & 10B.

Keywords - Bank Guarantee -Rejection of application - Stay application.

Whether stay application can be rejected without considering the merits of case and balance of convenience.

[2015-TIOL-459-HC-DEL-IT](#)

CIT Vs Vivek Aggarwal (Dated: February 9, 2015)

Income tax - Whether since the document seized was both undated and unsigned and even taken at face value did not lead to further enquiry on behalf of the AO, no addition can be made merely relying on the said document - Whether when the undisclosed investment was beyond the block period, no addition can be made.

[2015-TIOL-456-HC-ALL-IT-LB](#)

Rajendra Kumar Gupta Vs CIT (Dated: February 5, 2015)

Income tax - Sections 142(1), 143(2), 147 & 148 - Remittances of Foreign Exchange and Investment in Foreign Exchange Bonds Act - Sections 5(1)(a), 6(1)(a) & 7

Keywords - bogus gifts - foreign remittances - gift from NRI - Indian development bonds - immunity to IDB holder - money laundering - seizure of bonds - unaccounted money & undisclosed investment

Whether immunity provided to the holder of India development bonds u/s 6 or 7 of RFEIFEB Act, extends to the holder of gifts by an NRI which are later proved to be bogus gifts - NO: HC

Whether such developments bonds seized during search operations as the undisclosed income, are liable to be treated as a case of money laundering - YES: HC

Whether immunity is provided u/s 6 of RFEIFEB only against the disclosure of the nature and source of the investment in the bonds - YES: HC

Whether such immunity can be claimed by an NRI or Overseas corporate body (OCB) owning the bonds and the Indian resident to whom gift of such bonds is made by the NRI or OCB, only upon fulfillment of above conditions u/s 6 - YES: HC

Whether immunity can be claimed on the gifts made by NRI and received by an Indian resident, in case no disclosure of nature or source of such gift is disclosed - NO: HC

[Also see analysis of the Order](#)

[2015-TIOL-455-HC-DEL-IT](#)

CIT Vs M/s Escorts Ltd (Dated: February 12, 2015)

Contempt of Courts Act - Section 15.

Keywords - contempt of court - fraud - intervention application & withdrawal of allegations.

Whether the act of counsels in filing intervenor application levelling certain allegations and subsequently withdrawing it, would amount to prejudice and interference with the due course of proceedings, and accordingly warrants charges of contempt u/s 15 of Contempt of Courts Act - YES: HC

[2015-TIOL-450-HC-AHM-IT](#)

ACIT Vs Shiv Construction Co (Dated: January 27, 2015)

Income Tax

Keywords - Sub-contractors - TDS Certificate

Whether action of restoring the matter to the file of AO for specific verification of income declared by the recipients is justified when this issue has not been raised by the Department.

[2015-TIOL-449-HC-AHM-IT](#)

CIT Vs Sushilaben Ambelal Prajapati (Dated: February 10, 2015)

Income Tax - Section 69.

Keywords: bank account - unexplained cash credit - onus to prove - fiduciary capacity - policy

Whether in case of an insurance agent, with the amount lying in its account such assessee is in fiduciary capacity to utilize the same for buying policy of the respective vehicle - Whether such credit of cash in the bank account of assessee by the Insurance company can be taxed as unexplained income.

[2015-TIOL-448-HC-MUM-IT](#)

CIT Vs State Bank of India (Dated: February 4, 2015)

Income Tax - Sections 36(1)(viii) & 263.

Keywords - Financial Corporation - nationalised bank.

Whether a nationalised bank will be covered by definition of 'Financial Corporation' as stated in the Explanation to Section 36(1)(viii) - Whether such assessee bank will be liable to claim deduction under Section 36(1)(viii).

[2015-TIOL-447-HC-MUM-IT](#)

CIT Vs Sham L Chellaram (Dated: February 18, 2015)

Income Tax – Section 115E.

Keywords – investment income, foreign exchange assets

Whether the benefit of Section 115E of the Act can be available even in respect of income by way of short term capital gains – Whether any income earned by the sale of the investment by non-resident can be said to be derived from a Foreign Exchange Assets.

[2015-TIOL-446-HC-DEL-IT](#)

Sarita Aggarwal Vs ITO (Dated: February 4, 2015)

Income tax – Section 68.

Whether when assessed has not been able to prove genuineness of the gift and also the factum that the transaction was out of love and affection, a sine qua non to establish a genuine gift.

[2015-TIOL-445-HC-MAD-IT](#)

CIT Vs P Ramanathan (Dated: February 2, 2015)

Income tax - Sections 113 & 132.

Keywords - amendment in provision - block assessment - prospective operation - search & surcharge.

Whether amendment in a taxing statute imposing a levy of surcharge, can be construed as having retrospective operation - NO: HC

Whether where imposing a retrospective levy would have caused undue hardship to the assessee, such levy will be treated as unsustainable - YES: HC

[2015-TIOL-444-HC-P&H-IT](#)

CIT Vs M/s Abhishek Industries Ltd (Dated: January 27, 2015)

Income tax - Sections 14A, 143(3) & Rule 8D

Keywords - investment - interest bearing funds & tax free income

Whether disallowance u/s 14A can be invoked, if the assessee has invested its own money for purchase of shares - NO: HC

Whether Section 14A mandates the AO to record satisfaction in order to prove that interest bearing funds have been used to earn tax free income - YES: HC

Whether AO by recording general observations, particularly where the assessee has denied using interest bearing funds, can proceed to infer that interest bearing income must have been used to earn exempted income - NO: HC

[2015-TIOL-439-HC-DEL-IT](#)

CIT Vs Home Developers Pvt Ltd (Dated: February 10, 2015)

Income tax - Section 271(1)(c).

Keywords - cash acceptance of loan & unexplained investment.

Whether where any issue for unexplained investment in case of cash acceptance of loan is already settled by the jurisdictional High Court, such issue does not raise any substantial question of law - YES: HC

[2015-TIOL-438-HC-MUM-IT](#)

CIT Vs Chemosyn Ltd (Dated: February 11, 2015)

Income Tax

Keywords - tripartite agreement - capital gain tax - long term capital gains - ready reckoner rates - dispute - company law board - settlement.

Whether at the time of construction of building by an assessee, capital gains can be said to have resulted in, even in case there was neither accrual nor receipt of income

and an entry to that effect might have been made in the books of account - Whether the amounts paid by assessee for purchase and subsequent cancellation of the shares belonging to an estranged brother of the person in the management of the company is in the nature of revenue expenditure.

[2015-TIOL-437-HC-AHM-IT](#)

CIT Vs Amar Quarry Pvt Ltd (Dated: February 4, 2015)

Income Tax - Section 143(3), 147 & 148.

Keywords: reopening - reasons to believe - investigation - inquiry - presumption - subcontractor.

Whether the mere reason to believe that an examination is required in assessee's case, is sufficient enough to reopen an assessment u/s 147 - Whether reopening of assessment u/s 147 is permissible on a point of fact on which an inquiry has already conducted by the AO during the course of original assessment order.

[2015-TIOL-436-HC-AHM-IT](#)

Ajay S Patel Vs ITO (Dated: February 12, 2015)

Income Tax - Section 179.

Keywords: show cause notice - outstanding tax dues - interim stay - lifting of corporate veil.

Whether in case of a public limited company directors can be held responsible for the default made by the company on the basis of lifting of the corporate veil - Whether such an order passed would be considered as passed in breach of the principles of natural justice.

[2015-TIOL-435-HC-AHM-IT](#)

CIT Vs Nita Madhu Patel (Dated: January 16, 2015)

Income Tax - business income - income from shares - LTCG - STCG.

Whether when the assessee has salaried income, then the income earned from sale and purchase of shares shall be treated as Short Term Capital Gain and Long Term Capital Gain.

[2015-TIOL-434-HC-AHM-IT](#)

CIT Vs Nita Madhu Patel (Dated: February 2, 2015)

Income Tax

Keywords - business income - LTCG & STCG.

Whether income earned from trading of shares, cannot be treated as business income when such income has been treated as capital gain in assessee's own case for earlier assessment year.

[2015-TIOL-433-HC-MUM-IT](#)

CIT Vs Kayfab Enterprises Pvt Ltd (Dated: February 16, 2015)

Income tax

Keywords - bulider's agreement - project management fees & sale proceeds from flats.

Whether any expenditure being project management fees paid to a builder in respect of sale proceeds from flats can be disallowed on the basis of mere assumption that some amounts were attributable to previous A.Ys - NO: HC

[2015-TIOL-432-HC-DEL-IT](#)

CIT Vs Satish Chandra (Dated: February 2, 2015)

Income Tax - Section 143(3)

Keywords - gross profit - higher rate of scrap - sale of scrap

Whether any addition shall be made, when the assessee has sold scrap at a higher price, than that of the preceding years, and also the gross profit declared by the assessee for the current year is marginally higher than that of the preceding year.

[2015-TIOL-431-HC-MAD-IT](#)

CIT Vs M/s Irbaz Shoe Company (Dated: January 5, 2015)

Income Tax - Sections 147 & 148

Keywords - foreign travel expense - founding partner - wife of partner

Whether expenditure incurred on foreign travel by a partner's wife, who in turn is a founding partner of the firm, shall be treated as in the capacity of the partner herself - Whether such expenditure shall be treated wholly and exclusively for the purpose of the business.

[2015-TIOL-430-HC-AHM-IT](#)

Gujarat Eco Textile Park Ltd Vs ACI T (Dated: January 21, 2015)

Income Tax - Sections 143(3) & 147.

Keywords - mandatory procedure - reassessment .

Whether bar of four years, as per the first proviso to Section 147, will apply and the

action under Section 147 for reopening of the assessment shall be without jurisdiction, when there is no ground for non-disclosure of true and correct relevant material.

[2015-TIOL-424-HC-DEL-IT](#)

CIT Vs M/s Micron Steels Pvt Ltd (Dated: February 11, 2015)

Income Tax - Sections 153C, 170 & 292(B).

Keywords - amalgamation - receipt of information

Whether on account of amalgamation and by operation of Section 170, an assessment order passed in respect of the original assessee company, will be unsustainable - Whether initiation of the proceedings under Section 153C and on a company which has already been amalgamated with other company is nullity.

[Also see analysis of the Order](#)

[2015-TIOL-423-HC-DEL-IT](#)

CIT Vs Zohra Emporium (Dated: February 10, 2015)

Income Tax - Sections 142(2A) & 145(2)

Keywords - Books of Accounts - Scrutiny - Sub-audit

Whether Revenue is justified in rejecting books of accounts of assessee and making addition for unrecorded purchases & expenses towards embroidery charges.

[2015-TIOL-422-HC-MUM-IT](#)

CIT Vs Shyam Co-Op Housing Society Ltd (Dated: February 2, 2015)

Income tax.

Keywords - contribution to co-operative society - non-occupancy charges - principle of mutuality - transfer of flat & transfer fees.

Whether principle of mutuality will have no application, in case there is a cap or restriction placed on the quantum of transfer fees in relation to contributions made to Co-operative societies - NO: HC

Whether amount received for the transfer fees and non occupancy charges in relation to flat in a co-operative housing society can be made chargeable to tax in the hands of assessee under principle of mutuality - NO: HC

[2015-TIOL-421-HC-MUM-IT](#)

CIT Vs Shri Hariram Bhambhani (Dated: February 4, 2015)

Income Tax - Sections 69C & 133A.

Keywords - Sales - Survey - Unexplained expenditure.

Whether decision of charging tax @ 4% of net profit on unaccounted sales is justified even though no evidence of unaccounted purchases/ expenses against such unaccounted sales has been detected at the time of survey.

[2015-TIOL-420-HC-MUM-IT](#)

CIT Vs M/s Jet Speed Audio Pvt Ltd (Dated: January 28, 2015)

Income Tax - Sections - 147, 148 & 154.

Keywords - Bad debts - Change of opinion of AO - Re assessment.

Whether where at the time of original assessment proceedings a specific query was raised by the AO with regard to the claim for bad debts and the same was responded by assessee to the satisfaction of AO then can AO later on reopen the assessment on the same issue or would it amount to change of opinion and therefore, not valid - Whether where no tangible material is placed then would it indicate mere change of opinion for re - assessment. - Whether where a notice u/s Section 154 of the Act for rectification is awaiting disposal, then does issue of notice for reopening u/s 148 is bad in law.

[2015-TIOL-419-HC-MAD-IT](#)

CCIT Vs Shri Anand Rishi Jain Society (Dated: February 3, 2015)

Income tax - Section 10(23C)

Keywords - condonation of delay & power of chief commissioner

Whether application made u/s 10(23C)(vi) beyond the statutory period of limitation, can be entertained by the chief commissioner of income tax by condoning the delay in presenting such application - NO: HC

[2015-TIOL-418-HC-MAD-IT](#)

CIT Vs M/s Indian Educational Trust (Dated: January 28, 2015)

Income Tax - Sections 12AA & 80G(5)(vi)

Keywords - application for registration - application for exemption - trust

Whether the Department needs to consider the representation of the assessee, before passing the final orders on merit.

[2015-TIOL-417-HC-P&H-IT](#)

CIT Vs M/s Punjab Tractors Ltd (Dated: December 8, 2014)

Income Tax - Sections 30, 37(4), 37(5) & 40(A)(5a)(ii)

Keywords - Business Expenditure - Perquisite - Rent for Guest house - Subscription fee

Whether payment of guest house charges can be allowed as a deduction - Whether subscription paid in the form of cash can be treated as a perquisite in view of Section 40(A)(5a)(ii) of the Act.

[2015-TIOL-404-HC-MUM-IT](#)

CIT Vs Meditab Specialities Pvt Ltd (Dated: February 10, 2015)

Income tax - Sections 10AA, 14A, 80IA, 80IB & Rule 8D.

Keywords - administrative cost - dividend income - exempt income - income from SEZ.

Whether where the assessee has restrained himself from contesting the tax effect in respect of disallowance u/s 14A r/w Rule 8D, such concession on the part of assessee should not be held against him in any other proceedings - YES: HC

Whether where the issue of disallowance u/s 14A made on account of income from SEZ is decided by the Tribunal by following its previous order without any independent application of mind, such matter requires consideration afresh -YES: HC

[Also see analysis of the Order](#)

[2015-TIOL-403-HC-MAD-IT](#)

CIT Vs Sundaram Finance Ltd (Dated: February 2, 2015)

Income Tax - Interest tax - Trade advances

Whether interest tax can be charged on interest received on trade advances.

[2015-TIOL-402-HC-AHM-IT](#)

Sky Diamonds Vs ACIT (Dated: January 21, 2015)

Income Tax - Sections 142(1), 143(3), 147, 148

Keywords: reassessment notice - bar of four years - escaped income - reopening of assessment

Whether in case the case of assessee falls in the exceptional category of 'failure to disclose fully and truly all material facts necessary for the assessment', the action of AO u/s 147, after the expiry of four years for reopening of the assessment is permissible.

[2015-TIOL-401-HC-P&H-IT](#)

M/s Road Masters Industries Of India Pvt Ltd Vs CIT (Dated: January 8, 2015)

Income Tax - Demand Notice - Revival of Demand - Speaking order.

Whether where Tribunal passes order reverting back the case of CIT(A) then mere fact that the appeal is pending before the CIT(A) does stop the jurisdiction of the AO to initiate recovery proceedings on the basis of the order passed by it.

[2015-TIOL-393-HC-MUM-IT](#)

Shri Sudhir G Borgaonkar Vs ACIT (Dated: February 10, 2015)

Income tax - Sections 148, 234A & 234B.

Keywords - advance tax - assessee-in-default & interest.

Whether an assessee can be treated as assessee-in-default, in case he has defaulted in payment of advance tax on account of parking charges received by it during previous A.Y - YES: HC

Whether income earned on parking charges during previous year in respect of a building project, is required to be taxed in the relevant A.Y irrespective of the fact that the project is in progress - YES: HC

Whether it is possible to anticipate events and make payment of advance tax on that basis - NO: HC

Whether failure of assessee's obligation to pay advance tax would carry with it the further burden of interest u/s 234B - YES: HC

[Also see analysis of the Order](#)

[2015-TIOL-392-HC-MUM-IT](#)

CIT Vs Grant Medical Foundation (Dated: January 22, 2015)

Income tax – Sections 194C, 194J, 201(1) & 201(1A).

Whether the payment to doctors who are employed in the hospital drawing variable pay with written consent will be treated as salary income and the tax is required to be deducted u/s 192.

[2015-TIOL-391-HC-DEL-IT](#)

CIT Vs Bharti Telenet Ltd (Dated: February 3, 2015)

Income Tax - Section 35ABB.

Keywords: variable license fee - upfront fee - pre operative expenses - interest on

borrowings - expense incurred on software.

Whether amount incurred by an assessee on account of interest on delayed payment of license fees has to be capitalised along with the fees paid - Whether expenditure incurred on software development can be straight away capitalised without even considering the nature of expense - Whether in case an assessee has explained the sources of the advances made to its subsidiaries for business expediency, could it be linked to the borrowed funds on the assumption that the advances were made out of the assessee's own capital.

[2015-TIOL-390-HC-MUM-IT](#)

CIT Vs M/s Fine Jewellery (India) Ltd (Dated: February 3, 2015)

Income Tax - Sections 143(3) & 263.

Keywords: Intangible asset - brand creation - revenue nature expense - deferred revenue expenditure.

Whether when a query is raised during assessment proceedings and responded to by the Assessee, the mere fact that it is not dealt with in the Assessment Order would lead to a conclusion that no mind had been applied to it - Whether in case assessee itself has admitted that it has incurred expenditure for creation of a brand 'Nirvana', an intangible asset, it can be construed that such expenditure incurred did not result in any kind of addition or augmentation of any profit making asset - Whether expense incurred in relation to building up of brand is of a permanent character and not of routine revenue nature.

[2015-TIOL-389-HC-DEL-IT](#)

CIT Vs Sudhir Dhingra (Dated: January 30, 2015)

Income Tax - Sections 158BC, 158BD, 158BE(2)(b).

Whether the proceedings initiated u/s 158BD are invalid if the "satisfaction note" was prepared after the proceedings in the case of the searched party were completed - Whether notice u/s 158BD is invalid if not issued immediately after receipt of satisfaction note.

[2015-TIOL-388-HC-DEL-IT](#)

CIT Vs Ram Gopal (Dated: February 9, 2015)

Income Tax - Sections 2(14), 2(47) & 64

Keywords - acquisition of capital asset - cost of improvement - sale agreement

Whether entering into the transaction and acquiring a property for a sum (acquisition cost), will amount to acquiring a capital asset - Whether booking rights or rights to purchase the apartment or to obtain its letter is also termed as acquiring capital asset - Whether a sum spent towards cost of improvement for acquiring of such property will be allowable.

[2015-TIOL-387-HC-DEL-IT](#)

CIT Vs Ramesh Suri (Dated: February 9, 2015)

Income Tax - Sections 68 & 256(2)

Keyword - undisclosed sources

Whether the underlined transaction, whereby the donor has directed amounts to be disbursed by an Individual to the assessee, cannot be treated as unnatural - Whether no addition can be made u/s 68 when the identity and the relationship of the donor are known.

[2015-TIOL-386-HC-P&H-IT](#)

M/s Kuantum Papers Ltd Vs Uoi (Dated: February 10, 2015)

Income Tax - Sections 127 & 132.

Keywords: search - review of an order - transfer of assessment proceeding - reasons for transfer

Whether the power to transfer assessment is an administrative power which necessarily inheres the power to re-transfer - Whether when perusal of an order reveals that clear and cogent reasons have been assigned for retransfer of assessments from one place to another, a just and fair consideration of the objections regarding negating arguments of assessee has to be considered as mala fide exercise of jurisdiction.

