

HIGH COURT RULING (INCOME TAX)[2014-TIOL-625-HC-ALL-IT](#)**CIT Vs M/s Sahara India Mutual Benefit Co Ltd (Dated : April 25, 2014)**

Income Tax - Sections 194A, 260A, 271C, 273B - penalty - accrual - TDS - default - Whether deduction of tax at the time of actual payment thereof is a default of venial nature and the same is covered by the provisions of Section 273B - Whether the levy of penalty u/s 271C without approaching the fact that Section 194A mandates deduction of Income Tax at the time of credit of income to the account of the payee, is tenable - Whether in case an assessee has committed default of non deduction of tax at source at the time of crediting the interest to the account of payee in violation of provision of Section 191, penalty can be imposed.

[2014-TIOL-619-HC-MAD-IT](#)**CIT Vs M/s Aban Loyd Chiles Offshore Ltd (Dated : April 2, 2014)**

Income Tax - Sections - 115JAA, 234B, 234C, 244A - MAT credit - interest - refund - Whether interest on refund u/s 244A, is to be granted on the sum after adjustment of MAT credit first and then TDS - Whether carry forward MAT credit available to the assessee is to be adjusted first, before charging interest under sections 234B and 234C.

[Also see analysis of the Order](#)[2014-TIOL-618-HC-MUM-IT](#)**CIT Vs New Era Talkies (Dated : April 8, 2014)**

Income Tax - Sections 50, 143(3), 260A, 263 - capital gains - depreciable asset - land and building - valuer - Whether in case, land has been transferred by offering the amount of depreciation claimed earlier as income, the said land can still be considered as stock in trade and loss on the transfer of the same would not be considered as capital in nature - Whether the provisions of section 50B would be applicable on the same.

[2014-TIOL-617-HC-MUM-IT](#)**CIT Vs M/s Kisan Ratilal Choksey Share And Securities Pvt Ltd (Dated : April 17, 2014)**

Income Tax - fair - controversy - judicial order - Whether an appeal has to be dismissed, in case the controversy raised is fully covered by the orders of other bench of High Court, and particularly the findings rendered by the Division Bench in the very assessee's case - Whether it would be considered as a conscious mistake on the part of appellant, giving rise to a penalty - Whether an appeal by the Revenue on an identical controversy against the same assessee, which then was decided against the revenue would amount to exploitation of the judicial process.

[2014-TIOL-616-HC-DEL-IT](#)

CIT Vs M/s Ankit Garments Manufacturing Co (Dated : April 16, 2014)

Income Tax - Sections 142(1), 143(2) & 263 - revisional powers - invoking - fishing or roving enquiry - stock - raw material - Whether power of revision given to the CIT u/s 263 is independent power - Whether an AO can argue against such right of revision on the ground that every error is not capable of correction - Whether the Commissioner of Income Tax can ask the AO to revise an assessment order, which has been filed after an issue of notice u/s 142(1).

[2014-TIOL-615-HC-DEL-IT](#)

S Pradyot K Misra Vs ACIT (Dated : March 4, 2014)

Income Tax Act - Sections 147 & 148. - Whether reopening of assessment is justified where the reassessment notice was not based on tangible material and the assessee had clearly revealed all facts.

[2014-TIOL-611-HC-P&H-IT](#)

CIT Vs Jasbir Singh (Dated : February 21, 2014)

Income tax - Sections 139, 142(1), 143(2), 144, 147, 148, 271(1)(c) - Capital gains - last known address - territorial jurisdiction - agent - Whether quashing of proceedings by the Tribunal for faulty service of notice under Ss 148, 143(2) & 142(1) amounts to allowing assessee to go scot-free even if he is liable to pay capital gains tax on compensation received for statutory acquisition of his land - Whether merely because there is an error in service of notice on the assessee, the statutory liability to pay tax on capital gains gets extinguished - Whether assessee is to be assessed at the place of its agent or the place where his land was acquired.

[Also see analysis of the Order](#)

[2014-TIOL-610-HC-DEL-IT](#)

CIT Vs M/s Tupperware India Pvt Ltd (Dated : April 15, 2014)

Income Tax - Section 145A - obsolete Stock - written off - accounting principle - Whether an order passed by the Tribunal relying on a case is justified in case there is difference in items but the substantial question of law arising is the same - Whether the assessee's writing off of obsolete stock during valuation of closing stock is justified, according to the accounting principle.

[2014-TIOL-609-HC-MUM-IT](#)

Shri Dhiren A Modi Sahyog Coop. Housing Society Ltd Vs ITO (Dated : April 2, 2014)

Income Tax - Sections 13(1)(c), 13(2) & 154 - Benami - Whether any substantial question of law arises when the assessee accepts the order which was passed by the AO for reassessing his income.

[2014-TIOL-608-HC-AHM-IT](#)

CIT Vs Industrial Extension Bureau (Dated: February 10, 2014)

Income Tax - Section 11 - Whether the Tribunal commits any error in granting the benefit to the assessee for the entire amount when it was a mere oversight or bona fide error in not indicating the correct and full amount for the option under clause (2) of Explanation to Section 11(1).

[2014-TIOL-607-HC-RAJ-IT](#)

CIT Vs M/s SB Properties & Enterprises Ltd (Dated: January 6, 2014)

Income Tax - Sections 32A, 256(1) - investment allowance - manufacturing - building - plant - Whether the claim for investment allowance u/s 32A can be allowed on the ground that the preparation of food articles in a hotel can be treated as manufacturing of goods - Whether a building intended to be used or in fact used earlier either as a residential accommodation or for business purpose can be converted for running hotel business - Whether a building occasionally designed and constructed to suite the requirement of a particular Industry, can make such building a plant.

[2014-TIOL-606-HC-RAJ-IT](#)

CIT Vs M/s State Bank Of Bikaner & Jaipur (Dated: January 6, 2014)

Income Tax - Sections 2(24)(x), 36(1)(va), 43B, 139, 143(3), 154, 260A - deduction - PF contribution - due date - Whether deduction out of the gross income for payment

of tax at the time of submission of return u/s 139 is permissible only in case the statutory liability of payment of PF is paid within the due date under the respective enactments by the assessee and not under the due date of filing of return - Whether in case the PF contribution, is paid after the due date under respective Act but before filing of the return of income u/s 139(1), it can be disallowed u/s 43B or u/s 36(1)(va).

[2014-TIOL-596-HC-MUM-IT](#)

CIT Vs Smt Pamela Ashish Mohile (Dated: April 15, 2014)

Income Tax - Sections 132, 143(3), 158BC - search - warrant - lockers - restructuring - Whether Search as per the provisions of Sec 132 is always person-specific and not premise-specific - Whether, for the purpose of block assessment, it is necessary that the name of the assessee must figure in the warrant of authorisation u/s 132 - Whether mere presence of the assessee's name in the panchnama enables the Revenue to initiate block assessment.

[Also see analysis of the Order](#)

[2014-TIOL-595-HC-AHM-IT](#)

Unipon (India) Ltd Vs Income Tax Settlement Commission (Dated: April 09-16, 2014)

Income Tax - Sections 32(2), 72(1), 245C, 245D(2A) - Settlement Commission - additional income - brought forward losses - unabsorbed depreciation - Whether for the purpose of computing additional tax payable u/s 245D(2A), resort must be given to the sub-sections (1A) to (1D) of section 245C - Whether while passing the order for settlement of a case, an assessee would be entitled to set off the unabsorbed depreciation against his income from other sources disclosed as additional income - Whether the Settlement Commission can undertake the full-fledged assessment proceedings of the cases filed before it - Whether in case of an application filed before Settlement commission, the tax liability of the assessee would be calculated on the aggregate of the total income returned and the income disclosed in the application - Whether a special provision in the Act would prevail over any other general term of a concept contained in the Act.

[2014-TIOL-594-HC-RAJ-IT](#)

CIT Vs M/s Maharaja Shree Umaid Mills Ltd (Dated: April 9, 2014)

Income Tax - Sections 37(1), 40A (7) & 263 - Whether assessee is entitled for the entire deduction of the gratuity paid/payable or provision made by the assessee when the assessee has complied with all the conditions laid down u/s 40A (7).

[2014-TIOL-593-HC-MUM-IT](#)

Girdharilal S Vaid Vs DCIT (Dated: April 4, 2014)

Income Tax - Writ - Sections - 45(3), 148 - Keywords: capital gain - covering letter - transfer of shares.

