

INCOME TAX APPELLATE TRIBUNAL ORDER[2013-TIOL-611-ITAT-MUM](#)**Kotak Investment Advisors Ltd Vs Addl.CIT (Dated: June 26, 2013)**

Income Tax – Section 14A, Rule 8D – Whether for earning an exempted income of Rs. 32,45,679 from mutual funds, an ad hoc estimate of Rs.1,50,000 towards services of portfolio managers and other administrative expenses can be considered as reasonable disallowance u/s 14A - Whether Rule 8D can be applied for computing disallowance u/s 14A for the AY 2006-07 – Whether normally in managing schemes undertaken by Portfolio Managers, the total expenses charged by such Portfolio Managers are in the range of 2 to 3% which also includes their profit element of 1 to 1 ½%

[2013-TIOL-610-ITAT-MAD](#)**M/s Deloitte Haskins & Sells Vs DCIT (Dated: July 4, 2013)**

Income Tax - Section 40(b), 263 - Partnership Act, 1932 - Section 4 - "representative partner" - Whether a partnership firm having 20 partners, can admit an existing individual partner in the representative capacity of Deloitte Haskins & Sells, Mumbai, an already participating firm, so that they became entitled for a share of profit - Whether this can be construed as indirectly bringing on board Deloitte Haskins & Sells, Mumbai and circumventing the statutory limit of 20 partners under the Partnership Act - Whether when assessee has claimed substantial amount as remuneration to its partners u/s 40(b) which was allowed without considering the crucial aspect of the legality of its claim of status as a firm, such assessment order becomes an erroneous one and prejudicial to the interests of Revenue - Whether when an attempt is made by a concern to evade tax using subtle camouflages, bounden duty of the authorities is to find out the real intention - Whether the CIT went over board when he directed the AO to modify the assessment order by treating the assessee as an AOP and disallow the claim of remuneration to its partners.

[Also see analysis of the Order](#)[2013-TIOL-609-ITAT-DEL](#)**The Civil Services Society Vs DIT (Dated: May 17, 2013)**

Income Tax - Sections 2(15), 10(23C)(iiiab), 12A, 143(3), 263 - Whether when the AO has given findings on all the relevant aspects of the case, his order can be construed as prejudicial to the interests of Revenue merely because the order is too short or was passed only after two hearings.

[2013-TIOL-608-ITAT-COCHIN](#)

M/s Kinfra Exports Promotion Industrial Parks Ltd Vs DCIT (Dated: June 28, 2013)

Income Tax - Sections 56, 80IA(4)(iv)(b) - Whether the assessee is eligible for deduction u/s 80IA(4)(iv)(b) in respect of the profits derived from distribution of power through a new network - Whether the AO is justified in treating interest from bank deposits and security deposits as income from other sources.

[2013-TIOL-607-ITAT-DEL](#)

DCIT Vs Futuresoft Solutions Pvt Ltd (Dated: June 28, 2013)

Income Tax - Section 40A(2b) - Whether the matter needs to be re -adjudicated when there is a conflicting opinion between the AO and the CIT(A) on payment of commission to agents for generating business - Whether remuneration paid to directors can be disallowed on the mere ground of unreasonableness, although when there is no avoidance of taxes and such directors have paid taxes on their salary income in their personal capacity - Whether in view of such facts the case needs to be remanded to the AO for comparing the salary paid by assessee to its directors from their income tax returns before disallowing the same.

[2013-TIOL-606-ITAT-MUM](#)

ACIT Vs Vinati Organics Ltd (Dated: June 5, 2013)

Income Tax - Sections 35(2AA), 36(1)(iii), 80IA, 271(1)(c) - Whether there is no distinction in section 36(1)(iii) between 'capital borrowed for a revenue purpose' and 'capital borrowed for a capital purpose' - Whether an assessee is entitled to claim interest paid on borrowed capital provided that the capital is used for business purpose irrespective of what may be the result of using the capital borrowed - Whether the expenditure incurred by the assessee on account of writing off of leasehold land should be allowed as revenue expenditure - Whether penalty u/s 271(1)(c) can be levied on difference of opinion between the AO and the assessee about the treatment to be given in respect of any expenditure claimed by the assessee - Whether deduction u/s 80IA is not allowable on the receipts from interest, Cash Discount, Exchange fluctuation, miscellaneous credit balances written back, misc. Receipts, export benefits/ import entitlements under the head other income in its P & L A/c on the ground that the said amounts were not result of manufacturing activities of the assessee.