[2015-TIOL-385-HC-MAD-IT](#)

Chakiat Agencies Pvt Ltd Vs ACIT (Dated : December 2, 2014)

Income Tax - Sections 28(ii)(c), 45 - Goodwill.

Whether the consideration received by the assessee for termination of the agency including the goodwill attached therewith is taxable as 'profits and gains of business' u/s 28(ii)(c) of the Act and not under the head 'capital gains'

[2015-TIOL-381-HC-ALL-IT](#)

CIT Vs M/s Bholey Baba Milk Food Industries (Dated: February 9, 2015)

Income tax

Keywords - civil construction - close interconnection - depreciation - electric fittings & functioning of windmill.

Whether civil construction & electric fittings which have no use other than for the

purpose of functioning of windmill can be said to be closely interconnected and part & parcel of the windmill - YES: HC

Whether such civil construction and electric fittings are liable for same rate of depreciation as in the case of microprocessor & hub of the windmill - YES: HC

[2015-TIOL-380-HC-ALL-IT](#)

M/s Sai Computers (P) Ltd, Meerut Vs JCIT (Dated: February 13, 2015)

Income tax - Sections 37(2) & 80IA.

Keywords - contract labour - employ - employees - industrial undertaking & staff welfare expenditure.

Whether persons doing work on contract basis are required to be counted for the purpose of Section 80-IA (2)(v), when the assessee is controlling the work to be done by these persons, as well as manner of doing such work - YES: HC

Whether such contract persons will be entitled to the benefit of deduction u/s 80IA, as in the case of permanent workmen - YES: HC

[2015-TIOL-375-HC-DEL-IT](#)

CIT Vs M/s Aar Ess Exim Pvt Ltd (Dated: February 5, 2015)

Income tax – Section 10B.

Whether when assessee had undertaken detailed engineering drawings as per the specifications, but actual manufacture and production work was outsourced, the assessee would be entitled for exemption u/s 10B of the Act.

[Also see analysis of the Order](#)

[2015-TIOL-374-HC-DEL-IT](#)

CIT Vs Shri Shyam Sunder Infrastructure (P) Ltd (Dated: February 4, 2015)

Income Tax - Sections 124(3), 127, 147 & 148.

Keywords- Jurisdiction of AO - Re-assessment.

Whether Tribunal has power to give verdict about Jurisdiction of AO and adjudicate that AO cannot go into the merits of the proceedings on said ground - Whether Section 124(3) stipulates a bar to any contention about lack of jurisdiction of an AO.

[2015-TIOL-373-HC-AHM-IT](#)

CIT Vs Sunset Drive-In Cinema Pvt Ltd (Dated: November 28, 2014)

Income tax - Sections 194C, 201(1) & 201(1A).

Keywords - exhibition of films - ownership of print - payments to distributors & TDS

Whether 'exhibition of films' in a theatre can be construed as 'any work' u/s 194C for purpose of invoking liability to pay TDS - NO: HC

Whether the owner of a theatre is obliged to deduct TDS u/s 194C on payments made by it to the distributors - NO: HC

[2015-TIOL-372-HC-MAD-IT](#)

CIT Vs M/s Pondicherry Chlorate Ltd (Dated: January 13, 2015)

Income tax – Section 80IA.

Whether when the loss in the year earlier to the initial assessment year already absorbed against the profit of other business, it cannot be notionally brought forward and set off against the profits of the eligible business as no such mandate is provided in section 80-IA(5).

[2015-TIOL-371-HC-MAD-IT](#)

Naresh Prasad Agarwal Vs CIT (Dated: January 27, 2015)

Income Tax - Writ - Section 132.

Keywords - Cross Examination - Search.

Whether assessee has no *locus standi* to approach HC by way of writ petition for a direction to cross examine any person or any documents etc.

[2015-TIOL-370-HC-P&H-IT](#)

Dr K L Batra Vs CIT (Dated: January 12, 2015)

Income Tax - Sections - 133A, 256(2) & 271(1) (c).

Keywords - Penalty - Survey - Unexplained income.

Whether the assessee is liable to penalty u/s 271(1)(c) for unexplained income where assessee's contention is that income assessed is based upon estimated household expenses.

[2015-TIOL-361-HC-P&H-IT](#)

M/s roadmaster industries of india ltd Vs CIT (Dated: January 8, 2015)

Income Tax - Section 256(1).

Keywords - additional grounds - clarificatory - admission.

Whether additional grounds can be admitted by the Tribunal when they are merely clarificatory in nature and amplifies the existing grounds.

[2015-TIOL-360-HC-DEL-IT](#)

CIT Vs M/s Garg Cheap Cut Piece House (Dated: February 5, 2015)

Income Tax - Sections 133A, 263.

Keywords: survey - excess stock - excess cash - discount - stock clearance - depressed sale.

Whether the power u/s 263 can be invoked by the CIT to correct a mere error of the AO on the basis of an incorrect assumption of fact - Whether in case the Tribunal has applied the settled law without making any further observation in that regard, would it be presumed that such determination is both erroneous and prejudicial to the interests of the Revenue.

[2015-TIOL-359-HC-MAD-IT](#)

CIT Vs Dr C T Kiruba (Dated: January 19, 2015)

Income Tax - Sections 132, 142A, 158BFA(1).

Keywords: residential building - wooden work - cost of investment - DVO - interest.

Whether when tax effect in assessee's case is less than minimum limit specified as per a CBDT instruction and his case does not fall within the exceptions specified in that Instruction, the court has authority to reject such case without even giving an opportunity of being heard.

[2015-TIOL-358-HC-MUM-IT](#)

CIT Vs M/s Calibre Personnel Services Pvt Ltd (Dated: February 2, 2015)

Income Tax - Section 43B

Keywords: provision - amount payable - deduction on payment basis

Whether as per the provisions of section 43B, deduction can be allowed in respect of an amount only on payment, but this can only be triggered if deduction with regard to taxes payable is claimed for arriving at taxable income.

[2015-TIOL-357-HC-MUM-IT](#)

Mrs Neena Kiran Padiyar Vs CIT (Dated: January 20, 2015)

Income Tax.

Keywords: additional evidence - opportunity of being heard - re hearing.

Whether the order passed by Tribunal stands vitiated for failure on the part of Revenue to give adequate hearing to the assessee after calling for additional evidence to be produced.

[2015-TIOL-356-HC-AHM-IT](#)

CIT Vs Kalthia Engineering And Construction Ltd (Dated: January 13, 2015)

Income Tax - Section 14A.

Keywords - Bad Debts - Interest expenditure - Investment in shares - Joint Venture.

Whether bad debts pertaining to JV can be allowed from the income of the assessee - Whether where funds are available to the assessee from both interest free and with interest resources then can it be presumed that investments would be out of the interest free fund available.

[2015-TIOL-355-HC-ALL-IT](#)

CIT Vs M/s Motilal Padampat Udyog Ltd (Dated: January 23, 2015)

Income Tax - Section 43B.

Keywords - Contingent liability - Investment allowance - Market fee.

Whether assessee is entitled for investment allowance on the items like Molasses storage tank, molasses pump, weigh bridge and diesel generating sets. - Whether market fee paid to purchase sugar cane and sugar should be allowed as deduction.

[2015-TIOL-354-HC-AP-IT](#)

Fenoplast Ltd Vs DCIT (Dated: December 10, 2014)

Income Tax - Sections 115JA, 115JB, 143(1), 154, 234B, 234C.

Keywords: additional ground - rectification application - intimation - advance tax.

Whether when the circumstances of a case do not justify the need of an additional ground to be furnished by the assessee, can the assessee be allowed to file the same before the Tribunal - Whether interest u/s 234 B and 234 C can be levied, in case assessee does not have any taxable income under regular provisions of the I.T.Act.

[2015-TIOL-353-HC-P&H-IT](#)

CIT Vs M/s Avery Cycle Inds Ltd (Dated: January 7, 2015)

Income Tax - Sections 143(1), 143(2), 145A, 234D.

Keywords: interest free advance - excise duty - modvat credit - closing stock.

Whether merely because the modvat credit is a reversible credit available to manufacturer, open purchase of duty paid raw material would amount to income which is liable to be taxed under the act - Whether in case an assessee has not denied receipt of excess refund, it is obliged u/s 234D to pay interest - Whether such assessee is bound to pay interest on excess refund on retrospective basis.

[2015-TIOL-352-HC-P&H-IT](#)

Navdeep Dhingra Vs CIT (Dated: January 20, 2015)

Income Tax - Sections 133A, 142(1) & 143(2).

Keywords: unaccounted investment - excess cash - retracted admissions - survey - coercion - force

Whether admissions made during a survey can form the sole basis for making additions - Whether retracted admissions can form the basis of an inference enabling an assessing officer to add income to the income of an assessee.

[2015-TIOL-347-HC-MAD-IT](#)

B Somasundaram Vs ACIT (Dated: November 5, 2014)

Income Tax - Writ - Sections 133A.

Keywords - place of survey - principal place of business - ultravires survey

Whether relief cannot be granted to the assessee against the sustainability of the survey conducted at assessee's business premises, if the same is not raised before the authority concerned, while challenging the assessment proceedings passed consequent upon the survey.

[2015-TIOL-346-HC-HP-IT](#)

CIT Vs State Bank of Patiala (Dated: December 31, 2014)

Income Tax - Sections 194A, 201(1) & 201(1A)

Keywords - societies wholly funded by government - TDS

Whether a nationalised bank has to apply or seek exemption from the Authorities under the Act or the Central Government for applicability of provisions under Section 194(A)(1), even when a notification has been issued, making the provisions of Section 1 of Section 194A inapplicable for Societies which are wholly financed by the Government.

[2015-TIOL-340-HC-P&H-IT](#)

Late Sh Joginder Lal Vs CIT (Dated: January 20, 2015)

Income Tax - Sections 132(4), 133A & 292(C).

Keywords - Condonation of delay - Purchase of Land - registered sale deed.

Whether when assessee has purchased certain plot, whose consideration claimed by vendor is other than that recorded in a registered sale deed, then the onus to prove the valuation of a transaction would still be on the Revenue when AO has given proper opportunity to the assessee to cross examine the vendors.

[2015-TIOL-338-HC-DEL-IT](#)

CIT Vs Transceivers India Ltd (Dated: January 28, 2015)

Income Tax - Sections 271(1)(c) & 276C.

Keywords: penalty for concealment - mens rea - capital expenditure

Whether mens rea or willingness is an essential principal requisite for initiation and imposition of penalty u/s, 271(1)(c) - Whether in case, a certain expenditure has been disallowed by AO, would it automatically become a ground for imposition of a penalty u/s 271(1)(c).

[2015-TIOL-337-HC-MUM-IT](#)

United Shippers Ltd Vs ACIT (Dated: January 5, 2015)

Income Tax - Sections 33AC, 142(1), 143(3), 147 & 148.

Keywords: operation of ships - reopening of assessment - deduction u/s 33AC

Whether in case there is no reason to believe that the income chargeable to tax has escaped assessment, the reopening of assessment is bad in law - Whether in such case, it is to be presumed that the entire exercise for reopening of the assessment emanates from a change of opinion - Whether the jurisdictional requirement is a necessary condition, which is required to be satisfied by the AO before issuing the notice u/s 148 to reopen an assessment after expiry of four years from the end of the relevant assessment year.

[2015-TIOL-336-HC-MAD-IT](#)

CIT Vs M/s Cauvery Stone Impex Pvt Ltd (Dated: February 2, 2015)

Income Tax - Sections 10B, 40(a)(i).

Keywords: sales commission - sale price.

Whether in case, the Assessing Officer has based his findings on incomplete investigations, there is any reason to accept the same and disallow the benefit of deduction claimed u/s 10B by the assessee on such basis.

[2015-TIOL-335-HC-KOL-IT](#)

M/s Reckitt Benckiser (India) Ltd Vs Addl.CIT (Dated: December 23, 2014)

Income Tax – Section 80IC

Keywords – interest income, "derived by"

Whether the "interest income" earned by the assessee cannot be said to be "derived by" the eligible undertaking / units as required for claiming deduction under sub-section (2) of section 80IC of the Act.

[2015-TIOL-333-HC-DEL-IT](#)

CIT Vs Central Warehousing Corporation (Dated: January 15, 2015)

Income Tax - Sections 10(29), 37, 139, 142(1), 143(1), 143(2), 147.

Keywords: change of opinion - reason to believe - tangible material - merits review - income escaped assessment.

Whether in case, the assessee has provided necessary details regarding income assessment in the original round of litigation, AO can sought to reopen assessment for the second time on the basis of such reasons only - Whether there is failure or omission to disclose fully and truly material facts, is essentially a matter of fact.

[2015-TIOL-332-HC-DEL-IT](#)

CIT Vs Chander Prakash Pabreja (Dated: February 4, 2015)

Income Tax - Sections 44AF, 68, 144 & 147.

Keywords - Presumptive rate of taxation - Undisclosed income.

Whether it is correct to make addition on account of undisclosed income of assessee when assessee had voluntarily disclosed receipt of certain amount during the course of the assessment and assessee's method of accounting was acceptable to the revenue in past AYS.

[2015-TIOL-331-HC-MAD-IT](#)

Mrs P S Rajeswari Vs ACIT (Dated: January 06, 2015)

Income tax

Keywords – Condonation of Delay.

Whether having failed to file an appeal in time, the assessee cannot now raise a plea that the assessee was not well during the relevant period of time as it is not supported by any cogent material.

[2015-TIOL-330-HC-UKHAND-IT](#)

M/s BG International Ltd Vs ADIT (Dated: January 22, 2015)

Income Tax - Writ - Whether a stay shall be granted when the assessee has never caused any delay in the disposal of the appeal nor has or will seek adjournment in future.

[2015-TIOL-329-HC-AHM-IT](#)

CIT Vs Gujarat Alkalies And Chemicals Ltd (Dated: January 19, 2015)

Income Tax - Section 37(1).

Keywords: membrane replacement - capital expenditure - revenue expense.

Whether addition made on account of expenses incurred for replacement of membrane cells, can be disallowed, treating the same as capital expenditure, by following the rule of consistency and without considering the issues on merits - Whether when no material is referred to by the AO leading to the conclusion that membrane itself can be treated as a separate and independent machine, such expenditure could be treated as of revenue nature.

[2015-TIOL-328-HC-MUM-IT](#)

Gyan Construction Co Vs ITAT (Dated: January 23, 2015)

Income Tax - Sections 132, 158BC, 158BD, 254(2) - rule 27.

Keywords: search - satisfaction recorded - block period assessment - penalty - rectification order - undisclosed income - status 'quo ante'.

Whether the Appellate Tribunal is entitled to recall an order u/s 254(2), in case it suffers from mistakes apparent from record - Whether such recall of such order would tantamount to review of its earlier orders - Whether once an order is recalled and the appeal is to be placed before a regular bench for fresh consideration in a manner of speaking, it restores status' quo ante'.

[2015-TIOL-327-HC-P&H-IT](#)

CIT Vs Smt Bimla Rani (Dated: December 10, 2014)

Income tax - Section 80IB, 69A

Whether the words "employs ten or more workers in a manufacturing process" normally would cover the entire process carried on by the industrial undertaking for converting the raw material into finished goods and claiming deduction u/s 80IB – Whether since AO had not pointed any defect or discrepancies in the books, no addition can be made u/s 69A by rejecting the books of account of the assessee.

[2015-TIOL-326-HC-DEL-IT](#)

CIT Vs Home Developers P Ltd (Dated: December 22, 2014)

Income Tax - Sections 131, 133, 260A, 269SS & 271D

Keywords: surrender of income - penalty - enquiry - search - condonation of delay

Whether when it is not established that the assessee had taken loan or deposit, there is a question of further presumption that such loan or deposit was repaid during the year under consideration or not - Whether when it is clear that the amount surrendered by the assessee was bifurcated and explained in the statements recorded u/s 131, the finding of the Tribunal also favoured the assessee, the High Court can intervene in such factual observations without any proof.

[2015-TIOL-325-HC-MUM-IT](#)

Mr Rashmikant Kundalia Vs UoI (Dated: February 9, 2015)

Income Tax - Sections 192(1A), 200A, 206C & 234E.

Keywords: TDS return - prescribed period - quid pro quo - 'tax' - 'fee'

Whether when the assessee files delayed TDS return the fee charged u/s 234E is in relation to extra work forced upon the Revenue - Whether late submission of TDS statements amounts to additional work for the Revenue - Whether such a fee is in the guise of a tax on the deductor - Whether since the provisions of Sec 234E do not empower the AO to condone delays in filing of TDS returns, it is onerous in nature - Whether such a levy violates Article 14 of the constitution - Whether the right of appeal is not a natural right but a creature of the statute.

[Also see analysis of the Order](#)

[2015-TIOL-324-HC-DEL-IT](#)

Donaldson India Filters Systems Pvt Ltd Vs DCIT (Dated: January 19, 2015)

Income Tax - Sections 147, 148.

Keywords - reassessment, reason to believe, change of opinion.

Whether mere production of account books or other evidence before the AO would not necessarily amount to disclosure of the material information by the assessee as required for the purpose of reopening the assessment u/s 147 - Whether the reassessment proceedings u/s 147 is sustainable if the satisfaction note of the AO does not disclose the foundation of "reasons to believe" and only vaguely refers to the perusal of "the records" without specifying the fresh "tangible material" that had come to light giving rise to a need for such action.

[2015-TIOL-321-HC-DEL-IT](#)

CIT Vs M/s Kuber Mutual Benefit Ltd (Dated: February 5, 2015)

Interest Tax Act - Section 2(7)

Keywords: interest - schemes - damages - loans and advances

Whether amounts received from borrowers or subscribers of scheme issued by a finance company, are to be considered as "interest" merely on the basis of suspicions of the revenue officials - Whether charges for delayed payment of loan and advances would be treated as interest, even if the same is by way of damages.

[2015-TIOL-320-HC-DEL-IT](#)

St Stephens Hospital Society Vs DCIT (Dated: January 13, 2015)

Income Tax - Sections 197 & Rules 28AA & 28AB

Keywords - Form No. 13 - Lower deduction certificate of Tax

Whether writ petition is maintainable on the ground that DCIT has made error in examining the assessee's case under Rule 28AA though Rule 28AB apply.

[2015-TIOL-319-HC-MUM-IT](#)

CIT Vs M/s Swati Energy And Projects Pvt Ltd (Dated: January 15, 2015)

Income Tax

Keywords - Addition of income - Evidences for addition

Whether order passed by tribunal can be challenged on the ground that tribunal was merely following the orders of their Coordinate Bench for previous AY and not considered the facts for relevant year.

[2015-TIOL-318-HC-MAD-IT](#)

CIT Vs M/s Palanquin Investments P Ltd (Dated: January 27, 2015)

Income Tax - Sections 94(8), 143(3) & 154.

Keywords: Short Term Capital Gains - set off - mistake apparent from record - rectification.

Whether when AO has completed assessment u/s 143(3), is in doubt as to the nature of the units sold were original shares or the bonus shares, is there any scope for the AO to rectify its own assessment order u/s 154 on the ground that there was an mistake apparent from record.

[2015-TIOL-317-HC-AHM-IT](#)

CIT Vs Akar Laminators Ltd (Dated: January 27, 2015)

Income Tax - Section 36(1)(iii).

