

INCOME TAX APPELLATE TRIBUNAL ORDER

[2013-TIOL-1108-ITAT-AHM](#)

ACIT Vs Vijay Kumar D Gupta (Dated: August 23, 2013)

Income Tax - Sections 132, 50C, 153A - Whether AO cannot make a reference to the Valuation Officer u/s 50C unless the books of accounts of the assessee are rejected - Whether subsequent transfer of land by the employee to its company cannot be considered as sale consideration for the purpose of the invoking the provision of Section 50C if the transfer of land by the employee to its company was not a case of finance by the company, and the company having enjoyed the said asset and had the control as well as domain over the land.

[2013-TIOL-1107-ITAT-MUM](#)

DCIT Vs M/s The Air Cargo Agents Association Of India (Dated: November 6, 2013)

Income Tax - Sections 147, 148 - Whether the initiation of reassessment proceedings u/s 147 after four years is justified when in the reasons recorded by the AO there was no such facts mentioned that the income chargeable to tax has escaped assessment on account of failure on the part of the assessee to fully and truly disclose material facts necessary for assessment.

[2013-TIOL-1106-ITAT-HYD](#)

ADIT Vs Vodithala Education Society (Dated: September 13, 2013)

Income Tax - Sections 143(2) & (3), 147 - Whether the CIT (A) is justified in annulling the assessment completed u/s 143(3) r/w section 147 on the ground of non issuance of notice u/s 143(2).

[2013-TIOL-1105-ITAT-MUM](#)

State Bank of India Vs DCIT (Dated: November 20, 2013)

Income Tax - Sections 36(1)(vii), 36(1) (vii-a), 36(2)(v), 80-M & 115-O - Whether the provision u/s 36(1) (vii-a) is to be first adjusted in terms of the proviso to s. 36(1)(vii) r/w s. 36(2)(v), and the balance allowed as deduction u/s. 36(1)(vii) - Whether there is correspondence between deduction u/s. 80-M and the additional income tax u/s.115-O.

2013-TIOL-1104-ITAT-AHM
ACIT Vs M/s Starlite Securities Garden Mills Complex (Dated: November 22, 2013)
Income Tax - Sections 147, 148 - Whether the Assessee is justified in claiming the loss from own bidding for the whole tenure of the chit group as a deduction - Whether reopening of assessment after lapse of four years is justified when there is no failure on the part of the assessee to disclose fully and truly all material facts necessary for assessment for the relevant A.Y.
2013-TIOL-1103-ITAT-BANG
ACIT Vs M/s Shriram Chits (Karnataka) Pvt Ltd (Dated: August 14, 2013)
Income Tax - Sections 147, 148 - Whether the Assessee is justified in claiming the loss from own bidding for the whole tenure of the chit group as a deduction - Whether reopening of assessment after lapse of four years is justified when there is no failure on the part of the assessee to disclose fully and truly all material facts necessary for assessment for the relevant A.Y.
2013-TIOL-1102-ITAT-DEL
Prem Daan Sansthan Vs ADIT (Dated: July 31, 2013)
Income Tax - Sections 2(24), 11(1)(d), 12A, 68, 80G - Whether non-production of donor before assessing officer in case of trust, can be a basis for disallowance of corpus donation received - Whether in case such donor is a settler as well as trustee of done trust, addition of that amount donated in trust's income can be warranted - Whether in case there is no change in facts of the relevant year, status of a charitable trust can be doubted - Whether after cancellation of a deal, title of a property can be considered as given to the assessee - Whether benefit u/s 11 is available to interest income also.
2013-TIOL-1101-ITAT-AHM
DCIT Vs Shri Govindprasad G Sarawagi-Huf (Dated: October 25, 2013)
Income Tax - Section 271AAA(2) - Whether the CIT(A) is justified in deleting the penalty u/s.271AAA when the CIT(A) held that the assessee's case was covered by the immunity provided u/s. 271AAA(2) and the D.R. could not point out any specific error in the finding of the CIT(A).

[2013-TIOL-1100-ITAT-MUM](#)

M/s Gic Housing Finance Ltd Vs ADDL CIT (Dated: October 30, 2013)

Income Tax - Sections 14A, 43D, Rule 6EB - Whether as per section 43D the income by way of interest in relation to bad and doubtful debts has to be computed as may be prescribed having regard to the guidelines issue by the National Housing Bank in relation to such debts.

[2013-TIOL-1099-ITAT-MUM](#)

M/s Reliance Footprint Ltd Vs ACIT (Dated: October 23, 2013)

Income Tax - Sections 37(1), 40A(7), 40A(9), 43B, 145 - Whether an expenditure can enjoy the dual status of being capital in Books of Accounts and revenue for the purposes of Income Tax - Whether the issue as to whether the assessee is entitled to a particular deduction depends upon the provisions of law relating thereto and not on the view which the assessee might take of his rights; nor can the existence or absence of entries in his books of account be decisive or conclusive in the matter - Whether as per the provisions of section 145, the assessee has to follow a consistent accounting policy unless there is any specific notification issued by the Central Government, with regard to any specific accounting standard to be followed.

[2013-TIOL-1098-ITAT-AHM](#)

Gujarat Fluorochemicals Ltd Vs ACIT (Dated: October 31, 2013)

Income Tax - Section 201(1A) - Whether discount and rebate which are part of sale price, are out of the purview of section 194H - Whether no penal interest is chargeable where the payee has already paid the taxes on his income.

[2013-TIOL-1097-ITAT-BANG](#)

M/s KBD Sugars & Distilleries Ltd Vs ACIT (Dated: November 22, 2013)

Income Tax – Sections 2(19AA), 32, 36(1), 72A – Whether for the eligibility to the benefits u/s 72A (4) of the Act, the under-taking being demerged ought to be a going concern at the time of demerger – Whether any disallowance of interest can be made in respect of interest free loan when the chunk of interest free loans were out of non interest bearing funds, comprised of capital, reserves & surplus and interest free unsecured loans – Whether for the purpose of depreciation, the transfer of ownership of Wind mills can take place only if the sale was actually evidenced by a registered deed as the wind mills were immovable property.

[Also see analysis of the Order](#)

[2013-TIOL-1096-ITAT-AHM](#)

DCIT Vs Shri Hiren K Patel (Dated: October 25, 2013)

Income tax – Section 145, CBDT Circular No 2 of 2002 – Whether when the assessee is following cash method of accounting it cannot be changed by the assessing officer himself – Whether no addition can be made for interest on mercantile basis of accounting when the assessee is following cash method of account.

[2013-TIOL-1095-ITAT-AHM](#)

Adani Port Infrastructure Pvt Ltd Vs DCIT (Dated: November 22, 2013)

Income Tax - Sections 14A, 143(3), 263, Rule 8D - Whether the CIT is justified in invoking the jurisdiction u/s 263 when the case was not that the AO has not applied his mind or no inquiry was made or insufficient inquiry was made.

[2013-TIOL-1094-ITAT-MUM](#)

Abdulla Hazi Gulam Rasool Vs ITO (Dated: November 20, 2013)

Income Tax - Sections 55A, 154 - Whether the AO is justified in amending the assessment u/s. 154 on the basis of a subsequent report.

[2013-TIOL-1093-ITAT-HYD](#)

B Venu Madhav Vs ACIT (Dated: October 11, 2013)

Income tax - Sections 45, 54EC - Capital gain or Business Income - Whether when the assessee has sold a land which was inherited by him from his mother and the same was under the process of development by his mother, the gain arising on it can be treated as business income as the assessee has not obtained any permission from the authorities for developing residential plots as the application was made by Assessee's mother and agricultural land purchased by Assessee's mother, had no intention of doing any business at the time of purchase and assessee has not purchased any other land and has sold the property inherited by him which is itself was agricultural land for more than 20 years and there is no evidence to show that assessee at any time did any business on land.

[2013-TIOL-1092-ITAT-AHM](#)

Mr Anees Firoz Sarkar Vs ACIT (Dated: October 11, 2013)

Income Tax - Sections 132 & 158BD - Whether the assessment framed u/s 158BD is invalid when the satisfaction has been recorded by the AO other than the AO of the searched party.

[2013-TIOL-1091-ITAT-MUM](#)

Amu Shares & Securities Ltd Vs DCIT (Dated: October 11, 2013)

Income Tax - Section 43(5)(c) - Whether assessee is entitled to set off loss from jobbing activity against the business income from trading in shares when the assessee was a share and stock broker.

[2013-TIOL-1090-ITAT-MUM](#)

M/s Pavak Securities Pvt Ltd Vs ITO (Dated: September 13, 2013)

Income Tax - Sections 14A(2) & 55(2)(ab), Rule 8D - Whether provisions of section 14A(2) and Rule 8D were applicable when the dividend received was incidental receipts in respect of shares purchased by the assessee during the course of its trading - Whether Assessee was entitled to claim depreciation on BSE Card when the BSE card ceased to exist on demutualization.

[2013-TIOL-1089-ITAT-AGRA](#)

ITO Vs Shri Sanjeev Parasar (Dated: August 23, 2013)

Income Tax - Section 68 - Creditworthiness of loaner - Genuineness of transaction - Whether the initial burden to prove ingredients of section 68 of the Act is upon the assessee by proving identity and creditworthiness of the creditors and genuineness of the transactions.

[2013-TIOL-1088-ITAT-HYD](#)

ACIT Vs M/s Margadarsi Chit Fund Pvt Ltd (Dated: October 30, 2013)

Income Tax - Sections 194A, 194C, 201(1) & 201(1A) - Whether the assessee is required to deduct tax u/s 194A on the chit dividends paid to the subscribers - Whether the assessee is required to deduct tax u/s 194C on the purchases of the items bearing the logo of the assessee.

[2013-TIOL-1087-ITAT-AHM](#)

ACIT Vs Creative Processing Ltd (Dated: August 6, 2013)

Income Tax - Section 40A(2)(b) - Whether any addition made u/s. 40A(2)(b) on account of suppression of charges received on account of job work for dyeing and printing from the sister concern is valid.

[2013-TIOL-1086-ITAT-BANG](#)

M/s Subex Ltd Vs DCIT (Dated: November 13, 2013)

Income Tax - Sections 10A, 36(1)(vii), 41(4) - Whether the amount being the sale of hardware components is to be excluded from the export turnover for the purpose of computing the deduction u/s 10A of the Act - Whether the foreign travel expenditure should be reduced from the export turnover for the purpose of export turnover - Whether bad debts recovered can be taxed as income during the impugned AY even when the provision on account of the same was taxed in the year in which such provision was created.

[2013-TIOL-1085-ITAT-MUM](#)

ACIT Vs M/s Sahara One Media And Entertainment Ltd (Dated: October 23, 2013)

Income Tax - Sections 133A, 194C, 194J, 201(1) - Whether when an activity or transaction is covered by specific provisions of the act, then general provisions should not be applied - Whether the provisions of section 194C would prevail over section 194J of the Act - Whether the "dubbing expenses/ print processing fees" and "production expenses" are in the nature of 'fees for technical services' and 'royalty' respectively, and hence the tax is required to be deducted u/s 194J of the Act and not u/s 194C.