Whether notice u/s 148 can be issued without any evidence of assessee's failure to disclose fully and truly all material facts necessary for the assessment - Whether the stand taken by the Revenue under section 45(3) is sustainable.

[2014-TIOL-592-HC-DEL-IT](#)

CIT Vs M/s Devasan Investment Pvt Ltd (Dated: April 16, 2014)

Income Tax - Sections 10(38), 28, 45 - Whether the investment in shares by the Assessee being a share Broker can be considered as a transaction in the nature of trade when the assessee invested its shareholders' funds in shares in terms of the decision of its management from time to time and the objects of the company permitted such transactions.

[2014-TIOL-591-HC-JHARKHAND-IT](#)

CIT Vs Anand Kumar Modi (Dated: February 20, 2014)

Income Tax - Sections 68, 131, 145(2) - unexplained credit - books of accounts - Whether books of accounts of an assessee can be rejected in case the AO had clearly noted that sales were not verifiable from the accounts.

[2014-TIOL-586-HC-AHM-IT](#)

Rajmoti Industries Vs ACIT (Dated: April 1, 2014)

Income Tax - Section 40A(3)(a) - Business Expenditure, deduction, disallowance, 'on account payee cheque' vs crossed cheque - crossed bank draft.

Whether when the assessee makes a payment of Rs 20,000/- and above by crossed cheque but fails to add the word a/c payee only, such expenditure warrants disallowance u/s 40A(3)(a) - Whether the banks are under directive from the RBI not to deposit the cheque amount in favour of any person other than the drawee of the cheque.

[Also see analysis of the Order](#)

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| 2014-TIOL-585-HC-KERALA-IT |
| The Peninsular Plantations Ltd Vs ACIT (Dated : March 20, 2014) |
| Income Tax - Section 36(1)(vii) - bad debts - inter corporate deposits - Memorandum of Association - Whether object clause of a MOA can be a basis to form an opinion with regard to the nature of amount lent by an assessee in the normal course of its business - Whether similar basis can be adopted for analysing the nature of interest accrued on such inter corporate loan. |
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| 2014-TIOL-584-HC-AHM-IT |
| CIT Vs Banaskantha Dist Co-Op Milk Producers Union Ltd (Dated : March 31, 2014) |
| Income Tax - Sections 14A, 80IB, 80P(2), Rule 8D - Whether the provisions of section 14A read with Rule 8D would be applicable to Chapter VIA. |
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| 2014-TIOL-583-HC-RAJ-IT |
| Apex Metchem (P) Ltd Vs ACIT (Dated: February 12, 2014) |
| Income Tax - Sections 132, 158BD & 158BFA - Whether imposition of penalty u/s 158BFA(2) is warranted when the Tribunal sustains the addition after elaborate discussion and the said order has become final and no appeal was filed by the assessee. |
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| 2014-TIOL-577-HC-RAJ-IT |
| CIT Vs M/s Consulting Engineering Group Ltd (Dated: February 10, 2014) |
| Income Tax - Sections 40A(2)(a), 40A(2)(b), 44AD, 44AF, 260A - sub-contractors - salary - testing expenses - Whether any disallowance u/s 40A(2) is warranted even the assessee proves the higher payment of salary to one of its key employees running critical business operations - Whether such disallowance can be made even if it is pointed out that the individual assessee has paid higher taxes on such income in its individual return of income - Whether payments made to sub contractors by way of account payee cheques, can be disallowed merely on the basis that the amount is excessive - Whether amount disallowed after considering all the material facts and circumstances by the Tribunal, can be altered by the High Court without any cogent basis. |
| Also see analysis of the Order |

[2014-TIOL-576-HC-DEL-IT](#)

CIT Vs Modi Entertainment Ltd (Dated: April 15, 2014)

Income tax - Sections 14A & 36(1)(iii).

Keywords: deduction - subsidiaries - interest - investment in shares - disallowance.

Whether deduction can be allowed u/s 36(1)(iii), when the assessee has advanced interest-free monies to the subsidiary companies for business considerations.

[2014-TIOL-575-HC-AHM-IT](#)

CIT Vs Uti Bank Ltd (Dated : April 15, 2014)

Whether when the AO and the CIT(A) have already examined the issues in details and given their opinion it is fair on part of the Tribunal to direct the AO to examine the same afresh.

[2014-TIOL-572-HC-AHM-IT-LB](#)

CIT Vs Shambhubhai Mahadev Ahir (Dated: March 25, 2014)

Income Tax - Sections 260A & 268A, CBDT Instruction Nos [5 of 2008](#) & [3 of 2011](#) .

Keywords: tax effect - threshold limit - monetary limit - Finance Act, 2008 - retrospective effect - maintainability of appeal - pending appeal - delegated legislation.

Whether the powers of the CBDT to issue Instructions fall within the purview of delegated legislation - Whether such authority has the force of law - Whether when the language employed in a statute is crystal clear and unambiguous it would amount to a fanciful interpretation if a court of law finds it wiser to give another reasonable view - Whether when the Board Instructions clearly debar the appeals filed prior to the dates specified from being eligible to avail the monetary limits they can still be maintained - Whether from the language of the delegated legislation it can be construed that powers have been vested in the CBDT to allow pending appeals or references to be eligible for the new monetary limits - Whether the language chosen to draft the Board Instruction leaves no room for new interpretation - Whether Bombay HC decision in the case of CIT III vs. Madhukar K. Inamdar HUF is not a good law.

[Also see analysis of the Order](#)

[2014-TIOL-571-HC-AHM-IT](#)

CIT Vs Kajal Exports (Dated : January 23, 2014)

Income Tax - Interest - business purpose - borrowed funds - Whether in the absence of any fresh borrowings, reduction of borrowed funds could be assumed to be for non-business purpose with corresponding advances to the partners of the assessee firm - Whether in such case interest on that borrowed capital can be taxed as income of the assessee.

[2014-TIOL-570-HC-CHHATTISGARH-IT](#)

CIT Vs M/s Itarsi Oil And Flour Mills, Raipur (Dated: April 10, 2014)

Income Tax - Sections 80HHC, 256(1) - manufacturing - export turnover - business turnover - total turnover - Whether the word 'business' used in Section 80HHC(3) of the Act means all businesses of an assessee or only that business, which is partly or fully doing export business - Whether relief u/s 80HHC can be granted in taking into consideration the 'profit of the business' and 'total turnover' of the business carried on by the assessee in respect of its solvent extraction unit alone and to ignore the profits and turnover of the Flour Mill.

[2014-TIOL-566-HC-MUM-IT](#)

CIT Vs M/s Cascade Holdings Pvt Ltd (Dated: April 1, 2014)

Income Tax - Sections 234A, 234B, 234C - attachment - interest - Whether if the assessee is a notified entity and its assets and properties are attached by a Special Court, it is still liable to pay interest under Ss 234A, B & C - Whether merely because certain aspects were not considered or that relevant provisions were not brought to the notice of the Court, it is enough to ignore and brush aside a binding precedent - Whether an assessee being a notified person under the Special Court is not liable to pay interest u/s.234 A, 234 B and 234 C of the Income Tax Act, 1961 ignoring the legal sanctity of Law that the interest chargeable under these sections is not only consequential but is mandatory in nature.

[Also see analysis of the Order](#)

[2014-TIOL-565-HC-MUM-IT](#)

CIT Vs M/s Wockhardt Life Sciences Ltd (Dated: April 2, 2014)

Income Tax - Sections 80HH, 80I, 80IB - adjournments - Whether in case Tribunal has not exercised the discretion judiciously and has hastily disposed of the appeal, remand is a proper recourse - Whether unless the Tribunal's order are challenged before the higher Court, they continue to bind the authorities below the Tribunal and

the parties.

[2014-TIOL-564-HC-DEL-IT](#)

Le Passage To India Tours & Travels Pvt Ltd Vs Addl.CIT (Dated: April 16, 2014)

Income Tax - Sections 147, 148. - Whether a mere assumption that a much larger income had been accrued by the assessee whereas only a fraction of it was offered in the P & L account is a valid ground for reopening an assessment - Whether an assessment can be reopened on an aspect known to the AO at the time of the original assessment - Whether a virtual assertion of the same reasons in different words can clothe the reassessment notice with any more sanctity when it has been previously quashed for lack of jurisdiction - Whether an assessment can be reopened merely to verify the genuineness of the expenses.