Keywords: Interest on loans - capital asset - interest bearing funds - non business purpose

Whether mere existence of capital goods is sufficient, in order to claim expenses of interest on capital goods for business purpose - Whether the subsequent use of capital goods is also required to be considered before allowing such claim of interest - Whether when the Revenue has not controverted the fact that a disallowance has already been made in the earlier year for expenditure, can the disallowance be made again - Whether in case, the AO has failed to establish that the interest bearing fund has been utilized for non business purpose, its disallowance can still be warranted.

[2015-TIOL-316-HC-P&H-IT](#)

M/s Kudos Chemie Ltd Vs CIT (Dated: January 16, 2015)

Income Tax - Sections 140 A(3), 220 & 221.

Keywords: reduction of penalty - liberal interpretation - paucity of funds

Whether in order to reduce penalty levied by the AO, mere use of words "the ends of justice" and "a liberal interpretation" by the Tribunal are to be considered as genuine, even when the Tribunal has accepted that the assessee has not discharged onus to explain its default.

[2015-TIOL-315-HC-P&H-IT](#)

CIT Vs M/s Highway Cycle Industries Ltd (Dated: January 30, 2015)

Income Tax - Sections 80AA & 80M.

Keywords: closing stock - rule of thumb - dividend received - net income

Whether the rule of thumb applied by the assessee to disclose the opening and closing stocks without any co-relation with the production or turnover can be sustained as a valid method of disclosure of inventory - Whether the deduction u/s 80M is to be computed with reference to the net income of the assessee rather than the gross dividend income.

[2015-TIOL-314-HC-P&H-IT](#)

M/s Vardhman Acrylics Ltd Vs CIT (Dated: December 18, 2014)

Income Tax.

Keywords - sales tax subsidy - revenue receipt - capital receipt.

Whether a sales tax subsidy can be treated as revenue receipt without adjudicating the nature and purpose of the sales tax subsidy.

[2015-TIOL-313-HC-MUM-IT](#)

V Sanjay Kumar Vs DCIT (Dated: November 28, 2014)

Income Tax.

Keywords - personal effects - trader in Art .

Whether the frequency and the volume of the transactions of paintings & works of art, can be considered as an indicator or a factor to conclude, if an individual can be termed as a trader.

[2015-TIOL-308-HC-MAD-IT](#)

CIT Vs Eastman Exports Global Clothing (P) Ltd (Dated: February 2, 2015)

Income tax - Section 80IA.

Keywords - business income - current year income & set off of losses.

Whether any admitted deduction can be reopened again for purpose of computation of current year's income u/s 80I or 80IA, if such deduction have been set off against previous year's income - NO: HC

Whether an assessee would fall within the parameters of section 80IA, if it has exercised his option already by setting off the losses and deductions against his other business income - YES: HC

[Also see analysis of the Order](#)

[2015-TIOL-307-HC-MAD-IT](#)

CIT Vs V D Muralidharan (Dated: November 11, 2014)

Income Tax - Sections 132, 158BC, 158BD & 158BE.

Keywords: block assessment, undisclosed income of any other person, time limit or completion of block assessment.

Whether the jurisdiction to issue notice under Section 158BD of the Act to any person, other than the person with respect to whom search was made, and the consequent time limit prescribed under Section 158BE of the Act in respect of third parties, would be included within the two years period given to the Assessing Officer for completion of block assessment under section 158BE(1) of the Act.

[2015-TIOL-306-HC-MAD-IT](#)

CIT Vs Mangal Tirth Estates Ltd (Dated: January 19, 2015)

Income Tax - Sections 234B & 234C

Keywords - Interest - MAT credit - TDS

Whether MAT credit is to be set off from the tax payable before setting off the tax deducted at source and advance tax paid.

[2015-TIOL-305-HC-DEL-IT](#)

CIT Vs Unipatch Rubber Ltd (Dated: January 5, 2015)

Income Tax – Section 80-I, 80-HH

Keywords– Deductions, Profits and gains from industrial undertaking

Whether the assessee is entitled to deduction u/s 80-I on the gross income without excluding deduction allowed u/s 80-HH.

[2015-TIOL-304-HC-AHM-IT](#)

CIT Vs Akzo Noble Non Stick Coatings Ltd (Dated: January 28, 2015)

Income Tax - Sections 10B & 80IB

Keywords - manufacturing of goods - sanction limit

Whether an addition on assumption that production shown by the assessee is exceeding the sanction limit be valid, when the production data are not found doubtful by any other regulatory authority..

[2015-TIOL-303-HC-AHM-IT](#)

Jagdishbhai Govindlal Patel Vs ITO (Dated: February 2, 2015)

Income tax – Writ - Section 147.

Whether when there is no reason to believe that true and full disclosure was not made by the assessee to come out from the bar of four years as provided by first proviso to section 147 of the Act, the impugned action u/s 147 does not survive in the eye of law.

[2015-TIOL-302-HC-AHM-IT](#)

CIT Vs Century Tiles Ltd (Dated: January 16, 2015)

Income Tax.

Keywords - amount of consumption - unaccounted expenses.

Whether when there is a variation in the amount of consumption of fuel, the AO can assume some undisclosed production in such case, even when no material is brought on record for the same.

[2015-TIOL-301-HC-KAR-IT](#)

CIT Vs Shri Appasaheb Baburao Kamble (Dated: December 10, 2014)

Income Tax - Section 10(10C) & Rule 2BA.

Keywords - Exit Option - voluntary retirement.

Whether the assessee who has taken voluntary retirement under the 'Exit Option' scheme, can be said to have satisfied the conditions laid down under Rule 2BA, if he has furnished the declaration that he has not accepted any commercial employment in any company or concern belonging to the same management - Whether he can claim the compensation amount as determined under Section 10(10C).

[2015-TIOL-300-HC-KERALA-IT](#)

Trans Asian Shipping Services Private Ltd Vs CIT (Dated: January 23, 2015)

Income Tax - Sections 115VC, 115VD, 115VG & Rule 11Q.

Keywords: tonnage taxation - slot charter operations - qualifying ships - deemed tonnage.

Whether the income derived from 'slot charter' operations of a 'tonnage tax company' is liable to be excluded while determining the 'tonnage income' under the 'tonnage tax scheme' if such operations are carried on in ships which are not 'qualifying ships' -
NO: HC

[Also see analysis of the Order](#)

[2015-TIOL-299-HC-MAD-IT](#)

CIT Vs M/s Object Frontier Software Pvt Ltd (Dated: December 23, 2014)

Income Tax - Sections 269SS, 271D

Keywords: cash - loan - deposit - penalty - allotment of shares

Whether in case the assessee was under the bona fide impression that money received as cash was only towards allotment of shares and it is not a loan or deposit, penalty u/s 271D for violation of the provisions of section 269SS can be levied.

[2015-TIOL-298-HC-MUM-IT](#)

Viditi Investments Pvt Ltd Vs DCIT (Dated: January 15, 2015)

Income Tax - Sections 80M, 115JB, 143(3), 147, 148, 154

Keywords: dividend - book profit - shareholders - investment - valuation of assets

Whether the validity of notice issued by the AO in seeking to reopen the assessment, must be determined with reference to the reasons which are found in support of the reopening of the assessment - Whether such reasons cannot be allowed to be supplemented on a basis which was not present to the mind of the officer on the date on which the power to reopen the assessment was exercised.

[2015-TIOL-297-HC-AHM-IT](#)

Ochhavla M Maheswari Vs ITO (Dated: December 10, 2014)

Income Tax - Sections 68, 147, 148

Keywords: unexplained cash credit - period of limitation - reassessment - barred by limitation

Whether when entire information available at the time of reassessment was also available at the time of original assessment, AO while completing the original return had accepted the cash credits as genuine in the assessment framed u/s 143(3), any addition can be made on such account subsequently at the time of reassessment - Whether at the time of reassessment, duty of an assessee can extend beyond making a true and full disclosure of primary facts - Whether when the AO while framing original assessment has failed to work out the tax liability correctly, an assessee could be charged for any such omission.

[2015-TIOL-295-HC-DEL-IT](#)

CIT Vs Hero Honda Motors Ltd (Dated: February 3, 2015)

Income Tax - Section 263.

Keywords - capital expenditure - licence & technical assistance agreement - royalty - revenue expenditure - technical collaboration contract - technical knowhow.

Whether when it is merely permitted and allowed to use technology on subject to payment of royalty and ownership right is never granted or transferred, then such payment of royalty by the assessee, shall be treated as revenue expenditure - Whether the technical guidance fee paid by the assessee shall be treated as revenue expenses, when there is no document and even details to prove the nature and character of the said fee otherwise.

[2015-TIOL-292-HC-AHM-IT](#)

CIT Vs Cadila Pharmaceuticals Ltd (Dated: January 23, 2015)

Income Tax - Sections 35(2AB).

Keywords - advances - commercial expediency - interest on borrowing - job work.

Whether the amount of interest paid by the assessee on transfer of borrowed funds to a sister concern from the point of view of commercial expediency can be disallowed, even in case the Revenue authority is not able to prove that the amount was not advanced for earning profits.

[2015-TIOL-291-HC-AHM-IT](#)

CIT Vs Akar Laminators Ltd (Dated: January 27, 2015)

Income Tax - Section 10(33) .

Keywords - exempted income - interest - non-business purpose - revenue expenditure - term loan interest.

Whether the expenditure of the term loan interest which was capitalized by the assessee is to be treated as revenue expenditure, if the AO has failed to prove that the relevant investment was out of the interest bearing fund.

[2015-TIOL-288-HC-DEL-IT](#)

CIT Vs Accord Metal (I) Pvt Ltd (Dated: January 29, 2015)

Income Tax - Sections 68, 131

Keywords: summons - investigation - share application money - conclusive evidence.

Whether for the purpose of making addition u/s 68, mere receipt of Bank statement is sufficient proof of the share application money received by cheque - Whether in such a case, in order to validate the addition, the CIT(A) ought to conduct a detailed enquiry of the complete record of the investor applicant's bank account.

[2015-TIOL-287-HC-AHM-IT](#)

CIT Vs Akar Laminators Ltd (Dated: January 27, 2015)

Income Tax - Section 36(1)(vii).

Keywords: Bad debts - interest bearing funds - investments - interest free funds - loan - debtors.

Whether when the Tribunal has accepted that assessee has debited its profit and loss account with the amount of bad debts, it can be later on disputed by the same authority that such expenditure which has been written off relates to the earlier year and it could not be treated as expenditure in the year under appeal - Whether in case, burden to prove that no interest bearing funds were utilized for making investment which yielded exempt income, is on the assessee, Tribunal can suo moto assume that investments were made out of interest bearing funds.

[2015-TIOL-286-HC-DEL-IT](#)

Oswal Agro Mills Ltd Vs CIT (Dated: January 12, 2015)

Income Tax - Section - 43B.

Keywords - Contingent liability - Devaluation of rupee - Imported material - Notional loss.

Whether assessee can claim deduction of an expence, occurrence of which as liability is contingent on the happening of an event - Whether assessee is entitled to claim loss on account of devaluation of rupee against the US Dollars.

[2015-TIOL-284-HC-AHM-IT](#)

Gujarat Flourochemicals Ltd Vs CIT (Dated: January 30, 2015)

Income tax - Whether assessee would be entitled to compensation and the interest can be awarded by way of compensation only on the amount received as refund due to inordinate delay in refunding the amount by the department due to the assessee.

[2015-TIOL-283-HC-DEL-IT](#)

CIT Vs M/s Muthoot Financiers (Dated: February 3, 2015)

Income Tax - Sections 148, 260A, 269SS, 271D & 273B.

Keywords - loan - penalty - reopening of assessment.

Whether the money brought in by the partners to the assessee firm, cannot partake the colour of loan or deposit - Whether such a case attracts provisions of Ss 269-SS or 271-D - Whether creditworthiness of the partners and genuineness of the transactions

coupled with the relationship between the "two persons" and two different legal interpretations put forward could constitute a reasonable cause in a given case for not invoking Section 271D and 271E.

[2015-TIOL-280-HC-AP-IT](#)

Mr P Shankaraiah Yadav (Huf) Vs ITO (Dated : November 19, 2014)

Income Tax - Sections 171, 260A.

Keywords - family arrangement - FDR - partition - HUF - interest accrued.

Whether in case of family partition, the presumption as to the continued existence of the undivided family flows from section 171(1) and the burden to prove any plea to the contrary is based upon the one, who claims partition - Whether in case the courts find that the family arrangement suffers from a legal lacuna, the rule of estoppel is pressed into service - Whether once the HUF has settled certain sum in favour of each of the six minor daughters of the *Karta*, the corresponding amount ceased to be the wealth or the assets of the HUF and the same cannot be treated as part of the wealth of the HUF even thereafter.

[2015-TIOL-279-HC-AHM-IT](#)

JCIT Vs Parshwanath Housing Financing Corpn Ltd (Dated: December 1, 2014)

Income Tax - Section 5.

Keywords - mercantile system of accounting - housing loans - yard stick for charging interest - real income.

Whether in case the conduct of the assessee is unequivocal, mere improbability of recovery, can be treated as evidence of the fact that income has not resulted or accrued to the assessee - Whether interest income from housing loans given by the assessee could be treated as income accrued or received to the assessee, in case the assessee is following mercantile system of accounting - Whether after debiting the debtor's account and not reversing that entry but taking the interest merely in suspense account can be considered as a evidence to show that no real income has accrued to the assessee.

[2015-TIOL-278-HC-AHM-IT](#)

Nadiad Mercantile Co-Operative Bank Ltd Vs TRO (Dated: December 23, 2014)

Income Tax - writ - Section 226(3).

Keywords - Society - Liquidation - Punitive action.

Whether where assessee bank is under going liquidation process then from whom the outstanding tax due is to be recovered.

[2015-TIOL-277-HC-MUM-IT](#)

Naresh K Pahuja Vs ITAT (Dated: January 7, 2015)

Income Tax - Section 254(2).

Keywords: rectification application - donor - gift - banking channel - mistake apparent from record.

Whether in case consideration of the statement of donor in the rectification application is in accordance with directions of the Court, would there be any error apparent on record, in case such statement of the donor is not being considered at the time of passing final decision - Whether gifts received either from a domestic or an international donor are to be considered as genuine, in case they are routed through proper banking channel.

[2015-TIOL-276-HC-AHM-IT](#)

New Nandi Seeds Corporation Vs CIT (Dated: December 12, 2014)

Income Tax - Section 80I, 80IA.

Whether the activity of testing, gradation, drying, fumigation and coating of seeds would be an activity of manufacturing and production of seeds and thereby, entitled to deduction under 80IA of the Act.

[2015-TIOL-275-HC-AHM-IT](#)

ITO Vs Kevin Enterprises (Dated: January 12, 2015)

Income Tax - Section 37.

Keywords: provision for warranty - contingent liability - manufacture - sophisticated goods.

Whether in case, the nature of manufacturing activities of the assessee is such, that the warranty of products manufactured became an integral part of the sale price, in that case amount of warranty has to be allowed as a normal business expenditure.

[2015-TIOL-273-HC-MAD-IT](#)

M/s Carborundum Universal Ltd Vs JCIT (Dated: January 22, 2015)

Income tax - Sections 80I & 154.

Keywords - brought forward losses - depreciation allowance - development rebate - new industrial undertaking - setting off losses against profit & unabsorbed depreciation.

Whether where the depreciation allowance and development rebate for the past A.Ys

were fully set off against the total income of the assessee for those A.Ys, the question of carry forward of the same does not arise - YES: HC

Whether brought forward losses and unabsorbed depreciation of new industrial undertaking is required to be taken into consideration once they were set off against other sources of income, for purpose of allowing deduction u/s 80I - NO: HC

[2015-TIOL-272-HC-AHM-IT](#)

CIT Vs Cadila Pharmaceuticals Ltd (Dated: January 23, 2015)

Income tax - Sections 32(1), 35(2AB) & 36(1)(iii)

Keywords - approved R & D - building - clinical trial expenses - depreciation - interest free advances - in-house research - plant & machinery - scientific research & weighted deduction

Whether where allowability of any expenditure for purpose of weighted deduction u/s 35(2AB) is already covered by the decision of the jurisdictional High Court, such issue can be said to have raised any substantial questions of law - NO: HC

Whether where allowability of an interest received on advances paid to sister concern u/s 36(1)(iii) is already covered by the decision of the jurisdictional High Court, such issue can be said to have raised any substantial questions of law - NO: HC

Whether a transaction for transfer of borrowed funds to a sister concern, is required to be seen by the Revenue from the point of view whether the amount was advanced for earning profits or not - NO: HC

Whether where allowability of depreciation on certain plant & machinery u/s 32 is already covered by the decision of the jurisdictional High Court, does such issue can be said to raise any substantial questions of law - NO: HC

Whether extent of efficiency of the plant and machinery is relevant for the purpose of deciding depreciation - NO: HC

[2015-TIOL-271-HC-MAD-IT](#)

R Padmanabhan Vs DCIT (Dated: January 19, 2015)

Income Tax - Sections 147, 148 & 271(1)(c)

Keywords - NRE gifts - Penalty - Revised Return

Whether assessee is liable to pay penalty when there is concealment of income in the original return, which is later on disclosed in the revised return for purchasing peace.

[Also see analysis of the Order](#)

[2015-TIOL-270-HC-AHM-IT](#)

CIT Vs Torrent Leasing And Finance Pvt Ltd (Dated: December 17, 2014)

Income Tax - Section 36(1)(iii)

Keywords: Disallowance of interest - Interest free funds

Whether where, Assessee has interest free funds, the AO cannot disallow the interest on same u/s. 36(1)(iii) of the Act .

[2015-TIOL-269-HC-AHM-IT](#)

CIT Vs Shashiben Rajendra Jain (Dated: January 19, 2015)

Income Tax - Sections 131(1) & 133A.

Keywords - additional income - survey.

Whether the income tax declared by the assessee after a survey, cannot be treated as addition to the normal income, when no tangible material apart from the statement recorded during survey is submitted by the Revenue.

[2015-TIOL-268-HC-AHM-IT](#)

Hitech Outsourcing Services Vs ITO (Dated: January 19, 2015)

Income Tax - Sections 10A & 10B

Keywords: stay application - typographical error - bank guarantee

Whether when at the time of deciding stay application for the first time, the reasons are not mentioned for prima facie consideration of the merit or even on the aspect of balance of convenience, the said order of stay has no legal substance.

[2015-TIOL-267-HC-DEL-IT](#)

CIT Vs Kamal Kishore HUF (Dated: January 6, 2015)

Income Tax - Section 68

Keywords - Capital gains - Cost of acquisition of shares -Onus to disclose

Whether where once the assessee has discharged the initial onus to disclose the source of credit, in a reasonable manner, then does the assessee still has the responsibility to establish the fact to the satisfaction of AO.

[2015-TIOL-266-HC-MAD-IT](#)

M/s Mahendra Hire Purchase Finance Ltd Vs ACIT (Dated: January 19, 2015)

Income Tax - Section 68

Keywords - Depreciation - Hire purchase - Security deposits -Unexplained Investment

Whether when the assessee has received certain amount on sale of vehicles under hire purchase scheme, then this amount can be added in the income of assessee as unexplained income when assessee fails to explain the receipt of amount - Whether when the assessee has sold vehicles with a commitment to receive the amount in instalments, even then it is entitled for deduction of depreciation.

[2015-TIOL-262-HC-MAD-IT](#)

CIT Vs M/s Mohan Breweries And Distilleries Ltd (Dated: January 21, 2015)

Income Tax - Sections 80I, 80IA.

Keywords - profit linked incentives - tax deduction - incentives - set off - reopening of income.

Whether for the purpose of claiming deduction u/s 80IA, losses and other deduction which have been set off against the income of the previous year, could be reopened again for the purpose of computation of current year income.