[2013-TIOL-1084-ITAT-HYD](#)

M/s Padmalaya Telefilms Ltd Vs DCIT (Dated: September 13, 2013)

Income Tax - Sections 36(1)(vii), 44AB, 133A, 143(3), 154, 263 - Whether any loss of revenue as a consequence of an order passed by the AO can be treated as prejudicial to the interests of revenue - Whether when two views are possible and the AO has taken one view with which the CIT does not agree, it cannot be treated as prejudicial to the interests of revenue for the purpose of invoking the powers u/s 263 unless view taken by the ITO is unsustainable in law - Whether no deduction can be allowed u/s 36(1)(vii) of the Act if the bad debts and advances written off are only provisions and are not actually written off in the books of accounts.

[2013-TIOL-1083-ITAT-DEL](#)

ACIT Vs Smt Kusum Gupta (Dated: October 25, 2013)

Income Tax - Sections 4, 28, 143(3) - Whether an assessee can play the role of an investor and of trader simultaneously - Whether income earned from the sale of share kept in investment account can be taxed as business income merely because the transactions of sale and purchase are high in numbers.

[2013-TIOL-1082-ITAT-AHM](#)

Sri Prakash Vasantbhai Golwala Vs ACIT (Dated: October 11, 2013)

Income Tax - Section 22 - Whether when the assessee has declared the income from the partnership firm it is right in pleading for exclusion of the income of the property occupied by the firm.

[Also see analysis of the Order](#)

[2013-TIOL-1081-ITAT-DEL](#)

ACIT Vs M/s Delhi Apartments Pvt Ltd (Dated: October 31, 2013)

Income Tax - Sections - 2(22)(e), 194J, Form No. 36. - Whether the nature of the income would change when it is derived from the sale of similar source but apparently in a different assessment years - Whether the sale of fixed asset taxed under the head capital gain can be treated as income from other sources when the fraction of it is sold in some other assessment year - Whether TDS can be deducted on the expenditure incurred, when the payment made is in the nature of advance for the services rendered before the liability is finally settled - Whether the loan or advances received by an assessee not being a shareholder of that company to be treated as dividend holder as per the provision in section 2(22)(e).

[2013-TIOL-1080-ITAT-MUM](#)

ITO Vs M/s Aaren Chemicals (Dated: November 6, 2013)

Income tax – Sections 148, 150 – Whether when there is no direction by the CIT (A) to initiate reassessment proceeding and it was only an option given to the AO to take or not to take action in preceding year to ascertain the genuineness of purchases, the action of the AO to issue notice u/s 148 is barred by limitation and the said notice is not saved under the provision of section 150(1) and/or 150(2) of the Act.

[2013-TIOL-1079-ITAT-MUM](#)

M/s Fortaleza Developers Vs ITO (Dated: September 13, 2013)

Income Tax – Section 80IB – Whether the allowability or otherwise of deduction under section 80IB (10) is not dependent upon the manner in which the profit has been distributed among the members of AOP but it depend upon the fulfilment of the conditions laid down in that section and also the deduction is available to an

undertaking and not to the individual constituent of an undertaking – Whether when each of the flats have been constructed as per the building plan duly approved by the local authorities and also completed as per the completion certificate, wherein the built up area of each flats has been shown less than 1500 sq.ft, then receiving the consideration by the assessee for more than 1500 sq.ft showing as saleable area of the flats would not violate the conditions as prescribed u/s 80IB(10)(c).

[2013-TIOL-1078-ITAT-DEL](#)

ITO Vs M/s Farvision Electronics (I) Pvt Ltd (Dated: July 31, 2013)

Income Tax - Sec 143(3) - Whether the CIT (A) is justified in deleting the addition on account of difference in receipts as per the TDS Certificates and the receipts shown in the Profit and Loss Account when the discrepancy in question was a bonafide error which was not attributable to the assessee - Whether no addition is called for on account of Excise Duty when assessee had wrongfully taken input credit for earlier period and later reversing the same & assessee making payment during current F.Y.

[2013-TIOL-1077-ITAT-HYD](#)

Mr Nitin Kumar Shah Vs ACIT (Dated: October 11, 2013)

Income Tax - Sections 143(2), 147, 148 - Whether issuance of reassessment notice before the expiry of time limit prescribed u/s 143(2) of the Act is legally valid.

[2013-TIOL-1076-ITAT-AHM](#)

M/s Thomson Reuters India Pvt Ltd Vs DCIT (Dated: January 9, 2013)

Income Tax - Section 254(2) - Miscellaneous Application - Whether the Tribunal is justified in remanding the matter to the CIT(A) when the Tribunal has highlighted that the facts are not verifiable from record.

[2013-TIOL-1075-ITAT-AGRA](#)

ACIT Vs Shri Om Prakash Gupta (Huf) (Dated: November 29, 2013)

Income tax - Section 68 - Whether when assessee filed copies of discharged promissory notes, copy of account and the confirmation of all the creditors, there is enough evidences and material on record to prove that the assessee has genuinely taken the loans through brokers, thus, no disallowance can be made u/s 68 of the Act.

[2013-TIOL-1074-ITAT-AHM](#)

M/s N Core Cables Vs ITO (Dated: October 31, 2013)

Income Tax - Sections 40A(ia) & 80IB - Whether deletion of addition made u/s.40A(ia) is justified when the CIT(A) has given a finding on fact that the appellant had deducted TDS on commission and interest expenses and the CIT(A) has also given a finding that as regards freight and octroi the sum paid on each occasion was not exceeding Rs.20,000/- and not liable for deduction of TDS - Whether deletion of addition made on account of capital introduced by the partners of Rs.3,35,000/ is justified when the CIT(A) has given a finding on fact that the appellant submitted before him evidences like copy of receipt of income-tax of all the partners along with statement of total income and copy of accounts of the partners.

[2013-TIOL-1073-ITAT-MUM](#)

Leela Scottish Lace Pvt Ltd Vs ADDL CIT (Dated: November 13, 2013)

Income Tax - Section 263 - Whether the CIT can travel beyond the reasons mentioned in the show cause notice u/s 263.

[2013-TIOL-1072-ITAT-AHM](#)

Gruh Finance Ltd Vs ACIT (Dated: September 27, 2013)

Income tax - Sections 14A, 143(3), 263, Rule 8D - Whether when AO has accepted the suo moto disallowance u/s 14A of the Act without going into the details as to how this figure was worked out by the assessee and no query being raised during the assessment proceedings in this regard, the CIT has rightly invoked the provision of Section 263 of the Act.

[2013-TIOL-1071-ITAT-AHM](#)

M/S Ess Dee Aluminum Ltd Vs ACIT (Dated: November 8, 2013)

Income Tax - Section 80IB - Whether a unit which has taken premises on rent in the month of February and has also obtained the Sales tax and Excise Number can be said to be established for production - Whether this establishment can be ignored in view of the statement of one of the employee of the landlord who stated some different facts - Whether statement of an employee binds the employer or it is necessary to verify the employer also - Whether netting of interest is permissible while excluding the interest from the exempt income.

[2013-TIOL-1070-ITAT-DEL](#)

Carrefour Wc & C India Pvt Ltd Vs ACIT (Dated: August 16, 2013)

Income tax - Section 37 - Whether when the assessee has not made any purchase or rented any shop premises from where sale could take place or for that matter rented any warehouse where the purchased goods intended to be sold could be stored, it can still be claimed that the business of the assessee commenced and expenses claimed in the books are allowable.

[2013-TIOL-1069-ITAT-BANG](#)

ACIT Vs M/S Amalgamated Bean Coffee Trading Co Ltd (Dated: September 30, 2013)

Income tax - Section 14A - Whether disallowance u/s 14A can be made by AO when the assessee failed to establish the fact that the investments made by it which are likely to yield tax free income are made out of own funds and on the date when the investments is made, there are surplus funds.

[2013-TIOL-1068-ITAT-AHM](#)

ACIT Vs Shree Dhain Auto Transport Corporation (Dated: July 19, 2013)

Income Tax - Section 40 (a) (ia), 153A & 194C - Whether the disallowance made by invoking section 40 (a) (ia) is justified when the revenue has not brought any cogent materials to establish that the assessee had made payment to the truck owners pursuant to a contract for carrying out the work of transportation?

[2013-TIOL-1067-ITAT-AGRA](#)

M/s Shivangi Steel (Pvt) Ltd Vs ACIT (Dated: May 31, 2013)

Income Tax - Section 144 - Whether additional evidence under Rule 29 of the Appellate Tribunal Rules can be accepted when the reason given by assessee was not proper and sufficient, and nothing was clarified as to why the assessee did not move for additional evidences before the CIT(A) - Whether there was justification to interfere with the ex parte orders passed by the authorities below when burden upon the assessee has not been discharged at the assessment stage.

[2013-TIOL-1066-ITAT-AGRA](#)

Shiv Kant Sharma Vs ITO (Dated: July 19, 2013)

Income Tax - Section 132A - Whether the possession of the seized articles by itself is sufficient to hold liability against the assessee when the assessee was unable to prove that said articles belonged to somebody else - Whether estimate of business income is proper even in the absence of any evidence that the assessee was doing business in silver articles.

[2013-TIOL-1065-ITAT-DEL](#)

Saroj Aggarwal Vs JCIT (Dated: May 23, 2013)

Income Tax - Sections 14A, 37(1), Rule 8D - Whether disallowance u/s 14A can be made by the AO simply on the observation that some part of expenditure claimed by the assessee must have been incurred for the earning tax free and exempt income without any finding regarding correctness of the claim of expenses - Whether Section 14A of the Act does not *ipso facto* enable the AO to apply the method prescribed by Rule 8D straightaway without considering whether the claim made by assessee in respect of expenditure incurred in relation to income which not form part of the total income is correct - Whether to claim the expenditure in the course of business, the onus is on the assessee to establish his claim with record and evidence in support of the claim.

[2013-TIOL-1064-ITAT-HYD](#)

Rajender Pershad Tejprakash Vs ITO (Dated: August 30, 2013)

Income tax - Sections 2(14), 45 - Whether when the nature of character of land is agriculture and the same had been used for agricultural purpose, merely because it is within the limit of HADA (now HMDA) and alleged to have been sold for non-agricultural purpose, the character of land can change as 'non-agriculture land'.

[2013-TIOL-1063-ITAT-DEL](#)

ITO Vs Smt Bina Gupta (Dated: October 18, 2013)

Income Tax - Sections 45, 54F - Whether when the assessee makes payments to a builder for purchase of flat but the builder fails to give delivery as per scheduled time, Sec 54F benefits are not available in such a case.

[Also see analysis of the Order](#)

[2013-TIOL-1062-ITAT-DEL](#)

M/s St Soldier Properties & Industries Ltd Vs ACIT (Dated: October 11, 2013)

Income Tax - Sections 245D, 271(1)(c) - Whether penalty u/s 271(1)(c) is justified when non-disclosure of book profit in the computation of income is an inadvertent omission - Whether AO has jurisdiction to pass such orders when the Settlement Commission allows the settlement petition.