[2014-TIOL-563-HC-MUM-IT](#)

CIT Vs M/s Kaizen Commercial Pvt Ltd (Dated: March 24, 2014)

Income Tax - Section 28(iv) - allotment of shares - benefit - addition - director - Whether in case an assessee is not having any direct business relations with issuer company either in the past or during the year in question or subsequent, then it can be said to have any business or professional relationship with that issuer company - Whether in such a case section 28(iv) has any implication.

[2014-TIOL-562-HC-MUM-IT](#)

CIT Vs M/s Hindustan Lever Ltd (Dated: April 1, 2014)

Income Tax - Sections 10A, 37(2A), 40A(5), 80HHC, 80IA - excise duty - turnover - deduction - exemption - Whether expenses incurred by an assessee for organising conference or get together where no outsiders are invited or involved, can be treated as business expenditure u/s 37(2A) - Whether while computing deduction u/s.80HHC, the net foreign exchange relating to export from Kandla Free Trade Zone has also to be considered even though such receipt is covered by Section 10A - Whether excise duty and recovery of distribution costs credited to the distribution expenses are deductible from the total turnover while computing eligible deduction under Section 80HHC.

[2014-TIOL-561-HC-MUM-IT](#)

CIT Vs M/s B G Chitale (Dated: April 9, 2014)

Income Tax - Sections 143(3), 145(3), 206A, 263 - Whether it involves any substantial question of law when there is an attempt to reappreciate and reappraise the factual materials relating to claims which has been already scrutinized by the Tribunal in earlier orders.

[2014-TIOL-558-HC-MAD-IT](#)

CIT Vs M/s Rane Brake Linings Ltd (Dated: April 7, 2014)

Income Tax - Whether when a land is taken on lease for longer period against lumpsum payment and the transfer is in perpetuity, such expenditure can still be construed as revenue in nature.

[Also see analysis of the Order](#)

[2014-TIOL-557-HC-MUM-IT](#)

Sachin Joshi Vs CIT (Dated: March 14, 2014)

Income Tax - Writ - Sections 127, 132, 153C - search - transfer of jurisdiction - show cause notice - MOU - seizure - investigation - Audi Alteram Partem Rule - Whether before an order of transfer of case is passed u/s 127(2), an opportunity of personal hearing is mandatory in case of every assessee - Whether in case the order is passed on a point of which notice was not given to the party, the personal hearing is meaningless - Whether it is sufficient merely to say in the notice that the transfer u/s 127 is proposed "to facilitate detailed and coordinated investigation", in order to do assessment in a different jurisdiction.

[2014-TIOL-556-HC-MUM-IT](#)

National Bank Of Agriculture And Rural Development Vs Dy.CIT (Dated: April 16, 2014)

Income Tax - Writ Petition - Sections 36 (1)(viii), 147, 148 - Whether reopening of Assessment u/s 147 after a period of more than 4 years from the end of the A.Y. is permissible when there is not even an allegation in the reasons recorded for initiating the reassessment proceedings, that there is any failure on the part of the Assessee to disclose any material fact.

[2014-TIOL-555-HC-KERALA-IT](#)

CIT Vs Swarna Andhra Ijmii Integrated Township Development Pvt Ltd (Dated: March 12, 2014)

Income Tax - Sections 143, 147 - Whether in case during the initial assessment, an issue had escaped determination by the Assessing officer, the similar issue can be considered as a reason to reopen assessment on that basis - Whether any new issue that has cropped up subsequently on new set of facts, can be accepted as reasons to reopen an assessment.

[2014-TIOL-554-HC-KERALA-IT](#)

M/s Sunny Jacob Jewellers Vs CIT (Dated: February 10, 2014)

Income Tax - Sections 143(3), 263 - closing stock - dissolution - closure of business - market value - cost - Whether an assessee is liable to pay income tax on a deemed income which has not accrued to the assessee - Whether in order to consider transfer of a capital asset on discontinuance of business operations, dissolution of the firm is a necessity - Whether in case of closure of business, closing stock has to be valued at the market price only - Whether in such a case the value of closing stock can be estimated with at a predetermined formula given by the Revenue officer.

[2014-TIOL-553-HC-KERALA-IT](#)

Tellicherry Minority Welfare Trust Vs CIT (Dated: February 7, 2014)

Income Tax - Sections 11, 12A, 13(1)(b) - minority - exemption - anticipation - Whether while considering the application u/s 12A, the Revenue authorities are not entitled to examine the same with reference to Section 13(1)(b) - Whether CIT is required to examine application of income while processing the application for registration u/s 12A - Whether once registration u/s 12A is secured, exemption of income will be granted only with reference to factual situation - Whether in order to get exemption, assessee must comply with the conditions enumerated and the authorities must also verify whether the activities undertaken by the applicant are really meant for public at large or they are restricted to a particular group with reference to religion or caste.

[2014-TIOL-548-HC-KERALA-IT](#)

CCIT Vs Shri George P Mathews (Dated: February 11, 2014)

Income Tax - Sections 119(2)(a), 154, 234A, 234C - unabsorbed depreciation - recovery proceedings - interest - advance tax - Whether in case the Apex court has laid down the law that depreciation of a firm cannot be allocated to the benefit of partners personally and it shall revert back to the firm, the assessee has to file their returns without claiming such unabsorbed depreciation - Whether in case an assessee has not paid advance tax, it can be absolved from paying interest u.s 234B.

[2014-TIOL-547-HC-ALL-IT](#)

CIT Vs M/s N K Laminates (P) Ltd (Dated: April 11, 2014)

Income Tax - Sections 132, 132A, 158BB - Whether the evidence/material which is not found at the time of search or as a result of requisition of books of account or other document, cannot be made the basis for determination of undisclosed income u/s 158BB.

[2014-TIOL-546-HC-AHM-IT](#)

CIT Vs Suman Silk Mills Pvt Ltd (Dated: January 13, 2014)

Income Tax - Section 69 - Whether an addition in assessee's income can be made only on the basis of presumption without bringing any material in support of the said addition - Whether the excise duty liability of the assessee is not to be included in the income of the year in which it has been incurred merely because it has not been claimed in that year.

[2014-TIOL-545-HC-KAR-IT](#)

Sri Venkatesh Murthy Vs ITO (Dated: April 4, 2014)

Income Tax - Sections 54F, 260A, 271(1)(c), 274 - capital gains account scheme - interest - exemption - Whether if an assessee fails to deposit the Long Term Capital Gain amount in the Capital Gain Account, exemption u/s 54F can still be allowed - Whether in case an assessee has paid substantial amount towards the cost of the property as owner, levy of penalty for wrong claim of exemption is justified - Whether an assessing officer has discretionary powers to levy penalty u/s 271(1)(c).

[2014-TIOL-536-HC-DEL-IT](#)

CIT Vs Kalindi Rail Nirman Engg Ltd (Dated: April 15, 2014)

Income tax - Sections 142(2A), 271(1)(c) - Penalty - to buy peace - Whether when serious irregularities are pointed out in Special Audit Report and the fact that the assessee was also given opportunities to inspect records seized during Search but it did not avail it, penalty is inescapable consequence in such a case.

[Also see analysis of the Order](#)

[2014-TIOL-535-HC-AHM-IT](#)

CIT Vs Vikrambhai Somabhai Patel (Dated: April 7, 2014)

Income Tax - Sections 10(37), 45(5) - Capital Gains - agricultural land - Whether the benefit of exemption u/s 10(37) can be granted in case the agricultural land is not cultivated by the assessee himself - Whether the cultivation of a land through hired labourer or through member of one's family, is included in the definition of 'cultivation by assessee himself' - Whether in case the assessee is not residing close to the land or is also pursuing some other business, it is sufficient to hold that the land is not used for agricultural purposes by the assessee.

[2014-TIOL-534-HC-AHM-IT](#)

N K Industries Ltd Vs ITO (Dated: March 11, 2014)

Income tax - Sections 32, 36(1)(iii), 143(3), 147(c), 148, 154, 234B, 263 - Whether and when a reopening of a case can be objected on the mere ground that it was brought to notice of the AO by the audit officer, although the AO on his/her application of mind finds that the ground is valid - Whether and when an income which is not earned or said to be "hypothetical income" can be taxed - Whether assessment can be reopened based on audit objections which give rise to only such hypothetical income.