[Also see analysis of the Order](#)

[2015-TIOL-261-HC-MUM-IT](#)

M/s Godrej Agrovet Ltd Vs DCIT (Dated: January 15, 2015)

Income Tax - Sections 32(1), 36(1)(iii), 115JB, 143(3), 148.

Keywords - depreciation - MAT - book profits - non compete fees - interest paid - goodwill - intangibles.

Whether when AO has passed an order in regular assessment proceedings, after discussing the claim for depreciation, it could be presumed that the said AO has applied his mind while arriving at a conclusion - Whether the reason recorded by the AO in support of the reassessment notice, seeking to deny deduction allowed earlier, would be considered as on account of change of opinion - Whether in case facts and law are identical over different years, then the principle of consistency sets in, the Revenue is not permitted to change its stand from year to year unless there is some change in the facts and the law.

[2015-TIOL-260-HC-AHM-IT](#)

DCIT Vs Surat Electricity Company Ltd (Dated: January 7, 2015)

Income Tax - Sections 143(1), 143(1)(a).

Keywords - contingency reserve - additional tax liability - penalty.

Whether additional tax is leviable on the assessee, even if the liability to pay tax as per a Apex Court decision, accrued after filing of the return of Income Tax but before last date of filing of the Income Tax return.

[2015-TIOL-259-HC-AHM-IT](#)

Kishorchand K Bansal Vs DCIT (Dated: December 8, 2014)

Income tax - Sections 41(1) & 45.

Whether when the assessee was not in a position to give the particulars about the market value of various assets, the difference between the written down value and the actual cost was liable to be taxed as balancing charge under section 41(2).

[2015-TIOL-258-HC-AHM-IT](#)

Neo Trust Vs ITO (Dated: January 13-15-16, 2015)

Income Tax - Sections 161 & 164.

Whether when some or all beneficiaries of the Trust are discretionary Trust, to the extent of share of beneficiary as discretionary Trust, the tax can be charged at the maximum marginal rate under Section 164 and not under Section 161 - Whether Assessee Trust is Specific Trust or discretionary Trust - Whether ultimate finding of fact recorded by the Tribunal cannot be subject matter of appeal when no substantial questions of law was involved.

[2015-TIOL-257-HC-MUM-IT](#)

CIT Vs Suresh Kumar G Hundia (Dated: January 7, 2015)

Income Tax.

Keywords - legal impediment - revised return - unexplained receipt.

Whether there is any legal impediment in filing of a revised return, when the receipt and the person from whom the said sum was received has been concurrently accepted and duly verified.

[2015-TIOL-255-HC-DEL-IT](#)

CI T-Large Tax Payers Unit Vs SRF Ltd (Dated: January 15, 2015)

Income Tax.

Keywords: pre-capitalization expenses - depreciation - expansion of business.

Whether when the Tribunal has correctly analysed the nature of business of assessee, its expansion plans, and observed that the pre-capitalization expenditure incurred is revenue in nature, can the High Court disallow the same without any cogent basis - Whether in case there is an element of interlacing and intermingling of funds between the expanding venture and the existing venture, consequently the expenses has to be treated as falling on the revenue side.

[2015-TIOL-252-HC-AHM-IT](#)

CIT Vs Banco Aluminium Ltd (Dated: January 20 & 21, 2015)

Income Tax Act – Sections 80HHC & 80I.

Keywords: interest for delayed payment, nexus with sale price, net interest income, gross interest income, income by way of compensation, export turnover, total turnover.

Whether interest for the delayed payment has a direct nexus with the sale price of an item - Whether while calculating the amount of interest the net interest income is to be considered and not the gross interest income – Whether ninety per cent of net interest or net rent, which has been included in the profits of business of the assessee as computed under the head "Profits and Gains of Business or Profession", is to be deducted under clause (1) of Explanation (baa) to Section 80HHC for determining the profits of the business - Whether income by way of compensation received by the assessee can be made directly relatable to the regular course of business and have to be excluded from the gross total income to arrive at the Business Profits.

[2015-TIOL-251-HC-AHM-IT](#)

CIT Vs J K Patel Specific Family Trust (Dated: January 16, 2015)

Income Tax - Sections 154, 164, 256(1)

Keywords: beneficiaries of trust - income on substantive basis - protective assessment - specific trust

Whether in case, an income has been substantively assessed in the hands of the main Trust, the same income cannot be again assessed in the hands of the beneficiary of that trust - Whether in case of specific trust, income of beneficiaries can be taxed on substantive basis.

[2015-TIOL-250-HC-AHM-IT](#)

CIT Vs Ravjibhai Harkhabhai Savalia (Dated: December 10, 2014)

Income Tax - Sections 28 & 45(5).

Keywords: enhanced compensation - interest - capital gain.

Whether the amount of enhanced compensation received by an assessee can be brought within the meaning of income u/s 45(5) - Whether the taxability of interest

can be considered only after the additional compensation becomes final and the litigation in this regard comes to a conclusion.

[2015-TIOL-249-HC-MUM-IT](#)

Shri Raghunath B Chitale Vs Addl.DIT (Dated: December 2, 2014)

Income tax - Sections 138

Keywords - non-furnishing of document - search and seizure & trust

Whether status of a search carried out upon the assessee trust in his individual capacity can be doubted, when the said communication does not in any manner appears to be contrary to the stand taken in an affidavit - NO: HC

[2015-TIOL-248-HC-DEL-IT](#)

CIT Vs Bharat Bhushan Jain (Dated: January 8, 2015)

Income Tax – Section 158BD.

Keywords – search and seizure, satisfaction note.

Whether for the purpose of Section 158BD of the Act a satisfaction note is sine qua non and 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 delay ranging between 10 months to 1 ½ years in issuing notices u/s 158BD cannot be considered as issued in conformity with the requirements of Section 158BD.

[2015-TIOL-247-HC-DEL-IT](#)

All Grow and Investment P Ltd Vs CIT (Dated: January 20, 2015)

Income Tax - Section 260A & rule 46A

Keywords: inter-corporate deposit - interest income - additional evidence

Whether when at the time of remand directed by the CIT (A), AO made no attempt to hold further enquiries regarding assessee's system of accounting, the Revenue authority still have the authority to made addition in absence of any concrete material.

[2015-TIOL-246-HC-DEL-IT](#)

CIT Vs Kiran Kapoor (Dated: January 19, 2015)

Income Tax - Section 10B(2).

Keywords - compilation of data - legal database - manufacture - Notification

S.O.890(E) dated 26-9-2000.

Whether compilation of data and its transformation into ready-to-print or publish book can be said to be 'computer software' - YES: HC

Whether when an individual exporter of software compiles, edits and does digital designing of database and exports the same to any place outside India is eligible for Sec 10B benefits - YES: HC

Whether the expression 'legal' is of wide import to include databases that are legal as databases - YES: HC

[2015-TIOL-245-HC-DEL-IT](#)

CIT Vs Bougainvillea Multiplex Entertainment Centre Pvt Ltd (Dated: January 30, 2015)

Income tax - Sections 143(2) & (3).

Keywords - entertainment tax - subsidy - capital receipt - revenue receipt - for purpose of trade - purpose test.

Whether entertainment tax subsidy granted by the State Government for the purpose of constructing new multiplex cinema halls is to be determined as revenue receipt - NO: HC

[2015-TIOL-244-HC-DEL-IT](#)

CIT Vs M/s Yum Restaurants India Pvt Ltd (Dated: January 30, 2015)

Income tax - Sections 2(13) & (24), 29, 30, 36 & 37(1).

Keywords - administrative expenses - assistance to licensees - business income - capital expenditure - franchise agreement - food tasting expenses - income from other sources - non-business use - provisional liability - royalty - service income - supply chain management fees - stewardship fees & technical fee

Whether service income or stewardship fees earned under a franchise agreement on account of rendering assistance to licensees, can be treated as "income from other sources" - NO: HC

Whether any payment can be claimed as deduction, if such payment is made for the purposes of business and not by way of penalty for infraction of any law - YES: HC

Whether any technical license fees paid in commercial expediency of business, can be claimed for deduction u/s 37(1) - NO: HC

Whether mere possibility of result of an exercise being a popular or long lasting recipe will make any expenditure on food tasting and its development, as capital in nature - NO: HC

Whether such food tasting development charges can be said to result in a capital advantage of an enduring nature - NO: HC

[2015-TIOL-243-HC-AP-IT](#)

CIT Vs M/s Sanker Constructions (Dated: December 16, 2014)

Income Tax - Sections 34 & 145.

Keywords: Contingent upon condition - Defect liability period - Mercantile system of accounting.

Whether the amount, the receipt of which as income is contingent upon condition that there not being any defects in the work, during the stipulated period can be counted as Income of the assessee before the expiry of stipulated time as accrued income as assessee was following mercantile system of accounting.

[2015-TIOL-242-HC-AHM-IT](#)

Jyotindra H Shodhan Vs ITO (Dated: December 12, 2014)

Income Tax - Sections 54E, 143(3)

Keywords: specified asset - net consideration - date of transfer - investment

Whether the benefit of Section 54E is available where the assessee has invested or deposited the whole or any part of net consideration in any specified asset within six months from the date of consideration received - Whether deduction u/s 54E is available, only when the investment in specified asset is made within a period of 6 months from the date of transferor from the date of receipts of sale consideration.

[Also see analysis of the Order](#)

[2015-TIOL-241-HC-AHM-IT](#)

CIT Vs Oil and Natural Gas Corporation Ltd (Dated: January 15, 2015)

Income Tax - Sections 10(14), 12H, 17(1)(iv), 115WB(2)(E), 192, 201(1), 201(1A)

Keywords: Fringe Benefit Tax - additional salary - allowance - TDS

Whether Fringe Benefit Tax is applicable only on those amounts, which are incurred as common expenditure on employees' welfare and not on those expenditures which are attributable to an employee directly and whose benefit enjoyed by an employee is ascertainable - Whether when it is clear that the employer has paid FBT on a particular expenditure, it is to be considered as payment of income tax only on deemed income of the employee out of various expenditures incurred by the employer - Whether in order to levy FBT, it is relevant that the employee has actually incurred those expenditures as intended by the employer.

[2015-TIOL-240-HC-AHM-IT](#)

ACIT Vs Nirma Detergent Pvt Ltd (Dated: January 5, 2015)

Income Tax – Sections 2(9), 3, 4 & 32AB.

Keywords – Investment Deposit Account.

Whether deduction u/s 32AB can be allowed in respect of the transaction or an entry in the Books of Account pertaining to the period prior to the assessment year, however the profit of which is earned in the previous year, though otherwise shown in the Books of Account by way of adjustment entry or otherwise in the assessment year.

[2015-TIOL-239-HC-AHM-IT](#)

CIT Vs Bharat V Patel (Dated: December 23, 2014)

Income Tax - Sections 17(2)(iii) & 28(iv)

Keywords: stock appreciation rights - capital gain - perquisite - redemption of stock

Whether an amount being difference in market value of shares on the date of exercise of option and total amount 'paid' by employees consequent upon exercise of the said options, can be taxed as perquisite value, as during the lock-in period there was no cash inflow to employees to foresee future market value of shares and the benefit if any which arose on date when option stood exercised was only a notional benefit whose value was unascertainable - Whether capital gain could arise to the assessee on redemption of Stock Appreciation Rights which were having no cost of acquisition.

[2015-TIOL-238-HC-AHM-IT](#)

Shri Amrut B Patel Vs ACIT (Dated: December 3, 2014)

Income Tax - Sections 45 & 48.

Keywords: capital gain - beneficiary interest in trust - cost of acquisition.

Whether an asset which is capable of acquisition at a cost would be included within the provisions pertaining to the head 'capital gains' as opposed to assets in the acquisition of which no cost at all can be conceived - Whether capital gain accruing to the transferor on transfer of his share of beneficial interest in a trust, is chargeable to tax.

[2015-TIOL-237-HC-AHM-IT](#)

CIT Vs Dhirajlal B Vadalila (Dated: December 5, 2014)

Income Tax

Keywords: income from nursery - exempt income - agricultural income - cultivated

roses

Whether income obtained from carrying out basic operations on land is to be considered as agricultural income - Whether subsequent operations carried out, would also be considered as agricultural operations if they are taken in conjunction with basic operations - Whether the sale proceeds from the business of nursery constitute income from agriculture.

[2015-TIOL-236-HC-AHM-IT](#)

CIT Vs Oil And Natural Gas Corporation (India) Ltd (Dated: December 5, 2014)

Income Tax – Section 17(1).

Keyword - uniform allowance, salary.

Whether payment of uniform allowance to the employees by the assessee is liable for FBT – Whether the payment of uniform allowance is nothing but additional salary paid in the form of an allowance within the meaning of section 17(1) (iv) attracting the TDS provisions of section 192 of the Act.

[2015-TIOL-235-HC-AHM-IT](#)

Gujarat Narmada Vally Fertilisers Ltd Vs DCIT (Dated: December 23, 2014)

Income Tax - Sections 32(1)(ii), 41(1), 50, 143(3) & 155(4A).

Keywords - investment allowance - ships and aircrafts - additional depreciation - block of assets - 100% depreciation - STCG - balancing charge.

Whether benefit of investment allowance granted to an assessee in a particular assessment year, can be withdrawn in a subsequent year merely on cessation of some liabilities which is taxable u/s 41(1) - Whether in case assets stood depreciated at 100% under the proviso to Section 32(1)(ii) in the books of assessee, it does form part of block of assets - Whether profits on sale of such assets can be taxable as a balancing charge - Whether in case an assessee is not able to prove genuineness of a capital nature transaction, depreciation granted earlier can be withdrawn and taxed as income u/s 41(1).

[2015-TIOL-232-HC-AHM-IT](#)

CIT Vs Bharat Hiralal Popat (Dated: December 9, 2014)

Income Tax - Sections 271(1)(c) & 273(2)(a).

Keywords: inaccurate particulars - penalty - under valuation - closing stock.

Whether in case, the Revenue, being appellant, has contended, that the explanation given by the assessee in connection with his income is not acceptable, but it was not at all argued that assessee has offered no explanation or false explanation, in such case penalty for furnishing inaccurate particulars of income u/s 271(1)(c) can be levied.

[2015-TIOL-231-HC-AHM-IT](#)

CIT Vs M/s Colour Graphics (Dated: December 24, 2014)

Income Tax - Section - 80IA.

Keywords - distinct commercial identity - manufacturing activity.

Whether printing work be counted as manufacturing activity and eligible for deduction u/s 80IA of the Act.

[2015-TIOL-230-HC-AHM-IT](#)

CIT Vs M/s Alps Chemicals Pvt Ltd (Dated: December 12, 2014)

Income Tax - Section 80HHC

Keywords - excise duty - sales tax - total turnover

Whether excise duty and sales tax cannot form part of "turnover" under section 80HHC.

[2015-TIOL-229-HC-AHM-IT](#)

CIT Vs Hirenbhai K Patel (Dated: December 24, 2014)

Income Tax - Sections - 244A & 244(1A).

Keywords - Interest - Refund of Taxes - Returned Income.

Whether assessee is allowed to claim interest on refund of taxes when the case is neither of annulment of the assessment nor of failure on the part of revenue to pass assessment.

[2015-TIOL-228-HC-AHM-IT](#)

Kpt Employees Welfare Trust Vs CIT (Dated: December 22, 2014)

Income Tax - Section 10(23AAA).

Keywords - contribution by the employer

Whether employer can't make any payment for corpus for the purpose of registration u/s 10(23AAA) of the Act read with Rule 16C(5).

[2015-TIOL-227-HC-DEL-IT](#)

India Trade Promotion Organization Vs DGIT (Dated: January 22, 2015)

Income Tax - Section 2(15).

Keywords - charitable trust, charitable purpose.

Whether the First Proviso to Section 2(15) of the Income-tax Act, 1961 as amended by the Finance Act, 2008, is arbitrary and unreasonable and has no rational nexus with the object sought to be achieved and is thus violative of Article 14 of the Constitution of India - Whether merely because a fee or some other consideration is collected or received by an institution, it would not lose its character of having been established for a charitable purpose.

[2015-TIOL-226-HC-MUM-IT](#)

CIT Vs Jignesh P Shah (Dated: January 20, 2015)

Income Tax - Section 2(22)(e).

Keywords - Deemed Dividend - Loan - Substance of transaction.

Whether for taxing loan received by the assessee as deemed dividend u/s 2(22)(e), one has to look at the substance of transaction - Whether fiscal status has to be interpreted strictly.

[2015-TIOL-223-HC-DEL-IT](#)

CIT Vs Manoj Bansal (Dated: January 7, 2015)

Income Tax - Sections 132, 158B, 158BB, 158BD

Keywords: search - satisfaction note - sine qua non - letter

Whether for the purpose of Section 158BD, a satisfaction note is sine qua non and must be prepared by the AO before he transmits the records to the other AO who has jurisdiction over such other person - Whether mere issue of a letter without sufficient material or evidence to satisfy the concept of requirement as engrafted u/s 158BD, can be considered as a 'satisfaction note' valid for the purpose.

[Also see analysis of the Order](#)

[2015-TIOL-222-HC-DEL-IT](#)

CIT Vs Metaphor Exports P Ltd (Dated: January 13, 2015)

Income Tax - Section - 68 & Rule - 46A

Keywords - Additional evidence - Scrutiny assessment - Share capital - Unsecured loans

Whether addition of income u/s 68 be made when AO rejected the request of assessee to consider additional evidences and failed to probe further in the matter.

[2015-TIOL-221-HC-MUM-IT](#)

Marve Beach Realtors Pvt Ltd Vs ITO (Dated: January 15, 2015)

Income Tax - Writ - Section 148.

Keywords - Parallel remedies - Reopening of Assessment

Whether assessee can be allowed to challenge the assessment order and notices to reopen the Assessment simultaneously before the CIT(A) and High Court - Whether assessee can be allowed to keep pursuing two parallel remedies.

[2015-TIOL-220-HC-MUM-IT](#)

CIT Vs M/s Bombay Electric Laundry (Dated: January 13, 2015)

Income Tax - Sections - 54EC & 260A

Keywords - Compensation - Free title - Surrender of tenancy rights

Whether tenancy rights are vested in the Assessee or in its individual partners for purposes of determining who is liable to pay tax on the compensation received on surrender of tenancy where premises was in the name of the partners individually and assessee was made a party to the Agreement to ensure a title free of any doubt.

[2015-TIOL-219-HC-MUM-IT](#)

DIT (Exemptions) Vs M/s Anjuman E Mohammedi Trust (Dated: January 9, 2015)

Income Tax - Sections - 11, 12 & 13

Keywords - Carry forward of deficit - Trust

Whether a Trust is permitted to carry forward the deficit where the expenditure, which causes the deficit, exceeds the income.

[2015-TIOL-218-HC-ALL-IT](#)

Allahabad Young Mens Christian Association Vs CCIT (Dated: January 6, 2015)

Income Tax - Sections 10(23C)(vi) , 12A & 12AA.

Keywords: trust - educational society - charitable activities - not for profit organisation

Whether at the time of granting registration u/s 10(23C), revenue authority is only required to examine that the assessee comes within the phrase "exists solely for the educational purpose and not for profit" - Whether the mere existence that there is some profit, does disqualify the assessee from claiming exemption as a trust, if the

sole purpose of existence was not profit making but educational activities.

[2015-TIOL-217-HC-KAR-IT](#)

Bangalore Turf Club Ltd Vs Uoi (Dated: September 26, 2014)

Income tax – Sections 2(24)(ix), 74A(iii), 115BB & 194E

Whether the assessee is liable to deduct tax at source while making payment of 'stake money' to the owners of the horses under section 194B of the Income tax Act.