[2013-TIOL-1061-ITAT-MUM](#)

J N Marshall & Co (Steel Dept) Vs ITO (Dated: October 11, 2013)

Income Tax - Section 56 - Whether the assessee is justified in claiming expenditure under the head service charges from its sister concerns when the assessee was not doing any business nor it has claimed to have done any during the year under consideration, but a part of the rent was shown under the head "income from other

sources".
2013-TIOL-1060-ITAT-AHM
M/s Jindal Fashion Vs ACIT (Dated: November 22, 2013)
Income Tax - Sections 133A, 271(1)(c) - Whether penalty u/s 271(1)(c) can be levied when the addition made by the A.O. has been restricted to a lower figure, and that too on as estimate basis.
2013-TIOL-1059-ITAT-HYD
ITO Vs Smt Aarti Mittal (Dated: November 6, 2013)
Income tax - Whether when there is no dispute with regard to off market transactions, the CIT(A) is correct in observing that reliance placed by the AO on the replies received from CSE are of no probative value to draw an adverse conclusion against the assessee - Whether when the prescribed procedure, having been followed by the assessee from the stage of purchase till the shares are D-mated, the transactions in purchase cannot be considered as not genuine.
2013-TIOL-1058-ITAT-DEL
M/s Lala Harbhagwan Das And Memorial Vs CIT (Dated: December 6, 2013)
Bench Vs DR - ITAT imposes costs on CIT (DR) - Contempt Proceedings to follow: CIT (DR) comes late to Court, not prepared to argue, accuses the Bench of hurrying and burying justice, barges into the room of the Member and threatens to complaint against the bench;
Cost of Rs. 1000 imposed on the CIT(DR) to be recovered from his salary. Separate and appropriate action for initiating contempt of court proceeding will be taken in due course after giving theCIT(DR) adequate opportunity of being heard.
2013-TIOL-1057-ITAT-MUM-TM
D H Securities Pvt Ltd Vs DCIT (Dated: November 27, 2013)
Income Tax - Sections 14A, 255(4) - Rule 8D - Power of Attorney (POA) - Dividend income - Whether any disallowance of expenditure u/s 14A is warranted if dividend income is earned on the shares held as stock in trade.
Also see analysis of the Order

[2013-TIOL-1056-ITAT-BANG](#)

DCIT Vs ING Vysya Bank Ltd (Dated: October 25, 2013)

Income tax - Section 36(1)(viii) - Whether the assessee, a scheduled bank is entitled to deduction under the head provision for fraud in the regular operations of the bank, irregularities and embezzlements - Whether deduction u/s 36(1)(vii) is allowed to the assessee on provision for bad and doubtful debts not exceeding ten per cent of the aggregate average advances made by the rural branches as well as urban branches.

[Also see analysis of the Order](#)

[2013-TIOL-1055-ITAT-HYD](#)

M/s Koya Constructions Pvt Ltd Vs DCIT (Dated: August 23, 2013)

Income Tax – Section 254 - Miscellaneous Applications – Whether the decision of the Tribunal is binding on the AO and he cannot pick up a word or sentence from the order of the Tribunal de hors the context of the question under consideration and construe it to be complete law declared by the Tribunal – Whether the AO can sit in judgment over the order of the Tribunal, and he is required to give just effect to the order of the Tribunal – Whether if the assessee has any grievance over the consequential order passed by AO, he is required to appeal against that order of the Tribunal before higher forum or a miscellaneous application before ITAT can be entertained.

[2013-TIOL-1054-ITAT-DEL](#)

DCIT Vs Usha Stud & Agricultural Farms (P) Ltd (Dated: October 25, 2013)

Income tax – Sections 139(1), 148, 282 – Valid service of notice – Whether when though there is a signature on the copy of the notice retained by the process server and it contains a date and a number, neither the time of service, nor the manner of service, nor the name and address of the person identifying the service and witnessing the delivery of the notice, are present, the same cannot be considered as a valid service of notice issued u/s 148.

[2013-TIOL-1053-ITAT-DEL](#)

JCIT Vs Super Cassettes Industries Ltd (Dated: November 8, 2013)

Income Tax - Section 271(1)(c) - Whether penalty u/s 271(1) (c) can be imposed when there is difference in opinion in respect of various heads of expenses and income, the assessee was under bonafide belief and on a debatable issue.

[2013-TIOL-1052-ITAT-MUM](#)

Hatkesh Co OP HSG SOC Ltd Vs ACIT (Dated: September 4, 2013)

Income tax - Principle of Mutuality - Whether the amount received by the housing society towards transfer fee and TDR premium is tax exempt on the ground of mutuality or taxable.

[2013-TIOL-1051-ITAT-HYD](#)

DCIT Vs Andhra Bank Ltd (Dated: October 04, 2013)

Income tax – Investment or Stock in trade - Sections 14A, 36(1)(viiia), 43B, Rule 8D – Whether investment made by the bank to comply with the SLR requirement would constitute their stock in trade and depreciation in value of the same is an allowable deduction – Whether the broken period interest included in the purchase price of Government securities held by the banking company to comply with SLR requirement is entitled to deduction – Whether no disallowance can be made u/s 14A applying rule 8D prior to AY 2008-09 – Whether provision made in the accounts of the assessee bank and debited to the provision for bad and doubtful debts account made under that clause 36(1)(viiia) is only allowable as expenditure - Whether in view of the specific provisions of sub-clause (f) to Section 43B the claim of the assessee for deduction towards provisions for leave encashment cannot be allowed.

[Also see analysis of the Order](#)

[2013-TIOL-1050-ITAT-AHM](#)

ACIT Vs M/s TML Industries Ltd (Dated: October 11, 2013)

Income Tax - Sections 14A & 36(1)(iii) - Whether the CIT(A) is justified in deleting the addition on account of disallowance of interest on advance paid to a subsidiary company when in view of the financial position of the assessee company, the advances given to the subsidiary were very minuscule amount.

[2013-TIOL-1049-ITAT-CHD](#)

HI -Tech Foods Vs ITO (Dated: September 6, 2013)

Income Tax - Sections 40(a)(ia), 80-IC - Whether deduction under section 80IC is available to a unit which failed to show that it has installed new machinery - Whether TDS deduction is sine-qua-non for claiming the expenses otherwise the same are debarred by section 40(a)(ia) even if the same are paid at the end of financial year.

[2013-TIOL-1048-ITAT-CHD](#)

ITO Vs Shri Ram Print -N-Pack (Dated: October 18, 2013)

Income Tax - Section 80IC(4) – Whether deduction u/s 80IC can be disallowed on second hand machinery even if the same is not used outside India.

2013-TIOL-1047-ITAT-RAJKOT
ACIT Vs Meridian Impex (Dated: July 26, 2013)
Income Tax - Sections 10B, 37 & 40(b) - Whether mere fact that the partners have chosen to forego interest on capital and remuneration payable to them does ipso-facto mean that they are not admissible for deduction.
2013-TIOL-1046-ITAT-INDORE
Shri Hitesh Mehta Vs ACIT (Dated: March 22, 2013)
Income Tax - Section 2(1)(a), rule 46A - Whether the assessee who cultivates lease-hold land is an agriculturist - Whether production of original documents before the CIT(A), photocopies of which documents had been submitted to the AO amounts to submission of additional evidence - Whether receipt of cash donation in marriage of daughter is inevitable and hence the AO cannot estimate any sort of expenses attributable to the value of those gifts and solemnization of marriage particularly when no supporting evidence has been found in search.
2013-TIOL-1045-ITAT-HYD
M/s NCC Maytas JV Vs ACIT (Dated: September 13, 2013)
Income Tax - Section 199 - Whether the assessee's TDS claim in the impugned A.Y cannot be rejected on the ground that it relates to the turnover which has not been shown by the assessee for the impugned A.Y when the income relating to such TDS having already been offered to tax in the earlier A.Y.
2013-TIOL-1044-ITAT-BANG
Syndicate Bank Vs DCIT (Dated: June 19, 2013)
Income Tax – Sections 32, 35D, 36(1)(vii), 36(1)(viia), 115JB, 145 – Whether irrespective of the debit to the profit and loss account on account of Provision for Bad and Doubtful Debts (PBDD), an Assessee is entitled to 10% of the Aggregate Average Rural Advances as deduction u/s 36(1)(viia) of the Act – Whether in respect of claim for deduction u/s 36(1)(vii) of the Act, bad debts written off should first be adjusted towards provision created u/s 36(1)(viia) of the Act and only if the bad debts written off is more than the credit balance in the PBDD account, deduction u/s 36(1)(vii) can be allowed to the extent of such excess - Whether the method adopted by the banks in valuing stock-in-trade (investments) at cost in balance sheet in accordance with the Banking Regulation Act and valuing the same at cost or market value, whichever was lower for income tax purposes is acceptable – Whether all investments held by a bank are to be regarded as stock-in-trade – Whether the depreciation claimed on investments 'held on maturity' by a bank has to be treated as stock-in-trade in accordance with RBI guidelines - Whether the expenses incurred in issuing bonds is to be treated as cost of loan or borrowing and accordingly allowable as Revenue expenditure - Whether the expenses incurred for issue of shares retain the character of capital expenditure and hence not allowable in computing the income of the assessee–

Whether the provisions of section 115JB of the Act are not applicable to the assessee which is a banking company – Whether interest on securities is taxable only on specified dates when it became due for payment and not on accrued basis.
2013-TIOL-1043-ITAT-DEL
ACIT Vs M/s Nipun Builders & Developers Pvt Ltd (Dated: June 28, 2013)
Income tax Act, 1961 - Sections 43CA, 48 & 50C - stock in trade - capital assets - secured loans - unsecured loans - stamp duty - circle rate - Whether section 50C is applicable to both capital assests and stock -in-trade.
2013-TIOL-1042-ITAT-MUM
DDIT Vs Indian Machine Tools Manufacturers Association (Dated: July 17, 2013)
Income Tax - Section 11 - Whether the activity of holding exhibitions is incidental to the attainment of the object of the assessee trust and the assessee having fulfilled the conditions laid own u/s.11(4A) is entitled for exemption u/s.11 in respect of the income of the said exhibitions.
2013-TIOL-1041-ITAT-DEL
M/s Hanung Processors Pvt Ltd Vs ACIT (Dated: June 28, 2013)
Income Tax - Whether the CIT (A) is justified in allowing relief of Rs.98,83,600/- to the assessee on account of payment for EPCG license fee when the AO has not disputed the export of goods made by the assessee and could not produce any material to dispute the fact that the assessee has used the export entitlement quota for the exports - Whether on the issue of inflation in the price, the disallowance was called for when the recipient i.e the seller was an income tax assessee and has filed its return of income.
2013-TIOL-1040-ITAT-MUM
ITO Vs Shri Dilip C Karnik (Dated: June 7, 2013)
Income Tax Act, 1961 - Sections 54E, 54EC, 54F & 54F(4) - bonds - property - long term capital gains - partnership - dissolution - Whether when the assessee has claimed deduction for capital gains in its electronically filed return, the AO can deny the benfits of Sec 54F by saying that no such claim was filed in the return.
2013-TIOL-1039-ITAT-MUM
Mr Kuntal J Dave Vs ACIT (Dated: August 28, 2013)

Income tax – Section 45 – Whether the amount received by the assessee from other continuing partners and not under provision of section 45(4), towards goodwill by transferring the same to continuing partners is correctly taxed.