[2014-TIOL-529-HC-DEL-IT](#)

DIT Vs The Guru Harkishan Medical Trust (Dated: March 4, 2014)

Income Tax - Sections 11, 12A, 12AA, 260A, - Delhi Sikh Gurudwara Act, 1971 - Section 24(iv) - Delhi Sikh Gurudwara Management Committee - Whether the Act enables the Committee to efface their duties and create other entities for carrying out their functions - Whether such creations can do what Committees are not permitted to perform - Whether the Act permits Committee to enter into the agreement which enabled it to set up a joint venture for a hospital, on revenue sharing basis - Whether a trust created by committee is ultra vires the Committee's powers and beyond its statutory mandate.

[Also see analysis of the Order](#)

[2014-TIOL-528-HC-MP-IT](#)

Navratan Techbuild Private Ltd Vs CIT (Dated: March 14, 2014)

Income Tax - Sections 80IB (10) & 260-A - Whether it is necessity for the High Court to frame substantial question of law and to answer the same thereafter if the appeal before it does not involve any substantial question of law.

[2014-TIOL-527-HC-AHM-IT](#)

CIT Vs Leo Formulations Pvt Ltd (Dated: April 7, 2014)

Income Tax - extra consumption - disallowance - unreconciled discrepancies - Whether after accepting that there is a degree of unaccounted consumption of raw materials, entire excess consumption should be added to the income of the assessee, since it is not shown that there is any unaccounted expenditure relatable to the production of the final goods - Whether in such a case partial disallowance would suffice.

[2014-TIOL-523-HC-KAR-IT](#)

Geetanjali Education Society Vs ACIT (Dated: February 24, 2014)

Income Tax - Section 10(23C)(iiid) - Whether in the absence of any allegation or material against the society showing that they were involved in any other activities than the educational activities it can still be denied exemption u/s 10(23C)(iiid).

[2014-TIOL-522-HC-KAR-IT](#)

CIT Vs M/s Khoday India Ltd (Dated: March 18, 2014)

Income Tax - Sections 2(24)(x), 36(1)(va), 40A(2)(a), 43B - keywords - deduction, contribution.

Whether the deduction on payment of lease rent and employees contribution towards ESI and PF can be disallowed when both the issues have been previously addressed in favour of the assessee in an identical matter.

[2014-TIOL-520-HC-MP-IT](#)

Ramesh Prasad Dhahayat Vs CIT (Dated : March 26, 2014)

Income Tax - Writ - Sections 132, 132(4), 154 - rectification - unexplained investment - Whether in case it is found that the AO has himself assessed the working capital addition, on the basis of investment available and in the absence of any material to show that this was included in the initial capital, deduction is to be disallowed - Whether in case in the order it is indicated that interest would be paid in accordance with law, without specifying any particular provision, the benefit has to be given to the Revenue - Whether the payment of interest is mandatory - Whether the Revenue can claim interest u/s 234A, 234B and 234C, in case it is held that if the Assessment order is silent about payment of interest and nothing in that regard is indicated.

[2014-TIOL-519-HC-DEL-IT](#)

NTPC Ltd Vs CIT (Dated: April 16, 2014)

Income Tax - Sections 32(1)(iia), 32(1)(vi), 142(1), 143(1), 143(2), 263 - additional depreciation - Central Electricity Regulatory Commission - provisional - downgrading of sales invoices - tariff notification - Whether any downgradation of the sales figure as per the CERC regulations would amount to withholding information or material information, or providing incomplete facts - Whether in case the assessee has made billing on provisional basis due to tariff notification issued by CERC, it would amount to under billing of sales invoices - Whether a provision made on a reasonable basis, is in the nature of an ascertained liability - Whether in a mercantile system of accounting, provision for liability ascertained during the course of the relevant accounting period, payable at a future is permissible - Whether in a case where there are two views possible, the Commissioner can exercise his power under Section 263.

[2014-TIOL-518-HC-ALL-IT](#)

CIT Vs Ashok Wadia (Dated: April 16, 2014)

Income Tax - share transactions - capital gain - record date - investment - Whether in order to determine the nature of share transactions to assess the capital gains, there can be any one conclusive factor - Whether the frequency of transactions in share dealing can be determinative factor for ascertaining the nature of capital gain - Whether the general trend can also color the entire portfolio as business - Whether the fact that assessee has transacted in shares would necessarily mean that it is a trading activity - Whether shares held as investment can also be sold and purchased - Whether in case the similar scrips were held throughout the entire period, with the limited change occurring within the shares already held, it could imply that the shares were held as an investment.

[2014-TIOL-517-HC-ALL-CX](#)

M/s R M Polypack Pvt Ltd Vs CCE (Dated : April 1, 2014)

Pre-deposit - Duty on printed laminated plastic sheet became chargeable on account of amendment made in the CETA on 10.5.2008 - prior to that duty was not payable in view of SC decision in Metlex (I) Pvt. Ltd. which held that activity of metallising or laminating duty paid film does not amount to manufacture - in these circumstances extended period of limitation could not have been invoked - Tribunal in its order has also not said that the appellant has no prima facie case - since the Tribunal itself has waived the deposit of 50% of the duty component, it indicates that Tribunal was satisfied that there is some substance in the appeal - Pre-deposit ordered of 25% of duty component and interest u/s 11AB - on payment of aforesaid amount appeal to be heard and decided on merits expeditiously by Tribunal: Allahabad High Court

[2014-TIOL-516-HC-MAD-IT](#)

CIT Vs M/s Gimpex Ltd (Dated : April 2, 2014)

Income Tax - Sections 80A, 80AB, 80IB(5), 80HHC, 115JB, 143(2) - export turnover - eligible business - Whether the onus is on the assessee to produce sufficient records so as to show that there is no disproportionate allocation - Whether it is assessee's liability to prove that the profits arrived at were genuine, in respect of various units for the purpose of claiming deduction u/s 80IB - Whether the issue regarding disproportionate allocation of common expenses to arrive at more profits for the "eligible units" in order to claim more relief u/s 80IB, is a question of law.

[2014-TIOL-515-HC-AHM-IT](#)

CIT Vs Diptiben D Patel (Dated : January 28, 2014)

Income Tax - unexplained income - addition - Will - Whether the AO can dismiss the contents of a will merely on presumptive basis - Whether an addition can be made in assessee's income even if the channel of such unexplained income is known.

[2014-TIOL-507-HC-AHM-IT](#)

CIT Vs M/s Atul Intermediates (Dated: March 25, 2014)

Income Tax - Sections 80HHC, 80IA - Whether the assessee can claim deduction u/s 80HHC, ignoring the deduction already claimed and allowed u/s 80IA.

[Also see analysis of the Order](#)

[2014-TIOL-506-HC-KERALA-IT](#)

M/s Kerala State Beverages (M&M) Corporation Ltd Vs ACIT (Dated: February 25, 2014)

Income Tax - Sections 37, 40(ii)(b) - Kerala Surcharge on Taxes Act, 1957 - Kerala General Sales Tax Act, 1963 - Whether assessee can be required to deposit 40% of the total demand, while the stay application remains pending adjudication.

[2014-TIOL-505-HC-ALL-IT](#)

Hemant Kumar Sindhi Vs CIT (Dated: March 26, 2014)

Income Tax - Writ - Sections 132, 132A & B, 153A, 234B & 234C - Tax liability - siezed assets - existing liability - crystallized - Whether an existing liability means a liability crystallised by adjudication - Whether until the assessment is complete, it cannot be postulated that a liability has been crystallized - Whether an AO is liable to release the siezed assets of the assessee on application, without the completion of the assessment and satisfaction of the AO.

[2014-TIOL-503-HC-DEL-IT](#)

CIT Vs Modi Spinning Mills And Weaving Mills Co Ltd (Dated: April 1, 2014)

Income tax - Section - 250 (5) - additional grounds - Whether it is the right of the CIT (A) to examine the admissibility of the grounds urged in support of the revised return - Whether such adjudication is within the scope of section 250(5).

[2014-TIOL-502-HC-MUM-IT](#)

CIT Vs M/s Ultra Tech Cement Ltd (Dated: April 2, 2014)

Income Tax - Section 80-IA - rail system - Whether an assessee is eligible for deduction u/s 80-IA by urging that Rail system is not a profit center but a cost saving exercise undertaken in terms of sub-section (4) of Section 80-IA.