[2015-TIOL-216-HC-KAR-IT](#)

M/s Efficient Management Services Pvt Ltd Vs ACIT (Dated: October 28, 2014)

Interest Act - Sections 7(1), 8(2) & (3), 10 & 12.

Keywords - credit institution - default in compliance of notice - due date of filing return - levy of interest - loan company & voluntary statement

Whether assessing authority has the discretion to invoke Section 7(2) or 10A of the Interest Act and call upon the assessee to file the return as prescribed u/s 7, if the assessee fails to furnish the return before due date - YES: HC

Whether Section 12 can be applied to a case only where a voluntary statement filed by the assessee is beyond 31st December of a year or filed beyond the date prescribed in the notice u/s 7(2) - YES: HC

Whether liability to pay interest would get attracted, when the assessee has filed the return within the period prescribed u/s 7(2) and when the notice is issued u/s 10 - NO: HC

[2015-TIOL-215-HC-AHM-IT](#)

CIT Vs Banco Aluminium Ltd (Dated: January 21, 2015)

Income Tax - Addition in the value of closing stock - Excise duty

Whether Excise duty is added while computing value of closing stock of finished goods.

[2015-TIOL-214-HC-AHM-IT](#)

Ambalal Sarabhai Enterprises Ltd Vs ACIT (Dated: December 22, 2014)

Income Tax - Section - 43B(b)

Keywords - Due date of contribution - Employers contributions to PF

Whether the due date for payment of employers contributions to PF etc is to be reckoned with reference to date of actual payment of salaries/wages or with reference to close of the concerned month to which salaries/wages pertain.

[2015-TIOL-210-HC-DEL-IT](#)

CIT Vs Amarson Watch Company (Dated: January 12, 2015)

Income Tax - Sections 144 & 145.

Keywords - disallowance due to personal use - gross profit.

Whether the application of 20% of the sales as gross profit, as against the claim of the assessee will be said to be wholly unjustified, since the Assessing Officer had not given any basis whatsoever for the same and no comparative data is available for inferring the gross profit at such higher rate.

[2015-TIOL-209-HC-MUM-IT](#)

CIT Vs Agarwal Enterprises (Dated: January 7, 2015)

Income Tax - Section 37(1)

Keywords: Keyman Insurance Premium - closing stock of shares - undervaluation - bonds.

Whether deduction claimed on account of premium paid in respect of the Keyman Insurance Policy taken in respect of two partners of a partnership firm can be denied considering the same as personal nature expenditure - Whether in case, the method of valuation of stock followed by the assessee is an accepted method in consonance with law as well as Accounting Standards, the AO could have interfered with such methods, unless some distinguishing features were on record.

[2015-TIOL-208-HC-MUM-IT](#)

CIT Vs M/s Videocon International Ltd (Dated: January 13, 2015)

Income Tax - Sections 69C.

Keywords: trial court - acquittal - non explanation of source - addition u/s 69C

Whether in case a chargesheet has been filed, alleging payment made by the assessee to a person, whose proceedings itself resulted in acquittal of such person by the Trial Court, non-explanation of the source of the above amounts could result in application of Section 69C.

[2015-TIOL-207-HC-MAD-IT](#)

CIT Vs M/s Eastman Exports Global Clothing P Ltd (Dated: January 12, 2015)

Income Tax – Section 80IA

Keywords - Profits and gains from infrastructure undertakings, brought forward

lossed.

Whether carried forward loss of earlier years should be set off before computing the profit for the current year, before allowing any deduction u/s 80IA of the Act.

[2015-TIOL-206-HC-KAR-IT](#)

CIT Vs M/s Karnataka Soaps And Detergents Ltd (Dated: October 13, 2014)

Income Tax - Whether for the purpose of section 115JA the tax payable is on the net profit as shown by the assessee in the profit and loss account prepared by the assessee for this purpose or on the fancy figure shown in the P & L account for the purpose of showing profit to the shareholders when the assessee has actually incurred expenditure and the tax liability is less when compared with the net profit arrived at after giving deduction to the actual expenditure.

[2015-TIOL-205-HC-AHM-IT](#)

CIT Vs Century Tiles Ltd (Dated: January 16, 2015)

Income Tax

Keywords: books of accounts - non verifiable expenses - bogus - non bogus expenditure - capital expenditure

Whether addition can be made on account of Gross profit on unaccounted production in absence of clear cut justification from assessee for impact of change in factors resulting in increased fuel consumption both in value and volume terms in comparison to previous year.

[2015-TIOL-204-HC-AHM-IT](#)

DCIT Vs Gujarat Narmada Valley Fertilizers Co Ltd (Dated: December 9, 2014)

Income Tax – Section 37(1) & 80HHC

Keywords – revenue expenditure, capital expenditure, net interest.

Whether the expenditure written off by the on account of the fact that the scheme for which it was incurred was not approved by the Government of India and hence the project did not materialized could be allowed as revenue deduction – Whether 90% of net interest is to be excluded for calculating the deduction u/s 80HHC of the Act.

[2015-TIOL-203-HC-AHM-IT](#)

CIT Vs Gujarat State Fertilizer Co Ltd (Dated: November 28, 2014)

Income tax – Sections 32A & 37

Whether the obsolescence charges in respect of certain nonmoving spare parts is allowable as deduction – Whether guest house expenses are allowable – Whether investment allowance is allowable for telephone equipment installed at factory.

[2015-TIOL-195-HC-AHM-IT](#)

Santokben Sarmanbhai Jadeja Vs ITO (Dated: December 23, 2014)

Income Tax - Section 148

Keywords: agricultural income - E boats - escapement of income.

Whether at the time of computing income from agricultural activities, E Boats are required to be treated as stock in trade - Whether non inclusion of such boats as stock in trade, could be a valid ground for reopening an assessment.

[2015-TIOL-194-HC-DEL-IT](#)

CIT Vs M/s Denso India Ltd (Dated: January 13, 2015)

Income Tax - Sections 32(1) & 35AB.

Keywords: AE -depreciation - intranet - royalty - sister concern - technical services.

Whether when no new fact or development took place, considering that consistency being followed for the past 12 years, identical payments made in the current assessment year, could also be treated as revenue expenditure - Whether in case assessee makes certain payments to sister concern for actual services being received, on cost sharing basis, such amount has to be allowed as revenue expenditure - Whether an assessee would be allowed depreciation u/s 32(1) in respect of an amount, which was earlier being sought as deduction u/s 35AB.

[2015-TIOL-193-HC-AHM-IT](#)

ITO Vs M/s Premier Art Silk Processors Pvt Ltd (Dated: December 24, 2014)

Income Tax - Sections 44AB, 139(9), 143(3), 147, 148 - rule 6DD

Keywords: reopening of assessment - apparent error - inaccurate particulars.

Whether reopening of assessment beyond the statutory period of four years is allowed even if the assessee has fully disclosed true and complete facts, necessary for assessment - Whether the Appellate Commissioner has the authority to allow the assessee to produce new material in violation of Rule 46A of the Income Tax Rules, without giving any opportunity to the Revenue.

[2015-TIOL-192-HC-AHM-IT](#)

JCIT Vs Rashbihari Enterprises Ltd (Dated: December 23, 2014)

Income Tax - Sections 10(1), 10(2)(xv), 143(3)

Keywords: deduction for liability - normal business expenditure- provision.

Whether deduction on account of liability can be allowed as a normal business expenditure even though neither the provision for the same nor the payment of the same has been made by the assessee during the year under consideration.

[2015-TIOL-191-HC-KAR-IT](#)

CIT Vs Maktumsab Abdulsab Ankalagi (Dated: December 15, 2014)

Income Tax - Section 10(10C)

Keywords: ex gratia compensation - voluntary retirement - exit option

Whether when all the conditions laid down in Rule 2BA of the Income Tax Rules are fulfilled, can the assessee be denied exemption u/s 10(10C) from the ex -gratia amount received as per a circular on "EXIT OPTION" Scheme issued by a public sector bank.

[2015-TIOL-189-HC-DEL-IT](#)

CIT Vs Sh Tej Pal Singh Kohli (Dated: January 12, 2015)

Income Tax - Sections 44AB, 80IC, 139(1), 143(2), 143(3), 234B, 234C, 260A, 271(1)(c)

Keywords: electronic goods - manufacturing - assembling - books of account.

Whether LCD Monitor is an information and communication technology device and its manufacturer is eligible to claim Sec 80IC benefits - Whether if the AO has any reasons to disbelieve the correctness of the claim about the manufacturing activity of the assessee, he could make an assessment against the assessee on such basis.

[Also see analysis of the Order](#)

[2015-TIOL-188-HC-DEL-IT](#)

Pawan Kumar Aggarwal Vs ITO (Dated: November 27, 2014)

Income Tax - Sections 64(1A), 68, 260A.

Keywords: gift - clubbing of income - undisclosed income - natural love and affection.

Whether in case of gift, when the donor and donee/assessee were not known to each other, the declaration of gift regarding love and affection made by the assessee, is apparently a mere formal proclamation - Whether it is necessary for the Revenue to

show and prove how the assessee in case of gift has transferred and brought into books of account, undisclosed income u/s 68.

[2015-TIOL-187-HC-MUM-IT](#)

CIT Vs Late Narendra Kumar Lath (Dated: January 8, 2015)

Income Tax - winding up - official liquidator - accrual of income - civil court - decree.

Whether in case, a proceeding in a court is pending for winding up proceedings, the Appellate Tribunal for the purpose of income tax assessment, determine any amount payable before the final order of such court.

[2015-TIOL-186-HC-MUM-IT](#)

Mangla International Pvt Ltd Vs ITO (Dated: January 15, 2015)

Income Tax - Section -148.

Keywords- Parallel remedies - Reopening of the assessment

Whether assessee can be allowed to partly challenge the order of assessment before the CIT(A) and partly before High Court - Whether assessee can be allowed to keep pursuing two parallel remedies.

[2015-TIOL-185-HC-MUM-IT](#)

CIT Vs New Gulistan Co-Op Hsg Soc Ltd (Dated: January 9, 2015)

Income Tax Act, 1961 - Beyond outer limit - Housing Society - Transfer charges

Whether Revenue can raise the same issue again and again, in subsequent AY, where on identical facts, Tribunal has already settled/clear the position of law in previous AY.

[2015-TIOL-184-HC-AHM-IT](#)

ACIT Vs Ravi Construction (Dated: December 22, 2014)

Income Tax - Section 32(1)(ii).

Keywords - centering material - block of assets

Whether centering material is to be viewed as "block of assets" for the purpose of allowing deduction in respect of depreciation u/s 32(1)(ii) of the Income-tax Act - Whether 100 % depreciation can be claimed on centering material.

[2015-TIOL-183-HC-MAD-IT](#)

CIT Vs M/s Jain Corporation (Dated: January 5, 2015)

Income Tax - Sections 143(1) & 143(2).

Keywords: cash credit - trade creditors - genuineness of creditors

Whether in case, the issue raised is a pure question of fact as has been concurrently found by the CIT (Appeals) as well as by the Tribunal, there being no infirmity in the order of Tribunal, that question of law raised has to be answered in favour of the assessee.

[2015-TIOL-182-HC-AHM-IT](#)

CIT Vs M/s Noble Detective And Security Services Pvt Ltd (Dated: December 12, 2014)

Income Tax - Sections 2(24), 28, 36(1)(va), 43B.

Keywords: PF - ESIC - employee contribution - due date - superannuation fund - income.

Whether in case the assessee has not credit the employees' contribution to the employees' account in the relevant fund on or before the due date mentioned in the Explanation to section 36(1) (va), the assessee shall not be entitled to deduction of such amount in computing the income referred to in Section 28 - Whether any sum received by the employer from his employees as contribution to any PF or superannuation fund or any fund set up under the provisions of the Employees' State Insurance Act, 1948, or any other fund for the welfare of such employees shall be treated as an "income".

[2015-TIOL-181-HC-AHM-IT](#)

CIT Vs Oil and Natural Gas Corporation Ltd (Dated: January 5, 2015)

Income Tax - Sections 194C & 194-I.

Keywords - Hiring agreement - Rental agreement - TDS

Whether where Tribunal being final authority for finding of facts, has taken one stand on a particular matter then further appeal can be sustained before higher authorities on the ground that the Tribunal has not considered the facts of the case properly.

[2015-TIOL-180-HC-KOL-IT](#)

CIT Vs M/s Runit Investment Ltd (Dated: December 24, 2014)

Income Tax - Sections - 2(42A), 10(36) & 260A

Keywords - Long term capital assets - Short term capital assets.

Whether any asset held for exactly 12 months by the assessee would be treated as

Long term capital asset or Short term capital asset.

[2015-TIOL-175-HC-DEL-IT](#)

CIT Vs M/s Kelvinator of India Ltd (Dated: January 19, 2015)

Income Tax - Section 32AB

Keywords - Investment deposit, aggregate profit & industrial undertaking.

Whether deduction u/s 32AB is available on the profits of industrial undertaking and not on the aggregate profit of the assessee - Whether the amount of interest on debentures, loans and inter corporate deposits and dividend is required to be considered for the purpose of computing the deduction u/s 32AB.

[2015-TIOL-174-HC-AHM-IT](#)

CIT Vs Gujarat Alkalies And Chemicals Ltd (Dated: December 23, 2014)

Income Tax - Sections 43

Keywords - revenue expenditure - pre-production - revision of income

Whether revenue expenditure claimed for the first time in the course of assessment proceedings by filing a letter without revising the return of income can be allowed - Whether lease rent paid for imported machinery and equipments for establishing a new Soda Ash Plant for the period the new plant had not commenced production, amounts to revenue expenditure.

[2015-TIOL-173-HC-MUM-IT](#)

DIT Vs National Health And Education Society (Dated: January 8, 2015)

Income Tax - Sections 11, 12 & 13.

Keywords - Society - Carry forward of deficit

Whether society is allowed to carry forward the deficit where the expenditure, which causes the deficit, exceeds the income.

[2015-TIOL-172-HC-AHM-IT](#)

CIT Vs Shyamprakash Spining Mills Ltd (Dated: December 24, 2014)

Income Tax - Section 43B

Keywords: sick industrial undertaking - electricity duty - deferment - loan -

notification issued by state government

Whether in case the State Government has issued the notification with a view to alleviate the adverse effect caused to industrial units under Deferment Scheme due to operation of Section 43B, disallowance can be made on such amount of duty deferred.

[2015-TIOL-171-HC-AHM-IT](#)

CIT Vs M/s Shreenathji Corporation (Dated: December 10, 2014)

Income Tax - Sections 256(1), 269SS, 271D, 271E, 273B.

Keywords: loans - business expediency - deposits - construction - ignorance of law.

Whether when the assessee has proved with corroborative evidence that it has taken loan in violation of section 269SS as a result of business expediency, penalty u/s 271D can still be levied on him - Whether an assessee in order to defend himself against the contrary provisions, could take the excuse of ignorance of law.

[2015-TIOL-170-HC-AHM-IT](#)

ACIT Vs Chokshy Keshrimal Mohanlal And Company (Dated: December 22, 2014)

Income Tax - Sections 113, 158BC.

Keywords: search - seizure - surcharge - block assessment.

Whether accrual of any benefit to the assessee can be construed as a decisive factor for retrospective operation of a new proviso inserted to a beneficial piece of legislation.

[2015-TIOL-169-HC-MUM-IT](#)

DIT Vs Society Of Congregation Of Franciscan (Dated: January 15, 2015)

Income Tax - Section 11(1)(a).

Keywords: trust - depreciation - objects of trust - application of income - capital expenditure.

Whether in case of trust, when full expenditure has been allowed in the year of the acquisition of an asset, would it mean that the amount spent on acquiring these assets had been treated as application of income of the trust in the year in which the income was spent in acquiring these assets - Whether that would mean that in computing income from those assets in subsequent years, depreciation in respect of those assets cannot be taken into account.

[2015-TIOL-168-HC-DEL-IT](#)

CIT Vs Modi Xerox India Ltd (Dated: January 8, 2015)

Income Tax - Sections 80HH, 80HHC, 80I.

Keywords: sale of scrap - losses of industrial undertaking - service unit - manufacturing - gross income.

Whether deduction in respect of income derived by each industrial undertaking can be claimed independently or on a consideration of the losses suffered by the entire service unit - Whether income of an industrial undertaking is to be calculated on a consideration of absorbed business losses in respect of each individual unit, thereafter on the profit derived by the unit, the deduction is to be allowed - Whether u/s 80-I(6) for the purposes of calculating deduction, the loss sustained in one of the units, cannot be taken into account because sub-section (6) contemplates that only the profits shall be taken into account as if it was the only source of income - Whether sale of scrap is to be included in the total turnover while computing deduction u/s 80HHC.

[2015-TIOL-167-HC-DEL-IT](#)

CIT Vs Shri Chintoo Tomar (Dated: December 23, 2014)

Income Tax - Sections 2(14), 54, 147, 148, 260A.

Keywords: reasons to believe - brought forward capital losses - capital gains.

Whether when it is clear that during assessment, AO has assumed facts without even trying to look at the return of income and other papers on record, an assumption to reopen assessment finalised, is a mere suspicion without any foundation - Whether in case there is no rational connection between the reason recorded and the formation of belief that income had escaped assessment, the AO could proceed on the basis of the reasons recorded even if they did not show any link with the escapement of income and were also factually incorrect.

[2015-TIOL-163-HC-KAR-IT](#)

M/s Subex Ltd Vs ITO (Dated: October 28, 2014)

Income Tax - Section 10A

Keywords: rent - lease - income from house property - income from other sources.

Whether rental income derived from temporary sublease of office premises can be regarded as "part of the profits of the business" for the purpose of computing deduction u/s 10A - Whether the rent received in respect of sublease should be charged to tax under the head 'income from other sources', the rent paid on principal lease of the very same premises should be allowed in computing the profits of the STP undertaking resulting in artificially lowering the profits of the STP undertaking eligible for deduction u/s 10A.

[Also see analysis of the Order](#)

[2015-TIOL-162-HC-AHM-IT](#)

Emtici Engineering Ltd Vs ACGT (Dated: December 24, 2014)

Gift tax - Sections 4(1)(a), 260A & Rule 10(2) - Income tax - Section 52 & 144B

Keywords - deemed gift - fair market value & under valuation

Whether Gift tax Rules can be applied for the purpose of assessment of deemed Gift under the Gift Tax Act, even when it is clear that Gift Tax provision pertaining to deemed Gift has direct nexus with the under-valuation of the market value of the property sought to be transferred - NO: HC

Whether provisions of Section 52 can be invoked, in case IT Authority has accepted that the fair market value of share estimated as per the Valuation Report of the registered Valuer is in order - NO: HC

Whether when the manner of valuation of unquoted shares has undergone changes from time to time on the basis of judicial pronouncement or legislative changes, can it be said that assessee had made "deemed gift" with a view to avoiding tax - NO: HC

Whether when the sale effected by assessee is at a value higher than that worked out by approved registered valuer but accepted under the IT proceedings u/s 144B r/w/s 144(3), any inference regarding deemed gift can be drawn - NO: HC

[2015-TIOL-161-HC-AHM-IT](#)

Gujarat Alkalies And Chemicals Ltd Vs DCIT (Dated: October 10, 2014)

Income Tax - Sections 80AB, 80HHC, 115J, 143(3)

Keywords: rent - revenue expenditure - expansion - project facility - sales tax - turnover

Whether expenses incurred in respect of a new project facility, would be considered as an expansion of the existing business, allowable as revenue expenditure, irrespective of the fact whether the borrowing is for capital or revenue purpose.