[2013-TIOL-1038-ITAT-MUM](#)

M/s Weizmann Ltd Vs DCIT (Dated: October 31, 2013)

Income Tax - Sections 14A, 32(1)(ii) & 154 - Whether the CIT(A) is justified in allowing the depreciation on dealership network u/s 32(1)(ii) treating the dealership network as intangible asset eligible for depreciation - Whether disallowance made by the A.O. on account of interest expenditure u/s 14-A is justified when the assessee had sufficient fund to make such investment - Whether the CIT(A) is justified in upholding the rectification order passed by the A.O. u/s 154 making the addition on account of provision for diminution in the value of investment to the book profit when the issue relating to the allowability of provision for diminution in the value of investment is not before the Tribunal and the same is not restored by the Tribunal to the file of the A.O.

[2013-TIOL-1037-ITAT-HYD](#)

ADIT Vs Sri Art Khachaturian (Dated: November 5, 2013)

Income Tax - Sections 69, 139(1), 142(1), 144, 153(1) - investment - unexplained income - Whether a notice issued u/s 142(1) beyond the period of one year from the end of the assessment year is invalid in view of the proviso to clause (i) of section 142(1) - Whether the provision of section 142(1) can be construed to mean that AO can issue a notice u/s 142(1) at any time after the end of the assessment year irrespective of the limitation prescribed u/s 153(1).

[2013-TIOL-1036-ITAT-INDORE](#)

M/s Pramila Investment & Finance Ltd Vs ITO (Dated: May 31, 2013)

Income Tax – Sections 68, 69 – Whether for the purpose of sections 68 and 69, the initial burden is upon the assessee to explain the nature and source of share application money received by the assessee and in order to discharge its burden, the assessee is required to prove the identity of the shareholder; the genuine of transaction; and the credit worthiness of the share holder.

[2013-TIOL-1035-ITAT-MUM](#)

ACIT Vs M/s Rishti Stock And Shares Pvt Ltd (Dated: August 2, 2013)

Income Tax Act, 1961 - Sections 40(a)(i) & 40(a)(ia) - TDS - bad debts - transaction charges - stock broker - Whether unrecovered amount of the sharebroker from its sub-broker is to be treated as debt and is eligible for deduction - Whether the sum receivable by sharebroker from its clients for transactions undertaken on their behalf is a trading debt and unrecovered part has to be allowed as deduction - Whether the ratio decidendi of a judgment shall prevail upon the contrary obiter dicta of another judgment.

2013-TIOL-1034-ITAT-MUM
ICICI Lombard General Insurance Company Ltd Vs ACIT (Dated: September 18, 2013)
Income Tax – Section 44, CBDT circular no. 528 dated 16.12.1988 – Insurance Business - Taxability of gain on sale of investment – Whether the profit on sale of investment in the case of an assessee carrying on general insurance business cannot be brought to tax after the omission of rule 5(b) and as per the Circular no.528 dated 16.12.1988.
2013-TIOL-1033-ITAT-DEL
Citicorp Maruti Finance Ltd Vs DCIT (Dated: November 6, 2013)
Income Tax - Sections 147, 148 - Whether initiation of reassessment proceeding u/s 147 after lapse of four years is justified when the assessment has been reopened on the basis of audit report already available on record.
2013-TIOL-1032-ITAT-AHM
ITO Vs Shri Rajendra Madhubhai Gohil (Dated: October 31, 2013)
Income Tax - Sections 40(a)(ia), 194C & 194A - Whether provisions of section 194C(2) are applicable when the CIT(A) has given a finding that the risk and responsibility of fulfilling of various terms and conditions of the contract remained with the Assessee - Whether disallowance made by AO is justified when the A.O. has not pointed out any deficiency in the books of accounts.
2013-TIOL-1031-ITAT-CHD
Shri Ram Pal Vs ITO (Dated: September 13, 2013)
Income Tax - Sections 68, 69 - Whether any additions can be made u/s 68 and 69 on account of bank deposits when the assessee has duly discharged his onus by explaining the source of deposits in its bank account with documentary evidences, and identity of person concerned - Whether AO can deny the sources of deposits in bank simply by saying that there was a gap of more than one month in the withdrawal of cash from one bank and deposit in another.
2013-TIOL-1030-ITAT-HYD
Performica Software Pvt Ltd Vs DCIT (Dated: September 13, 2013)

Income Tax - Sections 10A, 32 - Whether the expenditure incurred toward internet charges and telephone charges for delivery of software should be excluded from the export turnover and from total turnover.

[2013-TIOL-1029-ITAT-MUM](#)

3I Infotech Ltd Vs ACIT (Dated: October 11, 2013)

Income Tax - Sections 147, 148 - Whether reopening of the assessment after lapse of four years is valid when there was no failure on part of the assessee to disclose truly and fully all material facts.

[2013-TIOL-1028-ITAT-HYD](#)

Knr Agro Farming Mutually Aided Cooperative Society Ltd Vs ADDL CIT (Dated: September 27, 2013)

Income Tax - Section 10 - Agricultural income - Whether income earned by the sale of Prosopis Juliflora plants cannot take the character of agricultural income if the plants were grown spontaneously without application of any human skill and labour and accordingly the income is not eligible to be exempt as agricultural income - Whether basic operation must be performed before any income is termed an agricultural income.

[2013-TIOL-1027-ITAT-MUM](#)

Shri Sudhir B Vora Vs ACIT Vs CIT (Dated: September 27, 2013)

Income Tax - Sections 68, 144 - Whether the CIT(A) is justified in deleting the addition when the addition on the total amount has been made in the case of assessee's brother - Whether the CIT(A) is justified in confirming commission income on cash deposits when neither the AO nor the CIT(A) has considered and given any finding on this issue that out of the total cash deposit in the bank certain amount was regarding the sales made by the assessee.

[2013-TIOL-1026-ITAT-CHD](#)

M/s Axind Software Development Services Pvt Ltd Vs CIT (Dated: September 13, 2013)

Income Tax - Sections 50C(1), 54F, 68, 260A - stamp duty - reconstruction - renovation - demolition - DDA - Whether in the context of property, the term "construction" and "maintainence" are identical - Whether renovation or extension are covered by the term "construction" for the purpose of giving benefit u/s 54F.

[2013-TIOL-1025-ITAT-COCHIN](#)

Mr Promy Kuriakose Vs ACIT (Dated: May 29, 2013)

Income tax – Sections 132, 143(2), 153C – Whether when no document is found against the assessee to whom notice is issued u/s 153C in the course of search proceedings, the initiation of proceedings u/s 153C is invalid – Whether when the assessee executed the registered sale deed disclosing the sale consideration, it is justified on part of the Revenue to hold that the sale price of his brother's land was very high and therefore the same price has to be adopted in the case of assessee.

[2013-TIOL-1024-ITAT-CHD](#)

Smt Shobha Sharma Vs ITO (Dated: August 23, 2013)

Income Tax - Section 68 - Whether addition u/s 68 has to be made in respect of cash deposits in bank account if the assessee failed to bring on record any evidence to prove its stand that it was the amount received from such persons who were his clients and also failed to discharge his onus of proving the identity, credit worthiness and genuineness of the cash transaction of the cash credits in the bank account.

[2013-TIOL-1023-ITAT-DEL](#)

ACIT Vs Lloyd Manufacturing Pvt Ltd (Dated: October 11, 2013)

Income Tax - Sections 24 & 56 - Whether rental receipts after executing five different agreements in respect of same property are liable to be assessed under the head income from house property when the agreements together constitute a composite transaction for letting out of house property.

[2013-TIOL-1022-ITAT-HYD-WT](#)

DCIT Vs Gulf Oil Corporation Ltd (Dated: November 13, 2013)

Wealth Tax - Section 2(ea)(iv) - Whether the property used for Assessee's business, can be taxed under the Wealth Tax.

[2013-TIOL-1021-ITAT-HYD](#)

ACIT Vs Sks Micro Finance Ltd (Dated: August 21, 2013)

Income Tax - Section 271(1)(c) - Whether penalty u/s 271(1)(c) can be levied when the quantum addition itself has been deleted.

[2013-TIOL-1020-ITAT-LKW](#)

Ramshree Steels Pvt Ltd Vs ITO (Dated: June 06, 2013)

Income Tax - Whether the CIT (A) is justified in declining the set off of business losses, of the current year as also of the earlier years as brought forward, against profit in speculation business during the current year.

[2013-TIOL-1019-ITAT-DEL](#)

Paras Thread Mills (P) Ltd Vs ITO (Dated: May 31, 2013)

Income Tax - Sections 40A(2), 115JB - Whether disallowance u/s 40A(2) on the ground that the assessee company had purchased goods from its sister concern at higher rate is justified when the assessee enjoyed uninterrupted interest free credit facility and was also availing interest bearing un-secured loans from its sister concern.

[2013-TIOL-1018-ITAT-HYD](#)

P Prabhakar Rao Vs DCIT (Dated: May 31, 2013)

Income Tax - Section 68 - Whether addition can be made when the assessee has not substantiated its claim by producing relevant material with respect to the agriculture holdings - Whether amount received during the previous year for the acquisition of the property can added u/s 68 when the property was registered in favour of the person, who has advanced the amount - Whether addition can be sustained when the assessee has established identity of his creditors, capacity of his creditors to advance money and genuineness of the transactions - Whether the provisions of sec 40A(3) are applicable when the payments do not represent the expenditure but represent the payments made for the purpose acquisition of the property.

[2013-TIOL-1017-ITAT-DEL](#)

Sh Gopi G Nambiar Vs JCIT (Dated: July 26, 2013)

Income Tax - Sections 45, 147, 148 - Whether the reopening of assessment in the absence of tangible material or fresh information is justified.

[2013-TIOL-1016-ITAT-MUM](#)

DCIT Vs Damani Estates & Finance Pvt Ltd (Dated: July 17, 2013)

Income Tax - Section 14A, Rule 8D - Expenditure incurred in relation to exempt income - Whether the provision of section 14A as well as rule 8D would be applicable in both the cases where the shares give rise to two streams of income, i.e., share trading income (taxable) and dividend income (tax-free) - Whether the entire expenses attributable to these shares by way of indirect and interest expenditure be disallowed u/s. 14A read with rule 8D, i.e., considered as in respect of income not forming part of total income.