[2014-TIOL-501-HC-MUM-IT](#)

CIT Vs ICICI Web Trade Ltd (Dated: April 2, 2014)

Income Tax - Section 234D - Whether section 234D is applicable with retrospective effect - Whether the issue of excess expenditure incurred on earning brokerage income due to increase in customers is a matter of question of law.

[2014-TIOL-495-HC-ALL-IT](#)

CIT Vs M/s Tandon & Mahendra (Dated: March 13, 2014)

Income Tax - Sections 40(a) (ia) & 194-H - Whether commission paid to TPL for motivating potential investors to invest through the assessee in Mutual Fund Schemes in relation to a transaction relating to securities is excluded from the purview of Section 194-H.

[2014-TIOL-494-HC-P&H-IT](#)

CIT Vs M/s Idicula Trust Society (Dated: April 11, 2014)

Income Tax - Sections 2(15), 11, 13 (2)(c), 13(3) & 40A(2)(a) - Whether partial disallowance of salary is justified when though reference was made to Section 40A(2)(a) but the test of 'fair market value' was given a go bye - Whether computation of salaries of members of the trust in question could have been done under the head "business or profession when there was no violation of stipulations made in memorandum of association of the trust.

[2014-TIOL-493-HC-DEL-IT](#)

CIT Vs Bokaro Power Supply Co Ltd (Dated: March 28, 2014)

Income Tax - interest - capital expenditure - margin money - loan - Whether the interest earned by the assessee on the margin money deposited by it for borrowing amounts to financing its expansion - Whether setting-up of a Boiler Project for generation of power is to be considered as capital in nature.

[2014-TIOL-492-HC-AHM-IT](#)

Dhruv Parulbhai Patel Through Poa Parulbhai Laxmanbhai Patel Vs ACIT (Dated: April 1, 2014)

Income Tax - Sections 54, 54E, 147, 148 - Whether notice for reopening has to be sustained and supported only on the basis of reasons recorded by the AO and not with the help of extraneous ground or possible improvement - Whether reassessment is warranted, when reasons recorded clearly shows that the AO has taken a conscious decision to disallow the exemption claimed, for breach of the requirement of section 54E, although assessee had sought exemption u/s 54 - Whether such reference made by AO to wrong section the Income Tax Act in the reasons recorded could be considered as typographical error.

[2014-TIOL-490-HC-MUM-IT](#)

M/s Nerka Chemicals Pvt Ltd Vs UoI (Dated: March 25, 2014)

Income Tax - Writ Petition - Sections 28(iv), 56(1), 156 - Whether the order of the CIT(A) on stay application directing deposit of Rs 677 crores of the demand in eight equal installments over a period of three months is justified when the impugned order does not consider the question of balance of convenience and irreparable injury that would be caused by in effect compelling the Assessee to sell the shares of UPL & UEL by refusing the stay.

[2014-TIOL-489-HC-KOL-IT](#)

Amal Kumar Ghosh Vs ACIT (Dated: January 21, 2014)

Income Tax - Sections 119 & 143(2), CBDT Circulars 9 & 10 - Whether the notice u/s 143(2) issued after lapse of three months is in legal exercise of jurisdiction when CBDT issued Circulars Nos. 9 and 10 indicating that for returns filed during the F.Y 2004-2005, the selection of cases for scrutiny will have to be completed within three months of the date of filing of the return.

[2014-TIOL-488-HC-DEL-IT](#)

M/s Gujarat Dairy Development Corporation Ltd Vs DGIT (Dated: March 26, 2014)

Income Tax - Section 41(1) - Sick Industrial Companies (Special Provisions) Act, 1985(SICA) - Section 19(2) - Board for Industrial and Financial Reconstruction (BIFR) - unhindered sale - Whether in order to determine tax liability of an assessee, scheme of financial reconstruction approved by the High Court has to be considered - Whether in case the same has not been considered by the Revenue, remand back is a just course of action.

[2014-TIOL-487-HC-AHM-IT](#)

Gujarat Narmada Valley Fertilizers Co Ltd Vs DCIT (Dated: March 24, 2014)

Income Tax - Sections 35D, 147, 148 - Whether reopening of Assessment by the AO is justified when additions sought to be made by the AO through the process of reopening of the assessment previously closed after scrutiny has not been approved by the HC.

[2014-TIOL-484-HC-MUM-IT](#)

CIT Vs Shri Shriram Hiralal Soni (Dated: April 2, 2014)

Income Tax - Section 68 - unexplained amount - cash credits. -Whether in case the entries on the basis of cash books were written and maintained systematically, it can be concluded that they were in the books of accounts of the assessee in respect of his unaccounted business - Whether such an amount credited in assessee's books can be taxed as undisclosed income u/s 68.

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| 2014-TIOL-483-HC-AHM-IT |
| CIT Vs Shreenath Infrastructure (Dated: April 1, 2014) |
| Income Tax - Sections 2(47), 80IB (10) - Transfer of Property Act - Section 53A - construction - Floor Space Index (FSI) - marginal utilisation - Whether for claiming deduction u/s 80IB, an assessee can be considered as the owner of property for the purpose of carrying out the construction work for development of the housing project - Whether marginal underutilization of FSI can be a valid ground for rejecting the assessee's claim for deduction u/s 80IB - Whether an undertaking could utilize only a small portion of the available area for construction, sell the property leaving ample scope for the purchaser to carry on further construction on his own and claim full deduction u/s 80IB(10) on the profit earned on sale of the property - Whether mere sale of open land or unused FSI as part of the housing project where utilization of the FSI is way short of permissible limits, can be said to have been derived from such project. |
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| 2014-TIOL-480-HC-AHM-IT |
| CIT Vs Mitesh Impex (Dated: April 2, 2014) |
| Whether where the assessee puts the material to a series of manual and mechanical processes and through such exercise so undertaken, bring into existence entirely new, distinct and different commodities which are marketable, the process amounts to manufacturing - Whether claim would be permissible to be raised for the first time before the appellate authority or the Tribunal when facts necessary to examine such claim are already on record. |
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| 2014-TIOL-479-HC-KAR-IT |
| M/s Gudwill Housing Ltd Vs ITO (Dated : March 24, 2014) |
| Income Tax - Sections 147, 148, 158BA, 158BD, 260A, - reassessment - demand - Whether an Assessing Officer can proceed against the assessee, in case he has reasons to believe that assessee's income has either escaped the assessment or whose undisclosed income is unearthed during the search conducted u/s 132 of the premises of some other person - Whether an AO has the option to assess undisclosed income under the normal provisions of section 147 or as per the special provisions of chapter XIV B of the Act. |
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| 2014-TIOL-478-HC-AHM-IT |
| Friends Of Wwb India Vs DCIT (Dated: March 18, 2014) |

Income Tax - Sections 11(2), 147, 148, 143(3) - reassessment - claim - expense - change of opinion - Whether in case an issue has been examined by the Assessing Officer in the original assessment proceedings, any reopening on the basis of such issue without any additional material would be considered as a mere change of opinion - Whether such a reopening would be allowed even in case the AO in an order of assessment had accepted the assessee's stand and granted the claim.

[2014-TIOL-476-HC-DEL-IT](#)

Indus Towers Ltd Vs CIT (Dated : March 31, 2014)

Income Tax - Writ - Sections 194C, 194I, 194J, 195, 197 - Master Service Agreement - rent - TDS - interest - Service Credit - passive construction - Whether the activity of provision of passive infrastructure by the assessee to the mobile operator constitutes renting within the definition under Explanation to Section 194I - Whether the said activity is service, pure and simple without any element of hiring or letting out of premises - Whether the "operative intention of the parties" has to be ascertained, in order to determine the nature of the payment made - Whether exclusive possession itself is decisive in favour of a lease and against a mere licence - Whether the grant of exclusive possession is only a licence and not a lease where the grantor himself has no power to grant the lease - Whether a transaction is lease or a licence "turns on the operative intention of the parties" - Whether it is the single, simple litmus-test to distinguish one from the other - Whether the income realised by owners by way of rental income from the building, whether a commercial building or residential house, is assessable under the head "income from house property.