[2015-TIOL-160-HC-DEL-IT](#)

CIT Vs Lalit Kumar Poddar (Dated: January 14, 2015)

Income Tax - Sections 56(2)(vi), 68 & 73(1)

Keywords: share trading - sub broker - capital gains - clearing difference - speculative - set off - carry forward - unsecured loans - intra day trading - jobbing transactions

Whether in case consideration flowed for intraday purchases and sales effected by the assessee on daily basis itself, even then the transaction be termed as speculative in nature - Whether in case assessee has established identity and creditworthiness of the parties from whom he has taken credit, genuineness becomes a matter of inference, such transaction would be considered as bonafide in nature.

[2015-TIOL-159-HC-DEL-IT](#)

CIT Vs Funnay Time Finvest Ltd (Dated: January 13, 2015)

Income Tax - Sections - 68, 133(6), 143(1) & 148

Keywords - Cross Examination - Re assessment - Share Capital

Whether where during reassessment proceedings, assessee has furnished requisite material to AO then does AO need to carry out independent exercise to check the genuineness of the transaction furnished by the assessee to make him liable for addition u/s 68 of the Act.

[2015-TIOL-158-HC-P&H-IT](#)

CIT Vs M/s Eastman Impex (Dated: December 18, 2014)

Income Tax - Section 32

Keywords - windmill - power evacuation - higher depreciation

Whether power evacuation infrastructure constitutes an integral part of a windmill or a normal plant and machinery - Whether such infrastructure is eligible for higher rate of depreciation.

[2015-TIOL-157-HC-MUM-IT](#)

GKN Sinter Metals Ltd Vs CIT (Dated: January 6, 2015)

Income Tax - Sections 147 & 148.

Keyword - reassessment, change of opinion, reason to believe.

Whether when a query has been raised with regard to a particular issue during the regular assessment proceedings, it must follow that the Assessing Officer had applied his mind and taken a view in the matter as is reflected in the Assessment Order - Whether the powers to reopen an assessment is not a power to review an order of assessment.

[2015-TIOL-151-HC-DEL-IT](#)

CIT Vs Alka Bhandari (Dated: January 8, 2015)

Income Tax - Sections 158BD, 158BC

Keywords: search assessment - time limit - satisfaction note - block returns

Whether for the purpose of Section 158BD, a satisfaction note is sine qua non and

must be prepared by the assessing officer before he transmits the records to the other assessing officer who has jurisdiction over such other person.

[2015-TIOL-150-HC-AHM-IT](#)

CIT Vs Aims Chemicals Pvt Ltd (Dated: December 24, 2014)

Income Tax

Keywords - interest free advances - non business expenditure - diversion of funds.

Whether when assessee has given some interest-free advances it can be said that it was for non-business purposes - NO: HC

[2015-TIOL-148-HC-MUM-IT](#)

Om Vinyls P Ltd Vs ITO (Dated: December 24, 2014)

Income Tax - Sections 147, 148

Keywords - reassessment - investigation - material facts - non disclosure - accommodation entry

Whether the fact revealed during investigation that the assessee is a beneficiary of an accommodation entry is sufficient for the AO to prima-facie conclude the absence of true and full disclosure of all facts - Whether a disclosure even if full may not be true - Whether assessment can be validity reopened when on reading of the reason in support of the notice u/s 148 as a whole, brings out the failure on the part of assessee to disclose fully and truly all material facts necessary for assessment - Whether the AO is required to conclusively prove that the reasons in support of the impugned notice establish that the assessee has taken accommodation entries, although such information is specific and involves no ambiguity.

[Also see analysis of the Order](#)

[2015-TIOL-147-HC-MUM-IT](#)

CIT Vs Smt Manju R Gupta (Dated: December 24, 2014)

Income tax - Section 80IB(10)

Keywords - buyer - developer - developmental work - residential project & size of construction area

Whether a developer can be denied benefit of 80IB(10) for crossing the permissible limit regarding size of project area, by either withdrawing or adding a portion from adjacent flats, if the developer has done so on the request of buyer at the time of sale - NO: HC

Whether deduction u/s 80IB(10) can be denied, if it is not the developer who constructed the commercial units and in excess of the prescribed limit, but, it is the buyers claiming through them occupying the same converted the user from residential

to nonresidential - NO: HC

[2015-TIOL-146-HC-MUM-IT](#)

CIT Vs Shri Ratansingh M Rathod (Dated: January 9, 2015)

Income Tax

Keywords: loans - cash credit - books of accounts - rejection - income on estimation basis - turnover - subcontractors

Whether in case pure findings of fact are being assailed by the Revenue, the High Court is expected to accept such issue as a valid question of law - Whether the High court can reappraise and reappraise the said findings of fact at the behest of the Revenue without any perversity being demonstrated.

[2015-TIOL-145-HC-DEL-IT](#)

CIT Vs V K Narang HUF (Dated January 8, 2015)

Income Tax - Sections 158BC, 158BD

Keywords: search assessment - time limit - satisfaction note - block returns

Whether for the purpose of Section 158BD, a satisfaction note is sine qua non and must be prepared by the assessing officer before he transmits the records to the other assessing officer who has jurisdiction over such other person.

[2015-TIOL-144-HC-AHM-IT](#)

Vijay Proteins Ltd Vs CIT (Dated: December 9, 2014)

Income tax - Sections 40A(3), 143(3), 145(2), 256(1) & 271(1)(c).

Keywords - bogus transactions - freight payments - fictitious invoices - penalty & undisclosed income.

Whether a claim of deduction on freight payments can be disallowed u/s 40A(3), when such payments are shown to have been made by "crossed cheques" and entries for the transaction are clearly shown in books of A/c - NO: HC

Whether an inference can be drawn that the assessee has inflated the expenditure by showing higher amount of purchase price through the fictitious invoices in the names of bogus suppliers, where the goods were not received from the parties from whom it is shown to have been purchased but, from a different source exclusively within the knowledge of assessee only - YES: HC

Whether penalty u/s 271(1)(c) can be levied on basis of any guess work - NO: HC

Whether it is open to the assessee to seek immunity under clause (2) of Explanation 5 to section 271(1)(c) for payment of tax together with interest in respect of such

undisclosed income up to the date of payment - YES: HC
2015-TIOL-143-HC-AHM-IT
CIT Vs Winner Business Link Pvt Ltd (Dated: December 18, 2014)
Income Tax - Section 145 Keyword - method of accounting, membership fee. Whether the AO is required to compute the income in accordance with the method of accounting regularly employed by the assessee - Whether matching principle is required to be followed in order to arrive at the real income of the assessee - Whether the one-time and non-refundable membership fee received by the assessee from the members enrolled in a particular accounting year, is to be taxed in the year of receipt or is required to be spread proportionately over the entire period of their membership.
2015-TIOL-138-HC-AHM-IT
CIT Vs M/s Colour Graphics (Dated: December 24, 2014)
Income Tax - Sections 80IA, 260A. Keywords: reopening - assessment - splitting - deduction. Whether in order to reopen an assessment, there should have been something on record with the AO alleging that the firm was formed by splitting up of an industrial undertaking already in existence.
2015-TIOL-137-HC-AHM-IT
CIT Vs Core Emballage Ltd (Dated: December 22, 2014)
Income Tax - Section 36(1)(iii). Keywords: interest - borrowed funds - manufacture - actual cost. Whether an assessee is entitled to claim deduction of interest incurred, u/s 36(1)(iii) in respect of funds borrowed for the purpose of setting up new units for the purpose manufacturing of corrugated boxes, which is its non primary business activity.
2015-TIOL-136-HC-KERALA-IT
M/s Deliza Residency Vs CCIT (Dated: December 19, 2014)
Income Tax - Sections 119(2)(a), 147, 148, 234A, 234B & 234C.

Keywords - waiver of interest - levy of interest - lenient view - compensatory

Whether there are any enabling provisions to reduce the interest levied u/ 234B on the basis of tax on total income determined in regular assessment - Whether such interest charged is only by way of compensation to the Exchequer for being deprived of the payment of advance tax - Whether waiver of interest u/s 234B and 234C can be claimed u/s 119(2)(a) when the assessee could not explain the unavoidable circumstances for non-filing the return voluntarily - Whether a lenient view can be taken against the assessee when it had not fully declared the taxable income while furnishing its returns, initially as well as pursuant to the notice issued u/s 148.

[2015-TIOL-135-HC-AHM-IT](#)

DCIT Vs Chemstar Organics (India) Pvt Ltd (Dated: December 11, 2014)

Income Tax - Sections 72, 79, 80AB, 80HHC

Keywords: unabsorbed depreciation - amalgamation - beneficial interest - date of allotment - investment allowance

Whether in case of amalgamation, the date of allotment of shares can be considered as the effective date of amalgamation from which the assessee would be entitled to claim relief of set off of business losses, ignoring the fact that provisions of Section 79 clearly mentions that the effective date of amalgamation is the date from which the scheme becomes effective - Whether deduction u/s.80HHC can be allowed considering the current year's profit, without reducing therefrom the unabsorbed depreciation and unabsorbed investment allowance.

[2015-TIOL-134-HC-AHM-IT](#)

CIT Vs Harsiddh Specific Family Trust (Dated: December 4, 2014)

Income tax – Section 32AB.

Keyword – Investment deposit account.

Whether where there are two possible interpretations of a taxing provisions the one which is favourable to the assessee should be preferred – Whether deduction u/s 32AB(1) is allowable only if the amount out of income chargeable to tax is deposited in Investment Deposit Account and is utilised during the previous year for the purchase of any new ship, new aircraft, new machinery or plant – Whether the benefit of the deduction u/s 32AB cannot be extended to term loans taken against trucks and tankers.

[Also see analysis of the Order](#)

[2015-TIOL-128-HC-AHM-IT](#)

Gujarat Gas Co Ltd Vs ACIT (Dated: January 8, 2015)

Income Tax - Sections - 74& 260A

Keywords - Disallowance of expences - LTCL - LTCG- Sundry debit balance written-off -STCG- Stamp Duty

Whether where sundry debit balance written-off was shown in previous AY as deposits under the head of capital then can the same be allowed as business revenue expenditure in the AY under consideration by mentioning the same in books of account under the head of business expenditure - Whether where additional stamp duty, has been paid on sale of capital assets of L.P.G. bottling plant then would it be treated as revenue expenditure or capital expenditure - Whether LTCL could be allowed for setting off the STCG

[2015-TIOL-124-HC-AHM-IT](#)

CIT Vs Naranlala Ltd (Dated: December 24, 2014)

Income Tax Act 1961

Keywords - Depreciation on cylinders - Difference in stock - Disallowance of expenditure.

Whether assessee can claim depreciation on the cylinders which were actually not in use even though the same were kept ready for use - Whether addition can be made on account of change in stock

[2015-TIOL-123-HC-ALL-IT](#)

Ravi Agarwal Vs ACIT (Dated: November 3, 2014)

Income Tax – Sections 2(22)(e), 143(1), (2) & (3), 282 & 292BB

Keywords – hire purchase – loan & advances - lending of money - & substantial business

Whether it is open to the assessee to raise any issue regarding non-serving of notice by AO u/s 143(2) before the Tribunal for the first time, after completion of assessment proceedings - NO: HC

Whether the term "lending of money" includes hire purchase transactions, for the purpose of Section 2(22)(e) - NO: HC

Whether for the purpose of proper interpretation of section 2(22)(e), the objectives of a company contained in the memorandum of association is the only factor for determining the substantial part of business of such company - YES: HC

[2015-TIOL-122-HC-MUM-IT](#)

CIT Vs Shri Moti Udham Panjabi (Dated: January 8, 2015)

Income Tax - Section 80IB(10) & Rule 18BBB(2)

Keywords - Defective Audit Report - Deduction - Project

Whether assessee is eligible for deduction u/s 80IB(10) of the Act when his project is not approved/commenced on or after expected dates and measurement of land also fall short of the minimum requirement - Whether assessee is eligible for applicability of the Rule 18BBB(2) of the IT Rules when audit report submitted is found defective.

[2015-TIOL-121-HC-MAD-IT](#)

CIT Vs M/s Printwave Services P Ltd (Dated: November 10, 2014)

Income Tax - Sections 2(22)(c) & 2(22)(e).

Keywords - deemed dividend - payment to director/shareholder & trade advance.

Whether money received as trade advance and subsequently paid to a shareholder/director for repayment as housing loan is liable for taxation u/s 2(22)(e)

[2015-TIOL-120-HC-KERALA-IT](#)

The Kerala Minerals And Metals Ltd Vs CIT (Dated : December 10, 2014)

Income Tax - Keywords - additional grounds - on record.

Whether the freedom available to the Tribunal and the parties to raise new grounds of appeal not raised earlier is absolute - Whether the assessee can raise new grounds before the appellate Tribunal which were not on the record

[2015-TIOL-119-HC-AHM-IT](#)

CIT Vs Sandvik Chokshi Ltd (Dated: November 10, 2014)

Income Tax - Section 43(1).

Keywords - bad debt - depreciation - EMD undertaking - market value & transfer as a going concern.

Whether Explanation-3 to section 43(1) can be invoked in the absence of satisfaction of the AO that the main purpose of the transfer of assets, directly or indirectly to the assessee, is reduction of a liability of income tax by claiming depreciation with reference to an enhanced cost - NO: HC

Whether where an amount is paid or is payable as interest in connection with acquisition of asset, so much of such amount which is relatable to any period after such asset is first put to use, shall not be included in the actual cost of such asset - YES: HC

Whether in view of introduction of Explanation 8 to Section 43(1) having retrospective effect, an interest can be capitalized which is paid after the slump sale was effected and the factory was in operation - NO: HC

Whether a suitable test is required for examination as to whether the bad debts have

been actually written off as irrecoverable in the account books or not - YES: HC

[2015-TIOL-118-HC-AHM-IT](#)

DCIT Vs Sun Pharmaceuticals Ind Ltd (Dated: December 17, 2014)

Income Tax - Sections 29, 32(1), 43(6), 80AB, 80HH, 80HHC, 80I, 80IA.

Keywords: rent, interest, lease, depreciation, block of assets.

Whether the amount of depreciation not claimed for by the assessee, can be allowed as a deduction despite the introduction of the concept of block of assets - Whether in case the required particulars have not been furnished by the assessee and no claim for depreciation has been made in the return, the Income-Tax Officer has the authority to estimate the income without allowing depreciation allowance - Whether sections 80HH and 80-I, are independent of each other - Whether in case of a new industrial unit, deduction under section 80-I can be taken on the reduced balance after taking into account the benefit taken under section 80HH

[2015-TIOL-117-HC-MAD-IT](#)

CIT Vs Dr M A M Ramaswamy (Dated: December 10, 2014)

Income Tax - Sections 2(24)(ix), 58, 115BB - CBDT Circular No.46, Circular No.14 of 2001.

Keywords - betting income - net receipts - special provision - horse racing.

Whether when the assessee is engaged in the business of race horses, and has betting income it cannot set off losses incurred in earning such income -Whether in view of specific Section like 115BB for determination of tax in certain special cases, the special rate of tax given in the said section has to be applied - Whether the method of calculating tax has to be strictly in accordance with the special provision, whenever tax is levied based on special provisions - Whether reliance can be placed on the circular issued by the CBDT which would result in defeating the purport and intent of the Parliament in enacting any special provision in the statute.

[Also see analysis of the Order](#)

[2015-TIOL-116-HC-MAD-IT](#)

M/s Premier Enterprises Vs DCIT (Dated: January 6, 2015)

Income Tax - Sections 80HHC, 143(1)(a).

Keywords: EOU - credit facility - interest received - fixed deposit - deduction u/s 80HHC.

Whether in case the primary document, which explains the nature of a transaction made for the purpose of availing credit facility, has not been considered by the Tribunal in appeal, inspite of a reference of the same in the order of the CIT (A), the order passed by Tribunal is to be considered as valid.

[2015-TIOL-115-HC-P&H-IT](#)

CIT Vs M/s Indo German Fabs (Dated: December 24, 2014)

Income Tax - Sections 133A, 143(1), 263.

Keywords: survey - rejection of books - G.P rate - quasi judicial - reopening u/s 263.

Whether the opinion of CIT, that addition made by the AO is on the lower side, can be the subject matter of section 263 to reopen a matter, which is not erroneous and prejudicial to the interest of the revenue - Whether when the case against assessee is of short assessment which has already been taken care of by the AO by adding a substantial amount to the income of the assessee, CIT could reopen such case u/s 263.

[2015-TIOL-114-HC-AHM-IT](#)

CIT Vs Gujarat Gas Co Ltd (Dated: January 5, 2015)

Income Tax - expansion - laying - feasibility report - revenue expenditure - WIP - software purchase.

Whether expense incurred on the project for expansion of laying down the pipeline for supply of gas, which is regular business of the assessee, is to be allowed as a normal business expenditure - Whether the projects of software programmes could be said as revenue expenditure, even in case the licence of software programmes was not for resale of such software - Whether when the assessee has regularly offered tax, is there any reason to separately consider the work in progress and the expenses incurred thereto for different method for the purpose of assessment of tax.

[2015-TIOL-113-HC-KERALA-IT](#)

M/s Viswadevi Cashew Exports Vs ITO (Dated : December 19, 2014)

Income Tax - Sections 43B, 147 & 264.

Keywords: reopening - Employees state Insurance Act - due date.

Whether an assessment can be reopened u/s 147 merely on the basis that the assessee has made belated payment for employees dues, as per the respective enactments.

[2015-TIOL-112-HC-AHM-IT](#)

Torrent Pharmaceuticals Ltd Vs ACIT (Dated: December 22, 2014)

Income Tax - conversion of shares - debenture issue - capital expenditure.

Whether in case debentures are converted into equity shares, the assessing company

has already got enduring benefit and the expenditure incurred by the conversion of equity shares has to be treated as capital expenditure - Whether the expenditure incurred by assessee company in connection with issue of shares with a view to increase its share capital, is directly related to the expansion of the capital base of the company, and is capital expenditure, even though it may incidentally help in the business of the company and in the profit making.

[2015-TIOL-111-HC-AP-IT](#)

Malreddy Ranga Reddy Vs ACIT (Dated: December 24, 2014)

Income Tax - Section 132, 260-A.

Keywords - cross verify - search - statements.

Whether the very basis for the search proceedings ceases to exist, when the Department itself treated the only documents on the basis of which proceedings were initiated as not true - Whether the proceedings u/s 132 can continue when the Department did not cross verify the recorded statements of the assessee with other concerned parties - Whether proceedings u/s 132 will collapse when the alleged amount was not recovered nor was said to be in the control and custody of the assessee.

[2015-TIOL-110-HC-MUM-IT](#)

Matthews International Fund Vs Uoi (Dated: November 24, 2014)

Income Tax - Sections 142, 143,147 & 148.

Keywords - application of mind - buyback of shares - reopening of assessment & securities transaction tax.

Whether AO can seek to reopen assessment proceedings via a notice without furnishing reasons to the objections taken by the assessee in the reply to the said notice - NO: HC

[2015-TIOL-109-HC-DEL-IT](#)

De Nora India Ltd Vs CIT (Dated: December 22, 2014)

Income Tax - Sections 32 & 43(1) & (6).

Whether depreciation can be allowed on the actual cost incurred for acquisition of a running undertaking with all assets and liabilities when there is evidence that the assessee and the seller had evaluated the plant and machinery on the date of the sale.