2013-TIOL-1015-ITAT-AHM
Late Shri Chandrakant A Gandhi Vs ACIT (Dated: October 4, 2013)
Income Tax - Sections 148, 158BFA(2), 159, 250, 292B - dead assessee - source of income - agriculture - undisclosed income - penalty - block period - clerical and typographic mistake - Whether penalty can be levied on the deceased assessee, when the legal heir was never brought on record - Whether the penalty can be levied on legal heirs when inaccurate return of income was filed by the deceased during his life time - Whether the LR is automatically deemed to be the assessee upon the death of the original assessee.
Also see analysis of the Order
2013-TIOL-1014-ITAT-DEL
ITO Vs ICICI Bank Ltd (Dated: November 7, 2013)
Income Tax - Sections 154, 156, 200A, 201(1), 201(1)(A), 246A - e-TDS - Whether the AO can make correction in the e-TDS return filed by the deductor assessee.
2013-TIOL-1013-ITAT-HYD
M/s Hycons Infrastructure (India) Ltd Vs DCIT (Dated: October 23, 2013)
Income tax - Sections 40(a)(ia), 68, 145 - Whether when the assessee could not furnish books of account and vouchers for verification, estimated addition is correctly made by rejecting the books of account - Whether when the assessee has revised the return of income withdrawing disallowance made u/s 40(a)(ia) it is not correct in holding that since the computation is made on the basis of estimation of income by rejecting books of account, relevance of admission in the return by Assessee loses its significance - Whether other disallowance under the head 'Business' need not be made once income is estimated may be correct, but, the same is not applicable to the unexplained cash credits u/s 68 of the Act.
2013-TIOL-1012-ITAT-MAD
M/s South India Travels Pvt Ltd Vs ACIT (Dated: August 23, 2013)
Income Tax - Sections 10(38), 143(3), 148 - Whether a claim made by the assessee in the return of income, but under the wrong code in the electronic return can be allowed - Whether the assessee, which was otherwise entitled to such claim, can be denied such deduction for a technical reason that the serial number against which the claim was made in the return of income was incorrect.

[2013-TIOL-1011-ITAT-MUM](#)

Shri Prakash Kanugo Vs ACIT (Dated: August 28, 2013)

Income Tax - Section 271(1)(b) - Whether levy of penalty u/s 271(1)(b) is warranted when there was deliberate defiance on the part of the assessee not to comply with the statutory notices and to furnish requisite details.

[2013-TIOL-1010-ITAT-MUM](#)

Oriental Seritech Ltd Vs CIT (Dated: September 20, 2013)

Income Tax - Section 37(1) - Whether expenses other than the one related to maintaining of the corporate identity of the company can be allowed when the assessee had closed down the business - Whether interest paid on delayed payment of Custom duty is in the nature of duty only and such payment is allowable - Whether any expenditure incurred in relation to a new project which is ultimately abandoned, is to be construed as capital in nature.

[Also see analysis of the Order](#)

[2013-TIOL-1009-ITAT-MUM](#)

DCIT Vs Excel Apparels Exports Pvt Ltd (Dated: October 11, 2013)

Income Tax - Section 271(1)(c) - Whether penalty u/s 271(1)(c) can be levied in respect of prior period expenses when no material has been brought on record that these details were not correct or the expenses do not pertain to the relevant financial year and also stitching charges when in order to establish its claim of payment, the assessee has furnished copies of bills, details of account payee cheque, copy of bank statement reflecting such payments, Form - 16A showing TDS deducted on such payments and also the details of PAN of such parties.

[2013-TIOL-1008-ITAT-AHM](#)

Horizon Microtech Pvt Ltd Vs ITO (Dated: August 23, 2013)

Income Tax - Sections 147, 148 & 151 - Whether reopening of assessment u/s 147 is justified within four years when there is sufficient material in the knowledge of the AO and that material was based upon the accounts of the assessee already on record.

[2013-TIOL-1007-ITAT-AHM](#)

Inspiron Engineering Pvt Ltd Vs ACIT (Dated: October 25, 2013)

Income tax - Sections 37, 40A(2)(b) - Whether when there is no doubt regarding the genuineness of the expenditure and the assessee has used the logo as per agreement, the expenditure incurred cannot be considered as excessive or not legitimate business expenditure - Whether the interest paid @ 14% is correctly considered as excessive when the loan from other persons were taken at lower rate of interest - Whether when it is not necessary that every expenditure incurred by the assessee should result in a corresponding increase in the revenue of the assessee, no disallowance can be made for foreign travelling - Whether since the expenditure on account of payment of fees paid to Advocate for registration of assessee's patent has not been resulted in bringing about a new capital asset or benefit of enduring nature, it cannot be considered as capital in nature.

[2013-TIOL-1006-ITAT-MUM](#)

ITO Vs Shaina Real Estate Pvt Ltd (Dated: October 11, 2013)

Income Tax - Section 271(1)(c) - Whether penalty u/s 271(1)(c) can be levied when the assessee has claimed expenditure by treating rental income as business income.

[2013-TIOL-1005-ITAT-BANG](#)

DCIT Vs M/s Shaw Wallace Breweries Ltd (Dated: October 4, 2013)

Income tax - Sections 36(1)(vii), 36(2), 143(3), 234D - bad debts - written off - Whether the bad debts incurred by the assessee during the course of its business because of the manufacturer to allowed as deduction.

[2013-TIOL-1004-ITAT-MUM](#)

ACIT Vs M/s H & R Johnson (India) Ltd (Dated: August 14, 2013)

Income tax - Section 80IB, 36(1)(iii), 43B - Whether when the assessee failed to establish with reference to the initial year that the assessee was eligible for deduction u/s 80IB with relevant documentary evidence, assessee is not entitled to deduction - Whether when the assessee has paid Employees PF / ESIC within grace period, no disallowance can be made u/s 43B - Whether the assessee is entitled to interest on the loan amount when the office premises was acquired for the purpose of existing business and not for the extension of the existing business and in such case the proviso to section 36(1)(iii) of the Act was not applicable and interest was allowable as per the main provisions of section 36(1)(iii).

[2013-TIOL-1003-ITAT-AHM](#)

Gujarat Gas Financial Services Ltd Vs ITO (Dated: October 31, 2013)

Income tax - Sections 36(1)(vii), 36(2), 37, 14A - Whether when the main business of the assessee is hire purchase and leasing, the claim towards bad debts for bill discounting is not allowable - Whether when the investment which are not exempt

income bearing, no disallowance can be made in respect of the same u/s 14A of the Income tax Act - Whether when the expenditure was incurred for business study by other concern which has impact on assessee also, it cannot be treated as assessee's business expenditure.

[2013-TIOL-1002-ITAT-DEL](#)

Genesis Colors Pvt Ltd Vs CIT (Dated: October 11, 2013)

Income Tax - Section 263 - Whether proceedings of revision u/s 263 can be held valid where there is no parity between the issues elevated up in Show cause notice and mentioned in the order of 263 - Whether an order of assessment can be termed as erroneous and prejudicial to the interest of revenue merely because it is silent on some issues - Whether issue as to whether the expenses incurred are revenue or capital is a debatable issue and hence no revisionary jurisdiction can be exercised on such an issue - Whether before arriving at a logical conclusion while excising revisionary jurisdiction the Commissioner has to refute the material filed by the assessee during the course of assessment proceedings.

[2013-TIOL-1001-ITAT-MUM](#)

Aditya Birla Nuvo Ltd Vs ACIT (Dated: October 9, 2013)

Income tax - Sections 32, 80HHC, Capital or revenue expenditure - Whether assessee is entitled to depreciation on goodwill - Whether the expenses incurred on buy back of shares are allowable as revenue expenditure - Whether the premium on pre-redemption of debenture is allowable as revenue expenditure - Whether the expenses relating to technical know-how and marketing knowhow being revenue in nature are to be allowed as expenditure in the current year - Whether assessee is entitled to deduction claimed under section 80HHC on MAT provisions.

[2013-TIOL-1000-ITAT-MUM](#)

M/s Sonata Software Ltd Vs ACIT (Dated: October 11, 2013)

Income Tax - Sections 10A, 147, 148 - Whether the losses of the eligible unit are to be adjusted against the incomes of the non eligible units - Whether the AO is justified in reopening the assessment u/s 147 when the assessee had computed its income following the ratio of the decisions rendered by various fora, and as per law.

[2013-TIOL-999-ITAT-MUM](#)

M/s Velvet Holdings Pvt Ltd Vs Dy.CIT (Dated: August 23, 2013)

Income tax - Sections 2(11), 50, 115JB, 143(1), 147, 148, 234B, 234C, 234D - Whether when the assessee is having taxable income and the assessee did not file its return within due date, AO has reason for reopening the assessment under section 147 - Whether when once the assessee claimed depreciation in respect of an asset, on sale

of such asset capital gain will be short term capital gain under section 50 even though the asset is not used for business purpose – Whether the interest provisions under section 234B, C & D are mandatory in nature.

[2013-TIOL-998-ITAT-MUM](#)

Atcom Technologies Ltd Vs DCIT (Dated: November 6, 2013)

Income Tax - Section 36(1)(iii) - Whether the interest expenditure which was not related to the A.Y under consideration, can be allowed as revenue expenditure - Whether disallowance of interest on account of use of interest bearing funds for non-business purposes was justified when the assessee could not establish the link that the advance was given by assessee out of its own funds and no borrowed monies were used.

[2013-TIOL-997-ITAT-AHM](#)

Advance Transfusion Medicine Vs ADIT (Dated: September 20, 2013)

Income tax – Sections 11, 12AA, 13 – Whether when the assessee has entered into transactions with its associate and the benefits have been provided to specified persons u/s 13, the exemption as per sub-section (6) as is available to a trust running an educational institution or a medical institution or a hospital will not be available as assessee is neither an educational institution nor a medical institution or a hospital.

[2013-TIOL-996-ITAT-AHM](#)

Dr Keyur Parikh Vs ACIT (Dated: October 18, 2013)

Income Tax - Sections 131, 132(4), 143(3), 153A - Whether the market value of a property as declared in sale deed can be substituted by Fair Market even where no document, supporting the transaction of 'on money', has been found during search - Whether any notional addition in the hand of the buyer on account of FMV can be made without examining and assessing the seller - Whether evidence tendered by an interested witness is of any use - Whether statement recorded under section 132(4) of the Act would override statement recorded under section 131 and hence no addition on account of alleged on money can be made when the former statement of 132(4) could not establish any thing.

[2013-TIOL-995-ITAT-HYD](#)

M/s KMC Constructions Ltd Vs Addl.CIT (Dated: October 28, 2013)

Income Tax - Section 56 - Whether the departmental recoveries, which have not actually been received by the assessee, can be treated as yielding in any income to the assessee - Whether the interest earned by the assessee, even in the course of carrying on the business represents income from other sources.