[2014-TIOL-475-HC-DEL-IT](#)

Niti Wadhawan Vs DCIT (Dated: March 31, 2014)

Income Tax - Sections 132, 132(4), 133A, 142(1), 143(2), 144, 158BC, 158BD - search - seizure - panchnama - clubbing of income - Whether in the absence of an independent satisfaction note and notice in respect of an assessee, after the search u/s 158BD, an AO could have validly proceeded and completed assessment, by using materials found pursuant to the search of another assessee - Whether in case there is close proximity between two search conducted, it can be contended that no incriminating material is found in the search of the subsequent assessee - Whether in case only a portion of the property has been gifted by the assessee's husband to her, the entire addition could be made in assessee's hands as per the provisions of clubbing.

[2014-TIOL-474-HC-AHM-IT](#)

Ranjit Projects Pvt Ltd Vs DCIT (Dated: March 18, 2014)

Income Tax - Writ Petition - Sections 147, 148 - Whether reopening of Assessment after lapse of four years from the end of the relevant A.Y is justified when there being no suggestion by the AO that income chargeable to tax had escaped assessment for

the reason of the assessee failing to disclose truly and fully all material facts.

[2014-TIOL-473-HC-KAR-IT](#)

CIT Vs M/s Toyota Techno Park India Pvt Ltd (Dated : March 18, 2014)

Income Tax - Section 260A - rent - building - construction - commercial - Whether in case intention of assessee is to exploit commercial property by putting up construction and letting it out for the purpose of getting rental income, income from the building falls under the head 'income from house property', even if the furniture and fittings are provided to the lessee - Whether in case assessee is in the business of taking land, putting up commercial buildings thereon and letting out such buildings with all furniture as his profession or business, income would be considered as from 'business and profession'.

[2014-TIOL-472-HC-P&H-IT](#)

CIT Vs M/s Earth Tech Engineers (Dated: March 13, 2014)

Income Tax - Sections 143(1), 143(3) - depreciation - contract - net profit - Whether the gross receipts to which net profit rate is to be applied, is to be determined after giving allowance on account of depreciation - Whether two contractors engaged in different construction contracts, can have a similar rate of profit.

[2014-TIOL-469-HC-AHM-IT](#)

CIT Vs Moon Star Developers (Dated: March 5 & 11, 2014)

Income Tax - Sections 47, 80IB(10), 143(1), 143(2), 271(1)(c) - Floor Space Index (FSI) - construction - commercial complex - Whether ownership of land is a necessary condition in order to claim exemption u/s 80IB(10) - Whether assessee is entitled to the benefit u/s 80IB(10), even in case the title of the land has not been passed on to the assessee - Whether for any commercial activity of construction, maximum utilization of Floor Space Index is of great import to the developer - Whether non-utilization of available FSI would reduce the profit margin of the developer - Whether marginal underutilization of FSI can be a ground for rejecting the claim u/s 80IB(10) - Whether mere sale of open land or unused FSI as part of the housing project where utilization of the FSI is way short of permissible limits can be said to have been derived from such housing project - Whether Sec 80IB benefits are to be allowed on proportionate basis in such cases - Whether in order to claim benefit of section 80IB, there must be a direct nexus between the profits and gains and the industrial undertaking.

[Also see analysis of the Order](#)

[2014-TIOL-467-HC-ALL-IT](#)

Sushrut Institute Of Plastic Surgery Shameena Road Vs DCIT (Dated: April 2, 2014)

Whether initiation of re-assessment u/s 147 gets vitiated merely because the AO fails to correct assessment completed u/s 143(1) by issuing notice u/s 1432(2) - Whether a prima facie opinion on escapement of income is good enough reason to resort to the provisions of Sec 147.

[Also see analysis of the Order](#)

[2014-TIOL-459-HC-MAD-IT](#)

CIT Vs M/s Pricol Ltd (Dated : April 1, 2014)

Whether where a provision was made that to pay the service weightage to the employees on the eve of their retirement even if there was no sum credited to an individual account, the contribution could be termed as contribution to a fund or a trust - Whether where a mere provision for retirement benefit was made in the accounts and there being no fund, the assessee's case would be hit by Section 40A(9) of the Income Tax Act - Whether where a provision was made in the books of account for retirement benefit based on the service weightage, and the scheme was not a recognised one, the claim would be hit by Section 40A(7)(a) of the Income Tax Act.

[Also see analysis of the Order](#)

[2014-TIOL-458-HC-RAJ-IT](#)

M/s Trilok Chand Girdharilal & Party Vs ITO (Dated : January 21, 2014)

Income Tax - Section 145(3) - Whether provisions of Section 145(3) can be invoked by the Revenue when the sale vouchers have not been maintained or issued - Whether substantial question of law arises when in a case, where GP rate was applied or trading addition was made or addition was on the basis of appreciation of evidence.

[2014-TIOL-457-HC-ALL-IT](#)

M/s Meerut Roller Flour Mills Pvt Ltd Vs ACIT (Dated : March 13, 2014)

Income Tax - Sections 142(1), 143(2), 143(3), 220(2), 234B, 246, 250, 251 - Whether in case an AO has merely referred to a wrong provision of law and was passing an order to give effect to the order of the CIT (A), he had to do so by passing an order of assessment under Section 143 (3) - Whether such an order of assessment would have to be passed after complying principles of natural justice.

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| 2014-TIOL-456-HC-AP-IT |
| Sri Mellacheruvu Veerambhotla Gupta Vs CIT (Dated : March 12, 2014) |
| Income Tax - Section 254(2) - rectification - Whether a High court can entertain an issue which is not the subject matter of rectification proceedings before the Tribunal - Whether the original order loses its legal existence even if there is no mistake in it - Whether in exercise of power u/s 254(2), Tribunal can confirm any order. |
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| 2014-TIOL-455-HC-AHM-IT |
| GSPC Gas Company Ltd Vs DCIT (Dated : March 25, 2014) |
| Income Tax - demand - deposit - Whether in case an AO has made additions to the assessee's income only to keep the issue alive, it is obligatory on the part of AO to demand pre-deposit of the entire pending dues - Whether the fact that assessee agreed to deposit a certain percentage of the tax demand or not, can affect AO's decision regarding allowablility of a certain issue. |
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| 2014-TIOL-453-HC-DEL-IT |
| A T Kearney India Pvt Ltd Vs ITO (Dated : March 28, 2014) |
| Whether when the DR is present in the court at the time of pronouncement of the stay by the Tribunal, it can still be argued by the Revenue that the AO had received no formal communication in this regard - Whether recovery proceedings can be initiated in the absence of formal communication of stay order to the AO. |
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| 2014-TIOL-452-HC-ALL-IT |
| CIT Vs M/s S K Transformer (P) Ltd (Dated : March 26, 2014) |
| Income tax – Section 80IA(2)(iv)(c) – Meaning of manufacture and processing – Whether, for the purpose of Sec 80IA, the expression 'manufacture or production' also includes 'processing' in its ambit - Whether when the transformer oil has been purchased by the assessee from market and centrifuging had been done by centrifugal machine in order to make it usable in Transformer, it cannot be construed that due to this transformation or activity there was change in the substance and new substance or article had come out. |
| Also see analysis of the Order |

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| 2014-TIOL-451-HC-MUM-IT |
| CIT Vs Intervet India Pvt Ltd (Dated : April 1, 2014) |
| Whether when the assessee incentivises its distributors and stockists on realising sales targets by way of goods, such compensation is to be construed as commission covered under the provisions of Sec 194H - Whether when the assessee provides a discount under the product distribution scheme, such discount is to be termed as commission - Whether expenditure incurred on such schemes is to be disallowed u/s 40(a)(ia) for failure to deduct tax at source. |
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| 2014-TIOL-450-HC-KAR-IT |
| CIT Vs M/s Baldwin Boys High School (Dated : March 18, 2014) |
| Income Tax - Sections 10(23c)(vi), 12A, 147, 148 - reopening - exemption - Whether in case, the circumstances show that the reasons for reopening a case were not recorded before the issue of notice u/s 148, the assessment to be made u/s 147 is bad in law and has to be cancelled. |
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| 2014-TIOL-449-HC-AHM-IT |
| CIT Vs Archan Enterprises (Dated : March 18, 2014) |
| Income Tax - Section 80IB(10) - Whether the assessee is entitled to the benefit u/s 80IB(10) even where the land was not in the name of the assessee and possibly the building construction permission was also issued in favour of the land owner. |
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| 2014-TIOL-443-HC-MUM-IT |
| M/s Crompton Greaves Ltd Vs DCIT (Dated : March 25, 2014) |
| Income Tax - Sections 2(14), 2(47) - Whether written off loss arising out of advances extended to a sister concern, which later got amalgamated, can be claimed as capital loss - Whether such advances fulfill the meaning of transfer as per section 2(47) of the Income Tax Act - Whether such advances can be alternatively shown as inter corporate deposits for claiming such capital loss. |
| Also see analysis of the Order |
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[2014-TIOL-442-HC-MAD-IT](#)

M/s Simpson And General Finance Co Ltd Vs DCIT (Dated : March 21, 2014)

Income Tax - Accounting Standard 19 - Whether the mere fact that equipment is delivered by the supplier to the location of the assessee , will make the agreement as Financial lease, although the terms of the Agreement, clearly point out that it is only a simple lease agreement - Whether irrespective of AS-19 once the depreciation was claimed by the assessee on the leased assets, it was imperative that the whole of the lease rental was liable to be shown as income - Whether it is a financial lease, when in the calculation of the lease rental, the monthly repayment of the rent and the number of months of the lease rent payment is clearly stated in the agreement.