[2015-TIOL-107-HC-AP-IT](#)

M/s Ana Labs Vs DCIT (Dated: December 9, 2014)

Income Tax - Sections 45(1) & (4), 47, 48 & 158BD.

Keywords - capital gain tax - consideration other than cash - allotment of shares

Whether once the case does not fall under Section 45(4) of the Act, the matter must be left at that - Whether the finding that there was no distribution of assets leads to a conclusion that there is no transfer at all - Whether it makes any difference for the purpose of computing capital gain tax u/s 45 as to whether the consideration paid in the form of money or otherwise or whether it was paid to someone other than the transferor - Whether capital gain tax can be imposed on the sale of assets transaction in which the sales consideration was paid in the form of allotting shares of the transferee company - Whether the substratum for attracting capital gain tax on any sales transaction is whether the consideration was fixed in terms of money value.

Also see analysis of the Order

[2015-TIOL-106-HC-AHM-IT](#)

ACIT Vs Creative Processing Ltd (Dated: December 24, 2014)

Income Tax - Section 37

Keywords - unsecured loans - interest expenditure - business expenditure

Whether addition can be made on the ground that rate of interest paid on loan taken from a sister concern was higher than the market prevailing rate - Whether it is the function of the Tribunal to determine the appropriateness of the rate of interest paid to a sister concern pertaining to a loan transaction

[2015-TIOL-105-HC-AHM-IT](#)

Hathising MFG Co Ltd Vs CIT (Dated: December 24, 2014)

Income Tax - Sections 44AB, 139(9), 260A, 271B

Keywords: defective return - penalty - sick unit - BIFR

Whether penalty for non-furnishing of tax audit report can be levied u/s 271B on 'a sick unit', in case the assessee has belatedly filed the documents due to some unavoidable circumstances.

[2015-TIOL-104-HC-AHM-IT](#)

CIT Vs Kajal Exports (Dated: October 17, 2014)

Income Tax - Sections 80HHC, 80IB & 143(A).

Keywords - gross interest - net interest

Whether only the net interest is to be included in the profit of business for computation under the head "Profits and gains of business of profession", which is to be deducted under clause (1) of Explanation (baa) to section 80HHC for determining the profit of the business - Whether net interest is to be excluded while working out deduction u/s 80IB.

[2015-TIOL-103-HC-AHM-IT](#)

ITO Vs Associated Engineering Corporation (Dated: December 23, 2014)

Income Tax - Section 271(1)(c)

Keywords: penalty for concealment - estimated income - secret commission

Whether penalty can be imposed u/s 271(1)(c) for concealment of income, in case the income has been determined by the Assessing officer on estimated basis.

[2015-TIOL-102-HC-AHM-IT](#)

CIT Vs M/s Balkrishna Exports (Dated: December 24, 2014)

Income Tax - Sections 80HHC, 143(2), 271(1)(c)

Keywords: export turnover - indirect cost - penalty for concealment.

Whether the claim of assessee in respect of 10% of the expenditure relating to indirect cost for computing deduction u/s. 80HHC can be allowed as a deduction - Whether in case, penalty is a consequential action of the addition made, the same would survive even when the addition itself has been deleted by the Tribunal in appeals.

[2015-TIOL-95-HC-AP-IT](#)

CIT Vs A P Rayons Ltd (Dated: December 17, 2014)

Income Tax - Sections 41, 143(1)(a), 143(3), 260A, 263.

Keywords - foreign collaboration - loan - prima facie adjustment - sick company - waiver.

Whether if the assessee has obtained waiver of an amount which was never considered as a receipt in any of the previous years, such benefit of waiver could be taxed as income of the assessee for the year in which such waiver is granted - Whether a loan advanced to a Company as part of a scheme framed by BIFR for its revival, can be treated as its trade receipt.

[2015-TIOL-94-HC-AHM-IT](#)

CIT Vs M/s Colour Graphics (Dated: December 24, 2014)

Income Tax - Section 80IA.

Keywords - manufacturing - new identity.

Whether deduction u/s 80IA can be allowed in the business of offset cutting and printing - Whether this business involves any manufacturing activity - Whether section 80IA is a beneficial provision and needs to be constructed liberally.

[2015-TIOL-93-HC-MAD-IT](#)

CIT Vs M/s A L Logistics Pvt Ltd (Dated: December 23, 2014)

Income Tax - Section 80IA - infrastructure facilities, movement and handling of containerized import / export consignment, Container Freight Station, "any other public facility of similar nature".

Whether container freight station is to be held to be falling within the customs area attached to the port and if the work relating to customs is performed at these inland container depots / container freight stations, it would fall under the provision of Section 80IA(4)(i) Explanation(d) of the Act and hence eligible for deduction u/s 80IA.

[2015-TIOL-92-HC-AHM-IT](#)

CIT Vs Evergreen Synthetics Pvt Ltd (Dated: December 15, 2014)

Income tax - Sections 115JB, 143(3) & 145(2)

Keywords - comparison with sister concern - excessive fuel charges & unaccounted income

Whether books of account showing some income generated through excessive fuel charges can be rejected by treating the same as unaccounted income - NO: HC

[2015-TIOL-90-HC-AHM-IT](#)

ACIT Vs Waltherman International Ltd (Dated: December 19, 2014)

Income Tax - Section 158B & 158BC.

Keywords: Business losses - Block Assessment - Unabsorbed depreciation

Whether when Assessee, under Block Assessment proceedings u/s 158BC, has surrendered the bogus depreciation on non-existent assets, then the AO can still be directed to allow carry forward of said unabsorbed depreciation.

[2015-TIOL-89-HC-AHM-IT](#)

Ethnic Holdings Pvt Ltd Vs ITO (Dated: December 16, 2014)

Income Tax - Sections 194A, 198, 199

Keywords: TDS deduction - special court - pledging of shares

Whether the order of Special Court would prevail over the decision of Tribunal for deduction of TDS u/s 194A - Whether in case TDS deduction has been restrained by the order of a special court, the Revenue authority has power to deduct the same suo moto.

[Also see analysis of the Order](#)

[2015-TIOL-88-HC-DEL-IT](#)

CIT Vs M/s Sidhartha Securities And Traders Ltd (Dated: December 12, 2014)

Income Tax - Sections 260A, 269SS & 271D

Keywords - book entries - penalty - unsecured loan

Whether Section 269SS is violated if there is a book entry of an unsecured loan through journal, but there is no actual payment in cash - Whether mere book entries would not result in violation of Section 269SS - Whether penalty levied u/s 271D in such circumstances, can be sustained

[2015-TIOL-87-HC-MUM-IT](#)

Top 50 Asien Vs DDIT (Dated: November 10, 2014)

Income tax - Writ - Sections 10(38), 148 & 226.

Keywords: long term capital gain, capital loss, reopening of assessment – change of opinion.

Whether when there is no formation of opinion before passing the assessment order in regular proceedings, there cannot be any change of opinion and the assessment may be reopened - Whether when assessment is reopened, the assessee must be able to provide the evidence on record that during the assessment proceedings the very issue now raised was a subject of consideration during the process of passing an assessment order in regular proceedings.

[2015-TIOL-86-HC-AP-IT](#)

M/s Melville Finvest Ltd Vs JCIT (Dated: December 3, 2014)

Income tax - Sections 73, 143(1)(a), (2) & (3), 260A.

Keywords - profits from other companies - set off of loss & speculative business.

Whether any loss which an assessee is said to have incurred in respect of a speculation business, can be set off against the profits and gains from other activities - NO: HC

Whether a company engaged in the activity of purchase & sale of shares of other companies, but not being the one in the category enlisted within brackets, is liable to be treated as the one carrying on speculation business - YES: HC

Whether entire loss incurred by a company can be denied for set off against profits from other activities, if only a portion of the loss is incurred in the speculative activity that was disqualified - NO: HC

[2015-TIOL-85-HC-KOL-IT](#)

Maud Tea And Seed Co Ltd Vs CIT (Dated: December 24, 2014)

Income tax - Sections 24, 43(5)(b), 80M, 94(7) & 131

Keywords - adverse price fluctuation - dividend - hedging - sale & purchase of shares - speculative transaction.

Whether Section 43(5)(b) mandates any inquiry into the result of the share transactions which has been entered into for guarding against losses in the holding of stocks and shares - NO: HC

Whether assessee can be denied the windfall profit it had earned from hedging transaction of sale of such shares at an even greater value, on ground that he would have made the same even if he had not hedged at all - NO: HC

[2015-TIOL-84-HC-DEL-IT](#)

CIT Vs Tupperware India Pvt Ltd (Dated: December 22, 2014)

Income Tax - Sections 37(1), 40(a)(ia), 194, 195 - Central Excise Act, 1944 - Section 4

Keywords: plastic moulds - revenue expenditure - valuation - rent - manufacturing cost - TDS

Whether expenditure incurred by an assessee voluntarily and without any necessity for promoting business and earning profit is allowable - Whether hire charges paid by contract manufacturers which would eventually add up to the purchase price being paid by the assessee, would be allowed to the assessee as a revenue expenditure u/s 37(1) - Whether disallowance on the amount of provision made in respect of obsolete stock, can be done merely on the concept of matching without even considering the actual market value thereof.

[2015-TIOL-82-HC-AHM-IT](#)

CIT Vs Unique Mercantile Service Pvt Ltd (Dated: December 18, 2014)

Income Tax - Sections 145 & 263.

Whether the assessee is justified in spreading over the amount of membership fee and expenses over the entire period of their membership when the accounts of the assessee had been prepared on accrual basis.

[2015-TIOL-81-HC-DEL-IT](#)

CIT Vs Home Developers Pvt Ltd (Dated: December 23, 2014)

Income Tax - Sections 69C, 132, 153A, 269SS, 269T, 271(1)(c)

Keywords - cash loan transactions - search and seizure

Whether additions can be made on the mere suspicion of cash loan transactions undertaken by the assessee, although such person has been already investigated and no such questions were raised while recording the statement - Whether allegation for violation of section 269SS and 269T can be raised although the Department was duly satisfied with the investigation and the surrender of income during the search and seizure operations - Whether additions can be made on the ground of cash loan transaction, although the Revenue has not even filed any document or material to show that the loan was taken and interest payment was made

[2015-TIOL-80-HC-DEL-IT](#)

CIT Vs Hitesh Bansal (Dated: December 22, 2014)

Income tax - Section 40A(3)

Keywords - commercial expediency - expenditure on mobile phones & public phone booth services

Whether expenditure incurred on purchase of mobile phones can be said to have been incurred for commercial expediency, for any assessee engaged in public phone booth services, when such expenditure is forced by market - YES: HC

[2015-TIOL-76-HC-MAD-IT](#)

M/s KSPS Natarajan & Co Vs ACIT (Dated: December 17, 2014)

Income Tax - Sections 80IA & 147.

Keywords - Production of goods - Profits from the generation of electricity - Wind electricity generators

Whether benefit of Sec 80IA is available to profits from generation of wind electricity - Whether generation of electricity by wind mills amounts to production of goods and article as per the provisions of Sec 80IA.

[2015-TIOL-75-HC-AHM-IT](#)

Kashi Exports Pvt Ltd Vs DCIT (Dated: December 15, 2014)

Income Tax - Sections 40A(2)(b), 142(1) & 143(2)

Keywords: Disallowing labour charges - Job charges - Polishing of diamonds - Relatives of the directors

Whether where there was no finding, to the effect that the labour charges paid by Assessee are in excess of the fair market charges, even then the AO can disallow expenses u/s 40A(2)(b) - Whether AO can assume that Diamonds of the female relatives of the directors are polished without paying job charges even when the Assessee showed corresponding receipts.

[2015-TIOL-74-HC-HP-IT](#)

CIT Vs RFCL Ltd (Dated: December 31, 2014)

Income tax – Section 32(1)(ii)

Whether the assessee is entitled for depreciation in respect of goodwill.

[2015-TIOL-73-HC-AHM-IT](#)

Sakun Polymers Ltd Vs JCIT (Dated: December 23, 2014)

Income Tax - Sections 32, 80IA, 143(2), 143(3)

Keywords: depreciation - deduction u/s 80IA

Whether for the purpose of computing deduction u/s 80IA, an assessee has the liberty to claim depreciation only on a certain block of business assets - Whether AO has the authority to foist upon the assessee such unclaimed depreciation.

[2015-TIOL-72-HC-KERALA-IT](#)

Sabad Vs CIT (Dated: December 18, 2014)

Income Tax - Section 119 (2b)

Keywords: Tax collection at source - contractors - tax payment - condonation of delay

Whether in case, assessee is not otherwise liable to pay any amount by way of tax in respect of his income for an assessment year, and the amounts collected at source for the said year would ordinarily be due to him by way of refund once the assessment was completed, the said assessee would be entitled to obtain condonation of delay for late filing of return of income for that year.

[2015-TIOL-70-HC-AHM-IT](#)

CIT Vs Simron Prints P Ltd (Dated: November 26, 2014)

Income Tax - Sections 133(6) & 143(3).

Keywords: Cash credit facility - Differential statement of stock.

Whether the Tribunal is justified in deleting the addition made by the AO of the differential stock statement as recorded in the books of accounts as against the same submitted before the bank, from whom assessee availed cash credit facility - Whether addition of stock is justified when the books of account or the accounting system has been found to be genuine supported by vouchers, etc.

[2015-TIOL-69-HC-AHM-IT](#)

DCIT (ASST) Vs Sodium Metal Pvt Ltd (Dated: December 2, 2014)

Income Tax - Sections 32AB, 143(1)(a), 143(3).

Keywords: lease rent - income from other sources - business income - manufacturing - deduction u/s 32AB.

Whether if an assessee after setting up a unit, had admittedly never carried out the manufacturing activities on the same, rather put up the plant & machinery of the unit for lease purpose, the income from such a non-primary object of the business can be considered as business income of the assessee - Whether in respect of such lease income, an assessee would be allowed benefit u/s 32AB.

[2015-TIOL-68-HC-KERALA-IT](#)

South India Produce Co Vs CCIT (Dated: December 19, 2014)

Income Tax - Sections 220(2), 234A, 234B & 234C.

Keywords: income from other sources - interest - short term deposits.

Whether the Commissioner of Income Tax has discretion to grant waiver of interest as per the provision of section 220(2A) - Whether such discretion has to be exercised judicially and keeping in mind the aspect of genuine hardship to an assessee who is called upon to make payments of exorbitant amounts towards interest liability

[2015-TIOL-65-HC-KAR-IT](#)

CIT Vs M/s Mac Charles (India) Ltd (Dated: November 17, 2014)

Income Tax - Sections 37(1), 260A

Keywords: repairs and Maintenance - hotel building - revenue expense - capital

expenditure.

Whether expenditure incurred on refurbishing of existing assets to achieve international standards is to be construed as revenue in nature - Whether in case of hotel business, when no extra flooring space or extra room capacity is added on account of repairs made, it can be said that a new asset has come into existence.

[Also see analysis of the Order](#)

[2015-TIOL-64-HC-MUM-IT](#)

DIT Vs The Watch Tower Bible And Tract Society Of India (Dated: December 10, 2014)

Income Tax - Section 11

Keywords: depreciation - exemption - application of income

Whether when the amount spent on acquiring assets has been treated as application of income of the Trust in the year in which the income was spent in acquiring these assets, this means that in subsequent years, depreciation in respect of those assets cannot be taken into account.

[2015-TIOL-63-HC-AP-IT](#)

Sri Venkata Balaji Jute Mills (P) Ltd Vs CIT (Dated: December 10, 2014)

Income Tax - Section 43B

Keywords: Sales tax deferment - exemption claimed - interest free loan

Whether retaining of an amount of sales tax by an assessee as per a state govt. scheme, can be considered as default on the part of assessee for which it can be denied deduction u/s 43B in respect of sales tax paid.

[2015-TIOL-62-HC-AP-IT](#)

M/s Starchik Specialities Ltd Vs DCIT (Dated: December 2, 2014)

Income Tax - Sections 80HHC, 115JA, 260A

Keywords: book profit - direct cost - export turnover

Whether for the purpose of allowing deduction u/s 80HHC, export profit is to be determined by taking into account, the profits of the business, not only of the export activity, but also the profits of other activities of the assessee, multiplied by the resultant figure of division by the total turnover.

[2015-TIOL-61-HC-MAD-IT](#)

CIT Vs M/s Thejo Engineering Ltd (Dated: December 15, 2014)

Income Tax - Sections 143(1), 147 & 148.

Keywords: Income escaped assessment - Validity of reopening

Whether where the pre-condition for invoking proviso to Sec 147 is absent, the valid of reopening can be questioned.

[2015-TIOL-59-HC-AHM-IT](#)

CIT Vs Deversons Industries Ltd (Dated: December 18, 2014)

Income Tax - Sections 80HHC, 80IA

Keywords: exchange rate difference - turnover - industrial undertaking - DEPB benefits

Whether at the time of computing deduction u/s 80IA, exchange rate difference should be treated to be 'derived' from industrial undertaking - Whether duty drawback receipts and DEPB benefits do form part of the net profits of eligible industrial undertakings for the purpose of deduction u/s 80IA.

[2015-TIOL-55-HC-MUM-IT](#)

CIT Vs M/s Bobcards Ltd (Dated: December 17, 2014)

Income Tax - Sections 36(1)(vii) & 145.

Keywords: bad debts - hybrid accounting

Whether merely writing off bad debt in the Profit and loss account is sufficient to claim deduction u/s 36(1)(vii) and the assessee does not have to demonstrate that the debt was indeed bad.

[2015-TIOL-54-HC-MAD-IT](#)

CIT Vs M/s Apex Agencies (Dated: December 9, 2014)

Income Tax - Keywords - deduction of interest - ground of limitation

Whether the interest and finance charges will be treated as an allowable deduction, relying on the decision of the previous AYs of the assessee, when the issue was decided on the ground of limitation and not on merits.

[2015-TIOL-53-HC-P&H-IT](#)

M/s Maheshwari Synthetics Pvt Ltd Vs CIT (Dated: November 17, 2014)

Income tax - Sections 132A & 158BE.

Keywords - block assessment - denial of hearing opportunity & search

Whether an inference of "denial of reasonable opportunity of hearing" can be drawn, in case the matter was remanded back by the Tribunal to the AO for fresh adjudication - NO: HC

[2015-TIOL-52-HC-P&H-IT](#)

CIT Vs M/s DSM Anti Infectives India Ltd (Dated: November 28, 2014)

Income tax - Sections 14A & 36(1)(iii)

Keywords - advances - business expediency - commission - interest income & share investment

Whether disallowance u/s 14A can be invoked, in case any interest or dividend received by assessee out of investment in shares is made as a business expediency - NO: HC

[2015-TIOL-51-HC-AHM-IT](#)

Bipinchandra K Bhatia Vs ACIT (Dated: December 4, 2014)

Income Tax - Sections 28, 37(1) & 143(3).

Keywords: business loss - seizure - sale of gold - sufficient opportunity

Whether in case, ample opportunities have been given to the assessee, he could neither offer any satisfactory explanation in that regard nor could he rebut the same, addition made in that respect by the lower authorities can be deleted by the High Court without giving any justification - Whether loss incurred by the assessee on account of sale of his gold by the Income Tax department, which was seized by it earlier, has to be allowed as deduction.

[2015-TIOL-50-HC-AHM-IT](#)

CIT Vs Khetiwadi Utpadan Bazar Samiti (Dated: December 23, 2014)

Income Tax - Sections 12A, 12AA, 288

Keywords: trust - registration - audit - books of accounts

Whether the order of Commissioner rejecting the application for registration u/s 12A merely on the ground of non-compliance of requirement of filing the audited accounts along with the application form, is bad as per law - Whether the registration to such assessee can be granted in case other condition are being fulfilled.