2013-TIOL-994-ITAT-DEL
M/s United Leasing & Industries Ltd Vs DCIT (Dated: February 7, 2013)
Income Tax - Sections 36(1)(iii), 40A(2)(b) - Whether the CIT(A) is justified in confirming the addition of Rs.97,904/ made by AO on account of interest on unsecured loans to the extent the same were advanced by the assessee to its sister concern without interest.
2013-TIOL-993-ITAT-MUM
Tech Nova Imaging Systems Ltd Vs ACIT (Dated: October 9, 2013)
Income Tax - Sections 14A, 143(3), 254, Rule 8-D - Borrowed Funds - Advance Tax Liability - Whether the tribunal is fair and reasonable in upholding the disallowance made by the AO by applying Rule 8D and the same being restricted by the CIT to 5 percent of the exempt dividend income, when no such disallowance was made earlier in a similar case by the tribunal.
2013-TIOL-992-ITAT-MUM
DCIT Vs M/s Samrudh Pharmaceuticals Pvt Ltd (Dated: October 11, 2013)
Income Tax - Sections 147, 148 - Whether reassessment proceedings are bad in law when it emanates from the change of opinion of the AO.
2013-TIOL-991-ITAT-DEL
ACIT Vs Shri Praful Tank (Dated: May 31, 2013)
Income Tax Act, 1961 - Section 68 - NRI - bank deposits - purchase agreement - Whether once the source of funds has been established to be withdrawal from the bank account, the Revenue can reject the premise that subsequent cash deposits were made on account of the said withdrawal.
2013-TIOL-990-ITAT-DEL
ACIT Vs M/s Opera House Exports Ltd (Dated: October 29, 2013)
Income Tax - Fabrication charges, salary & wages, & TDS - Whether any TDS obligation arises when the salary paid to the employees are not over and above the minimum limit prescribed under the provisions of taxation.
2013-TIOL-989-ITAT-DEL

DCIT Vs Metzeler Automotive Profiles India Pvt Ltd (Dated: May 31, 2013)
Income Tax - Sections 32 & 115JB - Whether AO is justified in not reducing unabsorbed depreciation or business loss, whichever was less in accordance with Explanation 1 clause (iii) to sec. 115JB(2) - Whether computer peripherals are entitled to depreciate @ 60%?
2013-TIOL-988-ITAT-HYD
Shri M Mahesh Kumar Vs ITO (Dated: October 11, 2013)
Income Tax - Section 254(2) - Whether rectification u/s 254(2) can be done when an inadvertent error has crept in the order of the Tribunal by overlooking the journal register.
2013-TIOL-987-ITAT-PUNE
ITO Vs Kirti Dal Mills Ltd (Dated: June 28, 2013)
Income Tax - Section 145 - Whether the AO can reject the books of account when the AO has nowhere established that any specific purchase bill of the assessee or any other concern of the group was bogus and that cash of discounted cheque had been ploughed back to the assessee or other concern - Whether the provisions of section 40A(3) do not apply if the book results are rejected u/s 145 and profit is estimated.
2013-TIOL-986-ITAT-MUM
ACIT Vs M/s Greenfield Hotels & Estates Pvt Ltd (Dated: October 23, 2013)
Income Tax - Sections 50C, 54D, 54D(1) & (2) - W.T. Act, 1957 - Section 5(1)(xxxii) - Bad debts, written off, Capital gains, Leasehold rights - Whether section 50C is applicable for computation of Capital gains in respect of transfer of property of leasehold rights in land and buildings.
2013-TIOL-985-ITAT-HYD
Andhra Bank Ltd Vs DCIT (Dated: October 4, 2013)
Income Tax - Sections 147, 148 - Whether the assessment can be reopened after the lapse of four years when there is no failure on the part of the Assessee in furnishing the particulars of the assessment.
2013-TIOL-984-ITAT-AHM
Adani Retail Ltd Vs DCIT Dated: (October 25, 2013)

Income Tax - Section 115WB(2) - Whether provisions of Fringe Benefit Tax can be invoked in respect of expenses which were not incurred on employees or their family members.

[2013-TIOL-983-ITAT-AHM](#)

Robinson Impex (India) Ltd Vs ITO (Dated: October 31, 2013)

Income tax - Sections 28, 36(1)(vii) - Whether when the assessee had made provision for bad debts in the preceding year, the same could not be allowed as expenditure in view of the explanation to section 36(1)(vii) that any bad debt written off or irrecoverable is not be allowed if a 'provision' has been made in respect of the bad or doubtful debt.

[2013-TIOL-982-ITAT-DEL](#)

DCIT Vs M/s RPS Infrastructure Ltd (Dated: October 01, 2013)

Income tax - Sections 68, 131, 133(6), 139, 142(1), 143(2), 153A - Whether when AO issued notice u/s 142(1) to file return u/s 153A and in compliance to which assessee filed return u/s 153A, it cannot be stated that no separate notice is prescribed u/s 153A - Whether when the AO has fulfilled the requirement of Section 143(2) as per the note sheet proceedings as well as the issuance of questionnaire, it has to be considered as notice u/s 143(2) and on this ground assessment cannot be treated as invalid - Whether when there is no incriminating documents found during search, no addition can be made u/s 68 merely on surmises and presumptions when all the documents and details were furnished by the assessee and there is no finding that the transaction is not genuine.

[2013-TIOL-981-ITAT-MUM](#)

M/s Simplex Engg & Foundry Works Pvt Ltd Vs DCIT (Dated: October 11, 2013)

Income Tax - Section 271(1)(c) - Whether penalty u/s 271(1)(c) is imposable when the assessee has claimed deduction u/s 80IA and has included insurance claim, crane hire charges and sale of empty gunny bags/drums in its receipt.

[2013-TIOL-980-ITAT-AHM](#)

M/s Surya Estate Developers Vs ITO (Dated: October 4, 2013)

Income Tax – Sections 80IB (10), 143(3), 250, 271(1)(C) - development agreement – prospective amendment - Whether prospective amendment can be applicable to an assessee for denying the benefit of deduction of profit derived, whose plans are sanctioned by the local authority – Whether in case there is no mention about a construction in DVO's report, it can still be construed as a valid construction for the purpose of section 80IB.

2013-TIOL-979-ITAT-DEL
DLF Home Developers Ltd Vs ACIT (Dated: October 31, 2013)
Income Tax - Sections 43B(f) - Leave salary - Unconstitutional - Whether the amendment in section 43B by way of insertion of clause (f), is unconstitutional. Whether the deduction on account of leave salary is available under section 43B(f) only on the bases of mere provision without any actual payment.
2013-TIOL-978-ITAT-DEL
DCIT Vs M/s Duratuf Glass Industries Pvt Ltd (Dated: October 31, 2013)
Income tax – Sections 68, 131, 133(6) – Whether when assessee submitted plethora of evidence to prove the genuineness of share application money received no addition u/s 68 can be made merely by recording some general observations about the modus operandi of entry operator without pointing out the assessee's indulgence therein.
2013-TIOL-977-ITAT-BANG
M/s Able Advertising Vs ACIT (Dated: October 11, 2013)
I-T - Sections 143(2), 143(3) - Income generated - outdoor advertising - Hoarding Maintenance expenses - Whether the expenses incurred under the head Hoarding Maintenance expenses is to be treated as capital in nature.
2013-TIOL-976-ITAT-MUM
K K Enterprises Vs JCIT (Dated: October 18, 2013)
Income Tax - Sections 269SS, 269T, 271D & 271E - Whether the assessee is entitled to relief u/s 273B when both the concerns were related parties, working in the same business; rather, having their offices located in the same premises, with a common partner where cash entries were duly recorded in the books of accounts of both the recipient and the payer - Whether penalty u/s.271E can be imposed when the cash received by the assessee from its sister concern cannot be said to be repayable after a notice or after a period.
2013-TIOL-975-ITAT-MUM
Rajiv Kishori Lal Patodia Vs ACIT (Dated: May 23, 2013)
Income Tax - Sections 40(a)(ia), 194C(1) - Whether disallowance u/s 40(a)(ia) can be made for A.Y 2007-2008 when the assessee, an individual, did not deduct tax under provision of section 194C(1) on the car hire charges.

2013-TIOL-974-ITAT-MUM
ITO Vs Mr Kiran R Mehta (Dated: October 18, 2013)
Income Tax - Sections 68 & 69C - Whether the AO is justified in making addition u/s.68 without making proper inquiries to satisfy himself regarding the genuineness of the creditors - Whether the AO is justified in making addition and treating it as unexplained cash credit when the cash deposits were sufficiently explained and also tallied with the books of accounts of the assessee.
2013-TIOL-973-ITAT-BANG
Karnataka State Muslim Federation Vs DIT (Dated: October 9, 2013)
Income Tax - Sections 2(45), 11, 12A, 14, 32, 35(2)(iv), 143(3), 263 - application of income - depreciation - double deduction - Whether income of a trust has to be computed with reference to the specific heads of income u/s 14 - Whether in case of trust, application of income can be stated as a deduction to arrive at the income - Whether depreciation can be claimed by a charitable institution in determining percentage of funds applied for the purpose of charitable objects - Whether such Claim for depreciation would amount to double benefit.
2013-TIOL-972-ITAT-AHM
ITO Vs Madhusudan Industries Ltd (Dated: October 4, 2013)
Income Tax - Section 80HHC - Whether deduction under section 80HHC can be allowed on Pro-rata basis even where the accounts for separate units are maintained separately.
2013-TIOL-971-ITAT-COCHIN
Krishna Prasad Sivasankara Pillai Vs ACIT (Dated: April 5, 2013)
Income Tax - Sections 271D , 273B & 275(1)(c) - Whether the reason that the assessee took loans in cash in order to honour the cheques issued to the major suppliers, whenever it was noticed that the CC limit was likely to exceed the sanctioned limits can be considered as reasonable causes accepted in terms of sec. 273B.
2013-TIOL-970-ITAT-DEL
ITO Vs M/s Ganesh Leasefin (P) Ltd (Dated: September 20, 2013)

Income Tax - Section 68 - Whether the CIT(A) is justified in deleting the addition on account of realization of sales of shares by alleging that these were accommodation entries when the payments for realization of sale of shares have been received through banking channels and all the corresponding entries were incorporated in the books of accounts, which were not disputed.

[2013-TIOL-969-ITAT-DEL](#)

DCIT Vs DCM Shriram Industries Ltd (Dated: October 11, 2013)

Income Tax - Section 153C - Whether action u/s 153C can be taken in the case of a person other than searched person, where no document, money bullion documents or books of account relating to such other person have been found in search of the main person.

[2013-TIOL-968-ITAT-MUM](#)

3DPLM Software Solutions Ltd Vs ITO (Dated: July 3, 2013)

Income Tax - Sections 10A & 14A - Whether the provisions of Rule - 8D r/w section 14A can be invoked for the A.Y prior to AY 2008-2009 - Whether the insurance expenses and communication expenses incurred in local currency in India are not to be reduced from the Export Turnover for computing the deduction u/s 10A?

[2013-TIOL-967-ITAT-MUM](#)

Kec Holdings Ltd Vs ACIT (Dated: August 14, 2013)

Income tax - Sections 36(1)(vii) & (2), 145 - Accrual Income - Whether the accrual/ recognition of interest income, for the purpose of offering it to tax, is not determined merely on characterisation of the deposit as NPA/ doubtful asset and RBI guidelines do not override the Income-tax Act, 1961 and both operate in different fields.