[2014-TIOL-437-HC-AHM-IT](#)

M/s Amarshiv Construction Pvt Ltd Vs DCIT (Dated: March 19, 2014)

Income tax - Section 4 - Whether the retention money would be the income accrued to the assessee when it is received from the contractee in order to have more liquidity but against a bank performance guarantee on a condition that the guarantee will be released only after satisfactory completion of the work upon being certified by the Engineer-In-charge and in case of any non satisfactory completion of work, it would be recovered from bank guarantee.

[Also see analysis of the Order](#)

[2014-TIOL-436-HC-KAR-IT](#)

Azad Co-Operative Bank Ltd Vs ITO (Dated: March 12, 2014)

Whether any question of law arises when the assessee is yet to establish before the Assessing Authority that the amount claimed as business expenditure u/s 37 has been actually treated as business loss based on the instructions of the RBI.

[2014-TIOL-435-HC-DEL-IT](#)

CIT Vs Vinod Kumar Mittal (Dated : March 18, 2014)

Income Tax - jurisdiction - cross objections - Whether in case an assessee has not objected to the jurisdiction of the AO during the assessment proceedings, it can subsequently challenge it on the ground of lack of proper jurisdiction.

[2014-TIOL-434-HC-AHM-IT](#)

CIT Vs Sushobhit Transport (Dated: March 11, 2014)

Income Tax - carting charges - hire charges - petrol and hire expenses - Whether in case an assessee is following mercantile system of accounting, an expenditure incurred would be allowed only in the year in which liability regarding the same will be crystallised - Whether a disallowance made by the AO is liable for rejection in case it is not verifiable and substantiated - Whether in case the principal employer of the vehicle instructs the assessee to deliver the goods to the ultimate point of destination, assessee therefore, would count for such income till 31st March of the previous year under consideration. although, CFCL would deduct at source on the entire payment by making the provision for the same.

[2014-TIOL-433-HC-AHM-IT](#)

CIT Vs Sahajanand Associates (Dated: March 12, 2014)

Income tax - Section 80IB - Whether the developer is entitled for deduction u/s 80IB though the approval by local authority is in the name of landowner - Whether assessee is also entitled for deduction for profit on sale of FSI.

[2014-TIOL-432-HC-KAR-IT](#)

Mrs Sabita Sharma Vs ITO (Dated: March 18, 2014)

Income Tax - Sections 254, 260A - revision - appeal - review - Whether an assessee by filing an application u/s 254 can seek review of the order of the Tribunal - Whether an assessee can urge that an opportunity was not accorded to cross-examine the witness despite the observations made by the CIT(A), through an application u/s 254 instead of filing an appeal on merit basis.

[2014-TIOL-430-HC-AHM-IT](#)

Spunpipe And Construction Co Vs ACIT (Dated: March 11, 2014)

Income Tax - Sections 2(14), 28, 45(2), 54EC, 54G, 143(1), 143(3), 147, 148 - stock in trade - capital asset - change of opinion - Whether in case during the original assessment proceedings, AO has completely analysed the facts and evidences, any attempt on the part of the said AO to reopen the assessment would be a change of opinion - Whether u/s 147, an assessing officer has the power to review an assessment already finalised - Whether reassessment can be made on fulfillment of certain pre-conditions stipulated u/s 147 only - Whether in case a claim made by an assessee is not rejected, it would be presumed that it has been accepted - Whether in case such claim is scrutinized by the AO during assessment, it implies that such claim has been validated - Whether such position would alter in case AO has not mentioned any specific reasons in the assessment order regarding validity of such claim -

Whether the reassessment proceedings would be valid in case the assessment order itself records that the issue was raised and is decided in favour of the assessee.

[2014-TIOL-424-HC-KERALA-IT](#)

R Romi Vs CIT (Dated : March 6, 2014)

Income Tax - Sections 132, 143(2)&(3), 158BC, Keywords - "search", "block assessment".

Whether block assessment could have been completed without issuing a notice u/s 143(2) of the Income Tax Act - Whether omission to issue such notice is a procedural irregularity and is curable - Whether document obtained under Right to Information Act for establishing the non issuance of notice u/s 143(2) can be accepted as an evidence, although there has been a lapse of 18 years since the search was first conducted.

[Also see analysis of the Order](#)

[2014-TIOL-423-HC-KERALA-IT](#)

CIT Vs P M Aboobacker (Dated : March 20, 2014)

Income Tax - Sections 132(4), 143(3) - undisclosed investment - search and seizure - Whether a retracted statement can be taken into consideration for the purpose of adducing evidence regarding value of property - Whether in case of taxing capital gain transactions, burden to prove undervaluation of property is on the Revenue - Whether oral evidence, supported by Section 132(4) statement, which is uncontroverted even during cross examination, can be treated as sufficient evidence to show that the property has been sold for a higher consideration.

[2014-TIOL-422-HC-KERALA-IT](#)

Dr Xavier J Pulikkal Vs DCIT (Dated : February 20, 2014)

Income Tax - Sections 54F, 139(1), 139(4), 276CC - prosecution - penalty - due date - Whether in order to avail the benefit of exemption u/s 54F, time limit as stipulated u/s 139(4) would apply.

[2014-TIOL-421-HC-MUM-IT](#)

City And Industrial Development Corporation Of Maharashtra Ltd Vs ACIT (Dated: March 24, 2014)

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| Income | Tax | - | 147, | 148. |
| <p>Keywords: Writ, Reassessment, reopening of assessment, change of opinion, income escaping assessment.</p> <p>Whether notice under Section 148 is liable to be set aside when there is no allegation in the reasons that there was any failure on the part of the Assessee to disclose any material fact - Whether, where all disclosures were made by the Assessee regarding its appointment as an agent of the Government, even in the scrutiny proceedings all disclosures were made by the Assessee regarding its appointment and several Government Resolutions and letters of the Government were also brought to the notice of the Assessing Officer and after considering all the material produced before him, the Assessing Officer came to a finding that the assessee was appointed as an agent of the Government, it could be said that the reassessment proceedings were initiated on the basis of a "change of opinion".</p> | | | | |
| 2014-TIOL-420-HC-MUM-IT | | | | |
| M/s Bharat Bijlee Ltd Vs ACIT (Dated: March 5, 2014) | | | | |
| <p>Income Tax - Writ - Sections 2(42C), 50B, 54EC, 143(3), 147, 148, - Companies Act, 1956 - Sections - 391, 394, - escrow money - NHB bonds - preference shares - bonds - valuation - fair market value - Whether mere failure to furnish a document during assessment is a sufficient reason to reopen an assessment - Whether an assessee would be held liable in case a document produced before the assessing authority is not considered by the said authority for passing the assessment order - Whether in case an AO has sought further information on a particular issue, it can be presumed that he had considered the material in relation to which he sought further information.</p> | | | | |
| 2014-TIOL-419-HC-P&H-IT | | | | |
| Bal Kishan Dhawan (Huf) Vs DCIT (Dated: March 10, 2014) | | | | |
| <p>Income Tax - Sections 80AC, 80IB, 119, 139, 260A - CBDT - deduction - Whether in order to claim benefit of deduction u/s 80IB in respect of new industrial undertaking, return of income has to be filed within the due date mentioned u/s 139 - Whether in case a matter requires to be adjudicated afresh, as a CBDT notification goes to the root of the matter, it becomes a substantial question of law to be entertained by the High Court.</p> | | | | |
| 2014-TIOL-413-HC-DEL-IT | | | | |
| Dif Ltd Vs Addl.CIT (Dated: March 28, 2014) | | | | |
| <p>Income Tax - Sections 14A, 80IAB, 142(2A), 143(2), Rule 14A - Special Economic Zone - dealer - Internal Development Charges - Whether mere volume of entries is a justification in itself as to confirm the complexity in accounts - Whether voluminous accounts are to be considered as complex by default - Whether the question of complexity of accounts is to be judged by applying a yardstick or test - Whether the</p> | | | | |