[2015-TIOL-49-HC-AHM-IT](#)

CIT Vs Madhusudan Vegetable Products Co Ltd (Dated: November 28, 2014)

Income Tax - Sections 32A, 256(1)

Keywords: Investment allowance - plant & machinery - construction of buildings - kiln

Whether when the AO has allowed the assessee to change its financial year for the purpose of claiming investment allowance u/s 32A, the same can be objected to further before the High Court.

[2015-TIOL-48-HC-AHM-IT](#)

CIT Vs Morbi Vegetable Products Ltd (Dated: December 19, 2014)

Income Tax - Section 80HHC

Keywords: export house - business profits - service charges

Whether an export house, while computing its total income, is entitled to deduction to the extent of the profit derived by the assessee from the export of the goods or merchandise - Whether service charges need to be excluded while computing the profit of business for the purpose of deduction under section 80HHC.

[2015-TIOL-47-HC-KERALA-IT](#)

Jaseela Vs ITO (Dated: December 19, 2014)

Income tax - Section 271(1C)

Keywords - legal heir - non-impleadment & penalty

Whether passing any order in respect of a dead person without impleadment of his legal heir can be said to be a nullity - YES: HC

[2015-TIOL-46-HC-KERALA-IT](#)

Joseph Korah Vs ITO (Dated: October 28, 2014)

Income tax - Sections 132B(4) & 244(1A).

Keywords - interest on refund - interest on interest & penalty.

Whether 'interest on refunds' under various contingencies u/s 244(1A) includes "interest on statutory interest" in addition to interest provided for under the statute

which may be claimed by an assessee from the Revenue - NO: HC

Whether grant of compensation over & above the statutory interest already reckoned for the purposes of computation of the amounts due to the assessee, is warranted, when such interest was computed in accordance with the provisions for the entire period for which the amount due to the assessee was withheld - NO: HC

[2015-TIOL-45-HC-AHM-IT](#)

CIT Vs Sahajanand Developers (Dated: December 11, 2014)

Income Tax - Sections 2(47)(v), 44AB, 80IB(10), 143(2)

Keywords: FSI - housing project - construction - local authority - ownership rights

Whether in case land has been transferred to assessee for the limited purpose of construction, the income derived from such property would be considered as income in the hands of assessee as owner even though the title in the land had not yet passed on to the assessee - Whether such assessee would be entitled for deduction u/s 80IB(10) - Whether deduction u/s.80IB(10) can be allowed to the assessee on profit derived from sale of unutilized FSI, not being the element of profits derived from the business activity of development and construction of the housing project relating to the sale of tenements.

[2015-TIOL-44-HC-AHM-IT](#)

M/s Deepak Nitrite Ltd Vs JCIT (Dated: December 18, 2014)

Income Tax - Sections 36(1)(iii), 37, 142(1), 143(1)(a) & 143(2).

Keywords: actual cost - borrowing for revenue purposes - capital borrowed for a capital purpose

Whether deduction u/s 36(1)(iii) in respect of interest on borrowed capital would be allowed only in case, when such amount has been borrowed for meeting revenue nature expenditure only. -

[2015-TIOL-43-HC-AHM-IT](#)

JCIT Vs Bell Ceramics Ltd (Dated: December 18, 2014)

Income Tax - Sections 36(1)(iii) & 43(1)

Keywords: actual cost - revenue expenditure - capitalised interest - borrowings

Whether an assessee is entitled to claim interest paid on borrowed capital as revenue expenditure u/s 36(1)(iii), irrespective of the fact that such capital was used for meeting capital or revenue nature requirements.

[2015-TIOL-42-HC-AHM-IT](#)

CIT Vs Baroda Extrusion Ltd (Dated: December 24, 2014)

Income Tax - Sections 269SS, 271D & 273B

Keywords: Account payee cheques - Cash Deposit - Penalty - Reasonable cause - Unaccounted income

Whether where penalty has been imposed under Section 271D for default in complying with the provision of section 269SS of Act, then can the same be cancelled, on the ground that there was reasonable cause for the said failure.

[2015-TIOL-41-HC-DEL-IT](#)

CIT Vs Naresh Kumar Jaggi (Dated: December 22, 2014)

Income Tax - Sections 140A(3), 143(1), 143(3), 156, 221, 260A

Keywords: notice of demand - penalty - interest - demand

Whether in case the authorities were justified in restricting the penalty to 25% based on cogent material and finding and the discretion so exercised is within the mandate of law and based on good, valid and cogent ground, such restriction of penalty can be declared wrong.

[2015-TIOL-40-HC-KAR-IT](#)

M/s Bagmane Constructions Pvt Ltd Vs CIT (Dated: September 16, 2014)

Income tax – Section 2(22)(e)

Whether the trade advance which is in the nature of money transacted to give effect to commercial transactions would not fall within the ambit of the provisions of Section 2(22)e of the Act.

[2015-TIOL-39-HC-AHM-IT](#)

CIT Vs Indian Petrochemicals Corporation Ltd (Dated: December 19, 2014)

Income tax - Sections 9(1)(ii), 201(1) & 271C

Keywords - gift coupons - penalty - salary - taxable perquisite - tax at source & TDS

Whether grant of gift coupons to employees in nature of mementos to commemorate receipt of safety awards can be said to be in nature of salary - NO: HC

Whether penalty u/s 271C can be levied for not deducting TDS, in case the assessee is under bona fide belief for having no obligation to deduct TDS from the home salary paid by any foreign company - NO: HC

Whether gift coupons issued by a PSU to its employees being in the nature of mementos to commemorate conferment of awards by international organisations, can be said to be in the nature of payment of salary - NO: HC

Whether such gift coupons requires deduction of TDS, failure of which would make the assessee liable for penalty u/s 271C - NO: HC

[Also see analysis of the Order](#)

[2015-TIOL-37-HC-AHM-IT](#)

Rudraksh Builders Vs ACIT (Dated: December 9, 2014)

Income Tax - Sections 143(1)(a), 194C

Keywords: TDS - billed amount - prima facie adjustment - apparent mistake

Whether an assessee can be held guilty for non deduction of TDS on the amount of work in progress billed, even if it has actually worked for comparatively lesser amount as against the amount billed.

[2015-TIOL-36-HC-AHM-IT](#)

ITO Vs Devi Exhibitors (Dated: December 23, 2014)

Income Tax - Sections 2(47), 45(2)

Keywords: Floor space Index - capital asset - stock in transfer - transfer - theatre

Whether "Floor Space Index" is a capital asset - Whether conversion of a capital asset into, or its treatment as stock - in-trade of business carried on by its owner shall be deemed as "transfer".

[Also see analysis of the Order](#)

[2015-TIOL-35-HC-AHM-IT](#)

J K Chokshi Vs ACIT (Dated: December 22, 2014)

Income tax - Sections 40(b), 131, 143(3) & 260A

Keywords - business activity - disclosed income - income from other sources - salary to partners & survey

Whether stock and cash found and disclosed during survey u/s 131 would indicate that such income is in respect of assessee's business, if the AO has not questioned his source of income in respect of such disclosed income - YES: HC

Whether where no evidence has been brought by the AO to establish that assessee is doing an activity other than the business of gold ornaments, it can be concluded that amount disclosed at his business premise is nothing but, the business income of

assessee - YES: HC

Whether when the business activity of assessee is accepted and no other source of income is found, is there any justification for disallowing any expenditure incurred by assessee on similar grounds - NO: HC

[2015-TIOL-34-HC-AHM-IT](#)

Ashirvad Yarns Pvt Ltd Vs DCIT (Dated: December 9, 2014)

Income Tax - Sections 142(1), 143(2), 145

Keywords - evidence - audited accounts

Whether the assessee has failed to offer explanation in support of its case, when it could not produce the accounts of the immediately preceding year, which were destroyed due to floods - Whether additions are certainly warranted when the rate of turnover indicated a downfall compared to last year, and there was drastic increase in certain expenses - Whether it can be said that no evidence has been produced by the assessee, when it has submitted the audited accounts.

[2015-TIOL-31-HC-KAR-IT](#)

CIT Vs M/s Herbalife International India Pvt Ltd (Dated: October 28, 2014)

Income Tax

Keywords: royalty - capital expenditure - enduring benefit - proprietary interest

Whether when the royalty agreement clearly states that no proprietary interest shall be transferred to the assessee with respect to any service being rendered by the licensor, even then the sum paid is to be treated as capital in nature.

[Also see analysis of the Order](#)

[2015-TIOL-30-HC-MUM-IT](#)

Kalpesh M Nagda Vs CIT (Dated: December 22, 2014)

Income Tax - Sections 28, 80HHC, 143(1), 143(3), 256(1), 256(2), 264

Keywords: export profits - DEPB benefits - retrospective amendment

Whether the Commissioner, while revising an order of AO u/s 264, could take into account a retrospective amendment made after the order of the AO - Whether this would bring injustice to the assessee.

[2015-TIOL-29-HC-AP-IT](#)

CIT Vs Dr Jeehangir M Jehangir (Dated: December 10, 2014)

Income tax - Sections 48(ii) & 263

Keywords - acquisition cost of property - information from Sub-Registrar & review u/s 263

Whether CIT before passing any order u/s 263 in respect of any addition on account of acquisition cost of property obtained from Sub-Registrar, is obliged to share such information with the assessee - YES: HC

Whether revision of AO's order u/s 263 made on sole basis of information obtained from the Sub-Registrar for which no verification report was submitted before the Tribunal, can be said to be sustainable - NO: HC

[2015-TIOL-28-HC-AP-IT](#)

M/s Arun Chemical And Pharmaceut ical Works Vs CIT (Dated: December 9, 2014)

Income Tax

Keyword - common partners - set off of profit - merged losses

Whether for the purpose of getting benefit of set off of losses, affairs of two separate and independent firms can be treated as one, simply because the partners are common to both the entities.

[2015-TIOL-27-HC-AHM-IT](#)

M/s Atul Buildcon Pvt Ltd Vs ACIT (Dated: December 19, 2014)

Income Tax - Section 69

Keywords: Addition of income - Cost of construction - Valuation Report - Unexplained investment

Whether addition of income u/s 69C and cognate provisions can be made towards cost of construction on the basis of report of the Departmental Valuation Officer (DVO) when AO has not referred/rejected books of accounts of Assessee .

[2015-TIOL-26-HC-AHM-IT](#)

ACIT Vs Ambica Specific Family Trust (Dated: November 25, 2014)

Income tax - Sections 143(3), 250

Keywords - infrastructural facilities - lease hire basis & sister concern

Whether assessee is entitled for claiming deduction u/s 80I on the infrastructural facilities such as land or building which was hired from its sister concern on lease basis - YES: HC

Whether deduction u/s 80I may be denied, if the said infrastructural facilities were used by the earlier owner - YES: HC

[2015-TIOL-22-HC-AHM-IT](#)

CIT Vs Nirma Ltd (Dated: December 15, 2014)

Income Tax - Sections 80HH, 80I, 143(3) & 260A

Keywords - computation of deduction - interest income - net interest

Whether netting of interest income is allowed, without considering the fact that interest income shall be assessed as income from other sources, while computing deduction under Section 80HH and 80I.

[2015-TIOL-20-HC-MAD-IT](#)

M/s India Trimmings Pvt Ltd Vs ACIT (Dated: December 16, 2014)

Income tax - Section 92CA(3), 115JB, 143(1), (2) & (3), 144C(1) & 254(2).

Keywords - non-speaking order - non-application of mind - prescribed procedure & remand.

Whether a Tribunal upon a mere persuasion can remand back any matter to the file of AO without considering assessee's objections with respect to alleged improper application of any prescribed procedure under law - NO: HC

Whether it is open for the Tribunal to pass a non-speaking order by way of remand, without even giving a ruling on the same - NO: HC

Whether such non-speaking order of the Tribunal can be construed as non-application of mind - YES: HC

[2015-TIOL-16-HC-KERALA-IT](#)

C Padmakumar Vs DCIT (Dated: December 1, 2014)

Income Tax - Sections 237 to 245

Keywords: excess tax paid - refund - interest - income tax ombudsman - non compete amount

Whether in case of a non compete agreement, compensation received is taxable as per the provisions of the Act - Whether in case, an assessee has erroneously deposited excess advance tax on a receipt not liable for income tax, such an amount deposited would be refunded to that assessee - Whether interest would also be granted on the same.

[2015-TIOL-15-HC-AHM-IT](#)

Kirit Dahyabhai Patel Vs ACIT (Dated: December 3, 2014)

Income Tax - Sections 132 , 139(1), 153(1)(a), 153(1)(b), 271(1)(c)

Keywords: search - penalty for concealment - undisclosed income

Whether when an assessee has paid the entire amount of penalty along with interest, the AO is bound to grant immunity available u/s 271(1)(C) - Whether the return of income filed in response to notice u/s 153(a) is to be considered as return filed u/s 139, as the Assessing Officer has made assessment on the said return - Whether the same return is to be considered for the purpose of penalty under Section 271(1)(c).

[2015-TIOL-14-HC-AHM-IT](#)

United Phosphorus Ltd Vs Addl.CIT (Dated: December 5, 2014)

Income Tax - Sections 80HHC, 80I, 80IA & 80M.

Whether income from sale of Advance License Benefits is taxable only in the year in which actual sale took place - Whether premium paid for the leasehold land is revenue expenditure - Whether the Tribunal was justified in holding that business loss suffered by the Assessee in China is not allowable in the year under consideration when the Assessee has got decree of a foreign court in his favour, and there being a possibility of realizing the amount in near future - Whether income from Advance License Benefit Receivable, Pass Book Benefit Receivable and profit on sale of import license is derived from industrial undertaking and thus eligible for deduction u/s 80I and 80IA - Whether there can be no set off of expenditure against income for the purpose of calculating deduction u/s 80HHC? Whether on notional basis expenditure can be made or assumed to reduce claim of deduction u/s 80M.

[2015-TIOL-13-HC-AHM-IT](#)

ACIT Vs Shri Uttamchand V Sethiya (Dated: December 5, 2014)

Income Tax - Sections 113 & 132.

Keywords - purposive construction - surcharge - search and seizure.

Whether where benefit is conferred by a legislation on some persons but without inflicting a corresponding detriment on some other person or on the public generally, then would it be presumed that such a legislation, giving it a purposive construction, would warrant it to be given a retrospective effect - Whether in such case an assessee can be compelled to pay surcharge levied by the AO.

[2015-TIOL-12-HC-AHM-IT](#)

Virendra R Gandhi Vs ACIT (Dated: November 19, 2014)

Income tax - Sections 143(1)(a) & 143(3.)

Keywords - interest & disallowance u/s 57(iii).

Whether it is permitted for the revenue to take a different stand subsequently in respect of the amounts which were the subject matter of previous years' assessment - NO: HC

Whether an interest can be disallowed u/s 57(iii) during current year assessment, when such interest is allowed in the previous year involving no change in the condition - NO: HC

[2015-TIOL-11-HC-AP-IT](#)

CIT Vs Sunny Liquors Pvt Ltd (Dated: November 11, 2014)

Income Tax - Sections 132 & 158BD.

Keywords - block assessment - gift item sold - search.

Whether an order of block assessment can be passed, only when some material which did not form part of the books of account, the returns and the corresponding orders of assessment is unearthed in the course of search - Whether in case no search was conducted against the assessee, the proceedings under Chapter XIVB can be initiated against him on the basis of the alleged discoveries in the course of search conducted in the premises of a third party - Whether such block assessment can be made even if the assessee has already disclosed such details in its return of income.

[2015-TIOL-10-HC-ALL-IT](#)

CIT Vs Shri Ziauddin Ahmad (Dated: December 18, 2014)

Income Tax - Sections 2(47), 45, 131, 143(3), 147 & 148

Whether the Tribunal is correct in law in holding that no capital gain accrued or arose to the assessee in A.Y. 2006-07 when the partial possession was given in the year 1999 in pursuant to which the builder launched the scheme on 21.4.2002 but the title was transferred on 30.04.2005.

[2015-TIOL-08-HC-DEL-IT](#)

CIT Vs Shiv Raj Gupta (Dated: December 22, 2014)

Income tax - Sections 28(ii) & (iv) & 131.

Keywords - capital receipt - colourable device - controlling interest - deed of covenant - non-competition fee - sale consideration - transfer of share - terminal benefit & tax avoidance.

Whether a benefit or perquisite arising from business or profession, will always be chargeable to tax as income under the head of "profits and gains of business or

profession" - YES: HC

Whether payment in consideration of transfer of shares and handing over of management & control of a company including termination & modification in the terms of management, is liable to be treated as such "payment" u/s 28(ii)(a) - YES: HC

Whether price per share quoted in the exchanges can be inferred as the true price of a transaction for purchase of majority shares to acquire controlling interest in a company, which is its competitor - NO: HC

Whether attribution of an astronomical sum as payment toward non-compete fee unconnected with the sale of shares, can be accepted for determining the nature of such transaction - NO: HC

Whether acquisition of majority shareholding and procuring management & controlling rights of a competitor company, is sufficient to hold that payment made in respect of such acquisition is "payment u/s 28(ii)(a)" and not u/s 28(iv) - YES: HC

Whether such payment can be claimed for exemption, when it cannot be equated with that of a non-compete fee - NO: HC

Whether the said payment is liable to be taxed in the hands of assessee only, when the entire sale consideration is received by assessee only and no one else - YES: HC

[Also see analysis of the Order](#)

[2015-TIOL-07-HC-DEL-IT](#)

CIT Vs Narain Dass Taneja (Dated: December 18, 2014)

Income Tax - Sections 69, 143(3), 147 & 148.

Keywords - Reassessment proceedings - Questionnaire - Unexplained investment.

Whether AO can issue notice u/s 148 on the ground of unexplained investment when the said issue though observed but was not taken into consideration while framing the original assessment - Whether assessee has not made full and true disclosure of material facts even when he replied on the issue of investment in response to the AO's questionnaire during original assessment.

[2015-TIOL-06-HC-MUM-IT](#)

CIT Vs Shri Raju Shete (Dated: December 4, 2014)

Income Tax - Sections 54EC & 263.

Keywords - capital gain - initial consideration - revisional jurisdiction.

Whether the outer limit of an amount can be brought to tax on the footing that it is an initial consideration or payment, when only an initial payment has been made as further sum is payable on condition, dependent upon several factors being complied with.

[2015-TIOL-05-HC-MUM-IT](#)

CIT Vs M/s Essar Steel Ltd (Dated: December 24, 2014)

Income Tax

Keywords - advance - interest expenses - interest free loan.

Whether if the findings of facts recorded by the Tribunal are not perverse by any error of law apparent on the face of the record, it is justifiable on the part of the High Court to allow assessee's contentions in part only, without giving any cogent reasons for the same.

[2015-TIOL-03-HC-AHM-IT](#)

Shipra Ship Builders Pvt Ltd Vs ACIT (Dated: December 1, 2014)

Income Tax - Section 143(3).

Keywords - business income - interest - mandatory precondition deposit.

Whether interest income utilized for the purpose of assessee's business by purchasing new machinery, can be treated as income from other sources.

[2015-TIOL-02-HC-AHM-IT](#)

CIT Vs Arvindbhai Maniar Charitable Foundation (Dated: December 2, 2014)

Income Tax - Sections 12AA & 80G.

Keywords - main objects - registration - trust - trust deed.

Whether at the stage of granting registration u/s 12AA, extent and nature of activities performed by the assessee, are required to be examined by the Revenue authority or the same is required to be examined in assessment proceedings.