[2013-TIOL-966-ITAT-MUM](#)

IDFC Investment Advisors Ltd Vs DCIT (Dated: September 6, 2013)

Income tax - Sections 40(a)(ia), 194C - Whether TDS is not required to be deducted when there is only reimbursement of expenses by the assessee company to its holding company claimed by the holding company

[2013-TIOL-965-ITAT-AHM](#)

Atul Ltd Vs ACIT (Dated: October 11, 2013)

Income Tax - Sections 14A, 80IA - Whether de-novo assessment on an issue is required where there are subsequent developments in the form of ITAT order and High Court order - Whether provisions of section 14A are retrospective.

[2013-TIOL-964-ITAT-HYD](#)

DCIT Vs Amr India Ltd (Dated: October 23, 2013)

Income tax - Sections 143(3), 153A - Whether when original assessment is made u/s 143(3), no addition can be made as there is no incriminating material whatsoever consequent to the search and AO cannot have jurisdiction to reagitate the assessments, which are already completed and subsisting.

[2013-TIOL-963-ITAT-AHM](#)

Sabarmati Ashram Gaushala Trust Vs ADIT (Dated: June 7, 2013)

Income Tax - Sections 2(15), 11 - Whether the proviso to section 2(15) shall be applicable only when the activities of the assessee are run on commercial lines with a motive to make profit, and not in a case where the activities are conducted on non-commercial line, and the profit received by the trust was merely incidental in nature - Whether mere selling of some product by the assessee trust at a profit will not ipso facto hit the assessee by applying the proviso to section 2(15) and deny the exemption available u/s 11 of the Act.

[Also see analysis of the Order](#)

[2013-TIOL-962-ITAT-AHM](#)

E-COMM Opportunities Pvt Ltd Vs ACIT (Dated: September 27, 2013)

Income Tax - Sections 36(1)(vii), 145 - Whether the CIT(A) was justified in upholding the disallowance for A.Y 06-07 of Rs.575000/- being liability pertaining to STP of India when the liability has been crystallized and pertained to A.Y. 07-08 - Whether the bad debts was allowable when the bad debts had been written off in the books of account u/s. 36(1)(vii) - Whether the traveling expenditure incurred with a view to earn greater profit was allowable deduction - Whether misappropriation of cash for which legal action has been taken was allowable expenses.

[2013-TIOL-961-ITAT-MUM](#)

Mrs Urmila Bhabhera Vs ACIT (Dated: August 20, 2013)

Income Tax - Sections 4, 28 - Whether income earned from the sale of shares held as investments would be taxable under the head income from business if the magnitude of transactions are high - Whether factors such as delivery based transactions, employment of funds, substantial dividend income would have to be considered while considering the head of income- Held - Appeal of the assessee is allowed.

2013-TIOL-960-ITAT-DEL
Rajinder Kumar & Co Vs ITO (Dated: June 28, 2013)
Income Tax - Whether the CIT(A) is justified in adopting gross profit rate of 4% of the gross receipts when the CIT (A) has not distinguished the assessee's case with the comparable submitted by the assessee with cogent reasons.
2013-TIOL-959-ITAT-DEL
ITO Vs Tirupati Cylidners Ltd (Dated: June 28, 2013)
Income Tax - Section 148 - Whether the notice issued u/s 148 is valid when the approval was not granted by Jt. Commissioner or Addl. Commissioner and instead it was taken from the CIT.
2013-TIOL-958-ITAT-BANG
Sri Ved Prakash Rakhra Vs ACIT (Dated: August 23, 2013)
Income Tax - Section 54 - Whether the assessee is entitled to exemption u/s 54 when it was clear from the documents that mode of acquisition applicable in the present case was construction of a residential house within a period of three years after the date of transfer of capital asset giving rise to capital gains.
2013-TIOL-957-ITAT-AHM
Pinki Mukundbhai Jariwal Vs ACIT (Dated: June 14, 2013)
Income Tax - Section 50C - Whether addition u/s 50C can be made in the hands of the purchaser.
2013-TIOL-956-ITAT-DEL
ACIT Vs Padmini Mishra (Dated: May 10, 2013)
Income Tax - Sections 263, 271 (1)(c) - Whether penalty u/s 271 (1)(c) can be levied when the AO who gave effect to the order passed u/s 263 levied penalty and the assessee's belief that the amount received on sale of ESOP shares was not taxable, was not a belief or understanding which was unfounded.

[2013-TIOL-955-ITAT-PANAJI](#)

ACIT Vs Shri Joe Marcelinho Mathias (Dated: April 26, 2013)

Income tax - Sections 14A, 45, 47(xiv), Rule 8D - Whether when assessee transfers all its assets and liabilities to a private limited company in which assessee acquired more than 50% shares and complies with all the conditions of section 47(xiv), AO cannot deny exemption on the ground that the sale consideration was higher than the book value - Whether when the assessee has not submitted the details of expenses incurred in respect of exempted income, AO has correctly applied section 14A r.w. Rule 8D as the onus is on the assessee to prove the expenditure incurred.

[2013-TIOL-954-ITAT-LKW](#)

Northern Railway Primary Cooperative Bank Ltd Vs ACIT (Dated: August 7, 2013)

Income Tax - Sections 22, 23, 24 & 37 - Whether the assessee can claim deduction of expenses which are not covered under Ss 22 to 24 - Whether assessee can make claim of a provision for which guidelines of the RBI are not followed and no appeal in earlier years against such disallowance was made.

[2013-TIOL-953-ITAT-MUM](#)

ITO Vs Cosmos Developers (Dated: October 11, 2013)

Income tax - Section 80IB(10) - Whether when only a part of the housing project does not comply with the approved size of the flats, Sec 80IB(10) benefits should be allowed on proportionate basis because it is a benevolent legislation - Whether for the purpose of admeasuring the size of the flat, the approved valuer is warranted to follow the definition of built up area.

[Also see analysis of the Order](#)

[2013-TIOL-952-ITAT-MUM](#)

Indian Plywood Mfg Co Pvt Ltd Vs DCIT (Dated: October 9, 2013)

Income tax - Section 132 - Whether when there is no incriminating evidence found which establishes the connection of the assessee with the hundies found from the premises of other person, no addition can be made merely on surmises and assumptions.

[2013-TIOL-951-ITAT-MUM](#)

Gia India Vs DIT (Dated: September 27, 2013)

Income Tax - Sections 11, 12A, 80G(5)(v), 80G(5)(vi), Rule 11AA - Companies Act - Section 25 - foreign directors, donation, renewal, charitable institution, foreign nationals, domicile, directors - Whether DIT (Exemption) is justified in refusing the renewal/registration under section 80G to the assessee when the registration under section 80G as well as under section 12A was already granted - Whether the fact of domicile of the company director is to be considered in order to avail benefits under section 80G - Whether a foreign national can perform work of a trustee.

[2013-TIOL-950-ITAT-DEL](#)

M/s Express Retail Services (P) Ltd Vs ACIT (Dated: October 11, 2013)

Income tax - Section 145 - Whether the addition made without any basis by rejecting the books of account only on guess work and without controverting the submissions of the assessee explaining the deficiencies observed in survey proceeding, it is required to be deleted.

[2013-TIOL-949-ITAT-DEL](#)

M/s Metro Institute Of Medical Sciences Pvt Ltd Vs DCIT (Dated: July 31, 2013)

Income Tax - Sections 14A, Rule 8D - keywords - loans and advances, expenditure, investments, interest bearing funds, proportionate disallowance - Whether interest expenditure can be proportionately disallowed, merely because the assessee has extended advances out of such loans to its group entities - Whether this issue can be agitated when it has been already decided by the Tribunal in favour of the assessee - Whether inference could be drawn that these investments were made out of borrowed funds when there is no material on record to show that interest bearing funds were used in mutual funds and when the assessee has sufficient interest free funds - Whether in any case the disallowance u/s 14A can exceed the amount of investment itself - Whether such disallowance can withstand, when the CIT(A) has already restricted the disallowance u/s 14A to the sum equivalent to the amount of investment in assessee's own case.

[2013-TIOL-948-ITAT-BANG](#)

Hewlett-Packard Globalsoft Pvt Ltd Vs ACIT (Dated: September 30, 2013)

Income Tax - Sections 10A, 147, 148 - Whether the AO can be permitted to take recourse to reassessment proceedings u/s. 147 on change of opinion regarding deduction u/s. 10A.

[2013-TIOL-947-ITAT-AHM](#)

Smt Ushaben Jayantilal Sodhan Vs ITO (Dated: October 11, 2013)

Income Tax - Sections 2(47)(iv), 28, 45(2), 54F - Whether when the assessee who was gifted a plot of land from her father, constructed eight flats by demolishing her bungalow and sold four of them, such income is to be treated as business or adventure

in nature of trade - Whether assessee can avail Sec 54F benefits even if she constructed the flats before the date of transfer.
Also see analysis of the Order
2013-TIOL-946-ITAT-MUM
M/s Indian Lead Ltd Vs DCIT (Dated: August 14, 2013)
Income Tax - Sections 68, 144 - Whether the expenses can be allowed when there was no permanent closure of the business and business was under rehabilitation scheme/ revival scheme due to financial difficulties - Whether the CIT(A) is justified in not appreciating the additional evidences when the assessee was a sick company and was under rehabilitation scheme by BIFR had difficulty filing confirmation before the AO.
2013-TIOL-945-ITAT-MUM
M/s R K Overseas Vs ACIT (Dated: July 5, 2013)
Income Tax - Sections 10B, 271(1)(c) - Whether the AO is justified in apportioning commission and salary between the 100% Export Oriented Unit and the unit engaged in trading activities in the ratio of turnover - Whether the export incentives can be excluded from the eligible profit for the purpose of computing deduction u/s.10B - Whether penalty u/s 271(1)(c) can be imposed because there was reduction in the amount of deduction u/s.10B when the assessee claimed the deduction based on the audit report given by the auditor.
2013-TIOL-944-ITAT-MUM
M/s Seaprincess Hotels & Properties Pvt Ltd Vs Addl.CIT (Dated: October 9, 2013)
Income Tax - Sections 37, 60, 63 - Whether adhoc disallowance of vehicle running expenses, foreign traveling expenses and repair and maintenance expenses is permissible when the expenses were incurred wholly and exclusively for the purpose of business and no defect of any kind was pointed out by the AO in the books of account or vouchers produced by the assessee - Whether expenses incurred on repair and maintenance are capital expenses even if the same are incurred for smooth running of business without touching the capital field - Whether contribution of capital in a Partnership Firm should also be in ratio of share of profit, if no, whether any notional addition on account of interest attributable to capital is permissible in the hand of such partner whose share of profit is not in ratio of the profits of the firm.
2013-TIOL-943-ITAT-MAD
ITO Vs Kasipalayam Primary Agricultural Co-Operative Bank Ltd (Dated: August 23, 2013)

Income Tax - Section 80P(4) - Whether the provisions of Section 80P(4) are applicable only to cooperative banks and not to credit cooperative societies - Whether for the purpose of claiming deduction u/s 80P, mere naming of a society as 'Primary Agricultural Cooperative Society' is not sufficient, but the principal or predominant activities of the bank should be in connection with agricultural purposes or for purposes connected with agricultural activities.