accounts would be considered as complex in case it is difficult to understand by a normal AO who has basic understanding of accounts without the aid of a special auditor - Whether granting of loans and advances to subsidiary company would affect interest payments in the hands of the holding company - Whether non-submission of bifurcated expenses incurred on SEZ and non-SEZ projects can be considered as a basis for transfer of assessee's case to the special auditor - Whether special audit u/s 142(2A) has been carved out for getting over the limitation in the accounts of the assessee.

[Also see analysis of the Order](#)

[2014-TIOL-412-HC-DEL-IT](#)

Mr Ashok Mittal Vs ACIT (Dated: February 5, 2014)

Whether where there is true and complete disclosure of the method of valuation in the balance sheet and the issue was examined by the assessing officer at the time of original assessment, the issuance of notice under Section 148 to reopen the assessment is just a mere change of opinion – Whether the order of the assessing officer disposing of the objections raised by the assessee would amount to a cryptic order where the objections raised by the assessee were not dealt by the Assessing Officer.

[2014-TIOL-411-HC-DEL-IT](#)

M/s VRC Construction India Pvt Ltd Vs ACIT (Dated: March 19, 2014)

Income Tax - Section 143(3) - Whether an issue regarding adequacy of percentage of disallowance is a substantial question of law - Whether in case there is no corroborative evidence in support of an amount being disallowed, there can be any partial disallowance on the said issue.

[2014-TIOL-410-HC-KERALA-IT](#)

CIT Vs M/s Abad Constructions Pvt Ltd (Dated: March 4, 2014)

Whether the order of assessing officer allowing claim of deduction was passed without being satisfied with the material available amounts to order prejudicial to the interest of the revenue.

[2014-TIOL-409-HC-KOL-IT](#)

CIT Vs Malyaya Construction Ltd (Dated: March 12, 2014)

Income Tax - Section 80B(10) - Whether deduction u/s 80B(10) can be allowed to developer of a housing project which is in the name of different persons who had sold the approved project to the said buyer developer for construction purposes.

[2014-TIOL-408-HC-AP-IT](#)

Radha Vinyl Pvt Ltd Vs CIT (Dated: February 13, 2014)

Income Tax - Kar Vivad Samadhan Scheme, 1998 - Whether in case an appeal filed by the assessee is addressed to a wrong officer, Department is prevented from intimating the assessee to return the papers to enable them to file the same before the appropriate authority - Whether in such a case the Department can make over the appeal papers to the competent authority in the hierarchy.

[2014-TIOL-404-HC-MUM-IT](#)

Common Wealth Developers Vs ACIT (Dated: March 11, 2014)

Income Tax - Sections 80B, 143(3) - Whether the area of the rear courtyard enclosed by walls of a residential unit is to be taken into account to compute built up area for the purpose of Sec 80B(10) benefits - Whether in case there is no construction activity on the area of the courtyard which is open to the sky, it can still be included to compute the built-up area u/s 80B - Whether the Tribunal can inquire into and get measured the courtyard which is not included in the built-up area and which is not the lis between the parties.

[Also see analysis of the Order](#)

[2014-TIOL-403-HC-AP-IT](#)

M/s Kuldeep Wines Vs CIT (Appeals) (Dated: March 4, 2014)

Income Tax - Sections 271(1)(c), 271(2) - penalty - Whether in the absence of dislodging of Tribunal's finding to the effect that there is a deliberate concealment of the refundable empty bottle deposits by not disclosing the same either in profit and loss account or in the balance sheet, levy of penalty for concealment is justified - Whether the differences in balance sheet item can result from various wrong entries - Whether in case there is not any deliberate motive behind passing of wrong entries in the books, AO is justified to levy penalty for concealment.

[2014-TIOL-402-HC-P&H-IT](#)

M/s Dhodha House, Kotkapura Vs CIT (Dated: February 28, 2014)

Income Tax - Section 145(1) - Whether the Tribunal is justified in confirming the finding regarding the application of proviso to Section 145(1) when no proper books of accounts had been maintained.

[2014-TIOL-401-HC-P&H-IT](#)

M/s Chaudhary Enterprises Vs CIT (Dated: March 10, 2014)

Income Tax - Section 260A, Rule 46A - Whether if the entire evidence has been considered by the CIT(A) during assessment proceedings, and it has not accepted assessee's contentions on certain issues, it can be contended further before the High Court as a substantial question of law.

[2014-TIOL-400-HC-DEL-IT](#)

CIT Vs Shri Atul Kumar Swami (Dated: March 18, 2014)

Income Tax - Sections 143(1), 147 - one time payment - non compete fees - Asset Transfer Agreement - Whether a valid reopening of assessment has to be based only on tangible material to justify the conclusion that there is escapement of income - Whether mere conclusion of the proceedings u/s 143(1) ipso facto does bring invocation of powers for reopening the assessment.

[2014-TIOL-398-HC-MUM-IT](#)

Dr Dinesh Jain Vs ITO (Dated: March 24, 2014)

Income Tax - Sections 37, 132, 133A, 143(3), 260A - Whether in case of a Survey u/s 133A, if a statement is recorded on oath it loses its evidentiary value - Whether if a statement is to be retracted it is necessary for the assessee to prove that the statement made was not correct - Whether if the allegation of the statement being recorded in the middle of the night is to stick against the Revenue, the assessee is required to substantiate the same by producing evidence - Whether the affidavit filed by the assessee indicating its intention to only estimate its income in loose papers so that some medical equipments could be taken on loan, can be construed as afterthought unless some evidence is furnished - Whether in case of a professional, receipts can be treated as income - Whether in such a case adhoc net profit can be estimated on the basis that in case of a professional, no cost is involved - Whether in case of professional, amount of net profit can be added as undisclosed income to the assessee's total income.

[Also see analysis of the Order](#)

[2014-TIOL-397-HC-DEL-IT](#)

M/s Hotel Shiv Vs CIT (Dated: February 21, 2014)

Income Tax - Writ Petition - Section 37 - Whether conversion charges paid by the Assessee firm for changing the nature of the property is allowable u/s 37 as revenue Expenditure when the owners of the property were the partners in their individual capacity.

[2014-TIOL-394-HC-DEL-IT](#)

DIT (Exemption) Vs Charanjiv Charitable Trust (Dated: March 18, 2014)

Income Tax – Sections 2(15), 11, 12, 12A, 13(1)(c)(ii), 13(3), 68, 131, 142(1), 143(1) & 143(2).- Whether the trust would lose exemption in respect of its entire income even if there is one instance of application or use of the income or property of the trust directly or indirectly for the benefit of any prohibited person – Whether where assessee-trust pays advance to the extent of 95 per cent of cost of property purchased to prohibited person without taking possession and without concluding a proper sale deed even after one year from the date of deal and then cancelling the deal and getting the advance back without interest would amount to violation of section 13(1)(c)(ii) read with section 13(2)(a) – Whether it would amount to violation of Section 13(1)(c)(ii) read with Section 13(2) and Section 13(3) of the Act, where assessee in furtherance of its objects intended to open a university, proper formalities were completed but due to Supreme Court order the object could not be achieved in the hands of the assessee and it formed this charitable society with same objects and trustees and incurred the expenses which were shown as advance to the educational society - Whether addition made by the Assessing Officer under Section 68 is liable to be deleted where the assessee successfully establishes the identity of the donors and the source of the payment - Whether the claim o depreciation would be allowable where the cost of the assets has already been allowed as a deduction as application of income.

[Also see analysis of the Order](#)