[2013-TIOL-942-ITAT-DEL](#)

ACIT Vs M/s U S Granites (Dated: August 14, 2013)

Income Tax Act, 1961 - Sections 10B, 32A(2)(b), 80IA, 80IB & 80HHC - manufacturing activity - export unit. Whether the export of polished granite marble and monument would qualify as a manufacturing activity, thereby warranting exemption under section 10B.

[2013-TIOL-941-ITAT-DEL](#)

Rachna Gupta Vs ITO (Dated: July 5, 2013)

Income Tax - Sections 147, 148 - keywords - reopening of assessment, wrong address, change of address, PAN details - Whether a notice issued u/s 148 served at the old address of the assessee based on PAN details can be treated as valid, although the new address is clearly reflected from the returns filed for later AYs.

[2013-TIOL-940-ITAT-HYD](#)

ITO Vs Shri Koday Narsing Rao (Dated: October 18, 2013)

Income Tax - Sections 44A, 44F & 68 - Whether AO is justified in adding certain sum to the returned income u/s 68 when the entire transactions are accounted in the books of accounts.

[2013-TIOL-939-ITAT-MUM](#)

ITO Vs Shri Chandulal P Patel (Dated: August 23, 2013)

Income Tax - Section 50C - Whether the provisions of section 50C are applicable when a property was in the nature of stock in trade.

[2013-TIOL-938-ITAT-MUM](#)

Mrs Rosy Elies Dimello Vs ACIT (Dated: August 7, 2013)

Income Tax - Section 55A - Whether reference by the AO to the DVO u/s 55A for valuation of FMV of the property as on 1-4-1981 is valid when FMV declared by the assessee as per Government registered valuer's report was more than the FMV as estimated by the DVO?

[2013-TIOL-937-ITAT-MUM](#)

M/s Ricoh India Ltd Vs DCIT (Dated: September 13, 2013)

Income tax - Sections 35DD, 37(1) - Whether expenditure incurred on issuance of shares is revenue in nature - Whether when the business of the assessee is continuing, merely writing off of the various security deposits made to Electricity Board, Telecom Department and Customs for issuance of import licence in the books is allowable - Whether when the assessee receives certain payments after deduction of tax at source and such deduction is deposited in the Treasury, the assessee can still writ off such sum as short receipt merely because it did not receive TDS Certificates from payers.

[Also see analysis of the Order](#)

[2013-TIOL-936-ITAT-DEL](#)

Smt Vinay Sharma Vs ITO (Dated: August 30, 2013)

Income tax - Section 271(1)(c) - Whether when AO has accepted the offer made by assessee voluntarily to avoid litigation and no investigation was made by the Revenue, no penalty can be levied as no particulars were concealed or inaccurate particulars were furnished.

[2013-TIOL-935-ITAT-HYD](#)

GVK Industries Ltd Vs ACIT (Dated: October 18, 2013)

Income tax - Sections 80IA, 143(3), 147, 263 - When the issues on which CIT invoked jurisdiction u/s 263 was never the subject matter of reassessment proceedings, the limitation of two years period prescribed u/s 263 should begin to run from the end of the financial year in which the order was passed u/s 143(3) and not from the re-assessment order passed u/s 143(3) r.w.s. 147 as the scope of reassessment cannot be extended to the extent of the issues which were never subject matter of reassessment.

[2013-TIOL-934-ITAT-MUM](#)

Essar Steel India Ltd Vs Addl.CIT (Dated: September 27, 2013)

Income Tax - Sections 40(a)(ia), 115JB, 234B - Whether levy of interest under section 234B is mandatory, whether interest under section 234B can be levied because of the retrospective amendment in the statute and that too after the submission of the return, whether provisions of section 40(a)(ia) are invocable where approval has been obtained for lower deduction of tax at source- Held - Appeal of the assessee is allowed

and of the revenue is dismissed.

[2013-TIOL-933-ITAT-MUM](#)

ITO Vs City Walk Shoes Pvt Ltd (Dated: October 4, 2013)

Income Tax - Sections 68(2), 78(b), 148 - VDIS - Indian Penal Code - Sections - 120b, 420, 465 - Chapter XVII - cobbler scam - Whether in case certificate u/s 68(2) has been granted to an assessee, the assessing officer has authority to annul or modify the same - Whether in such a case, a notice for reassessment considering income declared under VDIS, can be raised by the assessing authority.

[2013-TIOL-932-ITAT-MUM](#)

Citi Financial Insurance (I) Ltd Vs Addl.CIT (Dated: October 4, 2013)

Income Tax - Sections 36(1)(va), 37, 43B - Referral fees - Whether when the assessee claims deduction for referral fees paid under an agreement, the AO should be examining the legality of the agreement or the nature of service rendered against the fee paid.

[2013-TIOL-931-ITAT-MUM](#)

Annapurna Agarwal Vs ITO (Dated: October 9, 2013)

Income Tax - Sections 28 & 54 - Whether assessee is entitled to benefit u/s 54 when the agreements entered into by the assessee with the builder point to the direction that there was an element of profit and trade involved.

[2013-TIOL-930-ITAT-MUM](#)

DCIT Vs M/s Century Textiles And Industries Ltd (Dated: September 13, 2013)

Income Tax - Sections 37(1), 115JB - Whether expenditure incurred on foreign travel of spouse can arise out of commercial expediency - Whether such expenditure can be allowed - Whether assessing officer has the authority to alter the accounts prepared in accordance with the Companies Act.

[2013-TIOL-929-ITAT-MUM](#)

DCIT Vs M/s Alfa Beta Engineering Constructions Pvt Ltd (Dated: October 9, 2013)

Income Tax - Section 144 - Whether the CIT(A) is justified in deleting the disallowance made against the "sub-contract charges" when in view of the number of sites and the locations of the sites as well as nature of work it cannot be ruled out that the cash payment was inevitable in such circumstances.

[2013-TIOL-928-ITAT-HYD](#)

M/s Splendid Aparna Project (P) Ltd Vs DCIT (Dated: October 4, 2013)

Income Tax - Sections 14A, 36(1)(iii) - Whether disallowance can be made u/s 36(1)(iii) or u/s 14A, other than what was considered in the assessment order when the assessee has earned interest on deposits which was also accepted income.

[2013-TIOL-927-ITAT-MUM](#)

Siro Clinpharm Pvt Ltd Vs DCIT (Dated: September 27, 2013)

Income tax - Sections 80IB(8A), 147, 148 - Capital or Revenue Expenditure - Whether when the assessments originally completed by the AO u/s 143(3) were reopened by AO not on the basis of any new material or information which had come to his possession after the completion of the original assessments, the reopening is on the basis of change of opinion and thus is invalid - Whether when the assessee fulfilled the conditions stipulated in Rule 18DA and the approval as required u/s 80IB(8A) of the Act was given by the prescribed authority and extended further twice, AO is not empowered to sit in appeal on such approval and re-examine whether the conditions stipulated for claiming deduction u/s 80IB(8A) of the Act are satisfied by the assessee or not.

[2013-TIOL-926-ITAT-DEL](#)

DCIT Vs Prime Co-Operative Bank Ltd (Dated: August 23, 2013)

Income Tax - Section 36(1)(viii) - Banking Regulation Act, 1949 - Section 6 - Whether the assessee is justified in claiming premium (amortization) expenses on purchase of Government Securities - Whether the CIT(A) is justified in deleting additions made on account of disallowance of Special Long Term Finance Fund expenses claimed u/s 36(1)(viii) when the working of the Assessee has not been challenged by the AO - Whether the CIT(A) is justified in deleting additions made on account of Reclassification of Capital Gains as Business income, without discussing decision of Supreme Court decision in the case of Sardar Indra Singh.

[2013-TIOL-925-ITAT-DEL](#)

Galaxy Nirman Pvt Ltd Vs ACIT (Dated: September 26, 2013)

Income Tax - Sections 56, 145 - Whether the business loss in the form of business expenses against NIL business receipt is eligible for set off against income from other sources when interest income earned by the assessee was considered as income from other sources - Whether the AO can force the assessee to change the method of

accounting.
Also see analysis of the Order
2013-TIOL-924-ITAT-AHM
Cadila Healthcare Ltd Vs Addl.CIT (Dated: January 24, 2013)
Income Tax - Sections 14A, 32, 35(2AB), 69, 80IA(8), 80IC, 143(3) & 144C. - Whether when the assessee having conducted scientific research on clinical trials, which were outsourced outside the approved facility, is eligible for a weighted deduction under section 35(2AD) - Whether expenses incurred on clinical drug trials for the purpose of deduction under section 35(2AB), are essentially to be incurred inside an in-house research facility - Whether the AO is empowered to disturb the computation of profit by segmentation of eligible profits of the manufacturing unit for deduction under section 80IC.
2013-TIOL-923-ITAT-HYD
ACIT Vs B Seenaiah & Co Projects Ltd (Dated: June 21, 2013)
Income Tax - Sections 67A, 86, 115JB, 271(1)(c) - Whether the share of profits from AOP, which may be exempt from taxation in the hands of the members by the virtue of section 86, can be excluded while computing the Book profits of the members of AOP, under any of the explanations u/s 115JB.
2013-TIOL-922-ITAT-DEL
Shri Arihant Jain Vs ITO (Dated: September 27, 2013)
Income Tax - Section 68 - Whether sustenance of addition u/s 68 on the ground that the assessee was unable to establish the creditworthiness of the persons as well as the genuineness of the transaction is justified when the assessee, apart from furnishing the PAN of the creditor, has also furnished their balance sheet, copy of income tax return, confirmation & bank account - Whether 1/5th disallowance out of car and conveyance expenses as well as diwali & telephone is justified.
2013-TIOL-921-ITAT-DEL
ITO Vs Amit Deep Motors (Dated: August 14, 2013)
Income Tax - Sections 40(a)(ia), 194C, 194J - Whether when the assessee incurs expenses towards denting and painting charges to daily wagers, which also includes the cost of raw materials, such expenditure attracts rigours of Sec 40(a)(ia) for non-deduction of tax at source.

2013-TIOL-920-ITAT-AHM
Adarsh Plant Project Ltd Vs ACIT (Dated: July 19, 2013)
<p>Income Tax Act, 1961 - Sections 36(1)(iv), 36(1)(va), 43B - provident fund - marketing expenses - interest payment .</p> <p>Whether the deductions on account of the contributions made to the provident fund are admissible, if they have been paid after the due date - Whether if funds were available, both interest free and overdraft and/or loans taken, with the assessee, the assessee is justified in claiming deduction on the expenses incurred on account of any investment made from such funds.</p>
2013-TIOL-919-ITAT-BANG
Novo Nordisk India Pvt Ltd Vs DCIT (Dated: September 30, 2013)
<p>Income Tax - Section 37 - Whether when the assessee, a subsidiary of a foreign company, incurs certain expenses for acquiring shares from the parent for allotting the same under ESOP to an employee, such expenses, which represent the difference with the fair market value, is to be allowed as revenue expenditure - Whether expenses incurred for the benefit of third party are not allowable if the same are incurred on account of commercial expediency.</p>
Also see analysis of the Order