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| 2013-TIOL-605-ITAT-BANG |
| Shri S S Warad Vs Addl.CIT (Dated: May 3, 2013) |
| Income Tax - Sections 40(a)(ia), 139(1) - Whether provisions of section 40(a)(ia) as amended by the Finance Act 2010 are retrospective and hence TDS deposited before the due date of filing of return is sufficient for claiming the expenses. |
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| 2013-TIOL-604-ITAT-AHM |
| ITO Vs M/s Bhadreh Yarn Traders (Dated: June 21, 2013) |
| Income Tax - Section 40(a)(ia) - Whether the assessee is liable to deduct TDS on the payment made for purchases as well as services - Whether the CIT(A) is justified in deleting the addition made on account of disallowance of cooli & cartage expenses u/s.40(a)(ia) when the AO made no inquiry or examined the labourer - Whether the CIT(A) is justified in deleting the addition on account of disallowance of interest expenses when the AO had made general observations without pointing out any specific instance where an interest bearing borrowing utilised for non-business purpose by the assessee. |
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| 2013-TIOL-603-ITAT-CUTTACK |
| Arss Infrastructure Projects Ltd Vs ACIT (Dated: June 13, 2013) |
| Income Tax - Sections 80IA(4), 143(3), 263 - Whether the CIT is justified in invoking jurisdiction u/s 263 to revise the assessment order passed u/s. 143(3) allowing the assessee's claim of deduction u/s. 80IA(4) when the agreement between the assessee and the government was for the development of the infrastructure facility being roads and rail systems and bridges by participating in the tenders. |
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| 2013-TIOL-602-ITAT-DEL |
| ACIT Vs M/s Columbia Holdings (P) Ltd (Dated: June 11, 2013) |
| Income Tax - Sections 131, 132(4), 153C - Whether addition made by the Assessing Officer merely on the basis of statement u/s 132(4) can be sustained in the absence of any evidence, material or recovery of any movable or immovable assets at the time of search to corroborate the disclosure made by the assessee - Whether the surrendered income has to be quantified on the basis of the incriminating material found during the search or on the basis of any other evidence collected during the |

assessment proceedings.

[Also see analysis of the Order](#)

[2013-TIOL-601-ITAT-MUM](#)

ITO Vs M/s R-Pac (India) Pvt Ltd (Dated: May 15, 2013)

Income Tax - Section 40(a)(ia) - Whether the payment by way of reimbursement of expenses attracts the provisions of section 40(a)(ia) where there is no element of income.

[2013-TIOL-600-ITAT-CHD](#)

Professional Golf Tour of India Vs CIT (Dated: April 18, 2013)

Income Tax - Sections 2(15), 12A - Whether advancement of sports is a charitable activity - Whether the expression "section of public" is different from "group of Individuals" and hence benefit provided to former are not hit by the amended provisions of section 2(15) defining charitable purpose - Whether at the time of registration of trust genuineness of the activities and nature of object are to be seen - Whether registration granted cannot be cancelled if the activities are genuine and objects are charitable and there is no satisfaction of the canceling authority in respect of these two ingredients.

[2013-TIOL-599-ITAT-MUM](#)

Procter & Gamble Home Products Ltd Vs CIT (Dated: June 5, 2013)

Income Tax - Section 263 - Whether the direction of the CIT in assessing the user charges receipts under the head 'income from house property' is justified when there is absence of relevant discussion in the impugned order on the business nature or otherwise of the said receipts.

[2013-TIOL-598-ITAT-DEL](#)

ACIT Vs Shri Pankaj Bhargava (Dated: May 24, 2013)

Income Tax - Sections 40(a)(ia), 194J - Whether disallowance can be made by invoking the provisions of section 40(a)(ia) if there is any shortfall due to any difference of opinion as to taxability of any item or the nature of payments falling under various TDS provisions.

[2013-TIOL-597-ITAT-DEL](#)

ACIT Vs M/s Capital Advertising Pvt Ltd (Dated: April 12, 2013)

Income Tax - Sections 36(1)(ii), 271(1)(c) – Whether penalty prescribed u/s 271(1)(c) can be imposed where there is complete disclosure of that item which is disallowed in assessment proceedings and which relates to a debatable issue.

[2013-TIOL-596-ITAT-DEL](#)

K S S Abhishek Safety Systems Pvt Ltd Vs ACIT (Dated: April 12, 2013)

Income Tax - Section 36(1)(iii), 37 - Whether interest on loan taken for acquisition of such assets, which are acquired by the assessee for extension of its existing business, are allowable till they are put to use - Whether processing expenses are of revenue nature and hence allowable.

[2013-TIOL-595-ITAT-MUM](#)

M/s K S Aiyar & Co Vs ACIT (Dated: June 19, 2013)

Income Tax – Sections 37(1) 40(a)(i), 195 – Whether the expenditure incurred by the assessee on account of foreign travel expenditure primarily on one partner, which pertained to air tickets, boarding & lodging, registration fee is not allowable in full on the ground that the assessee was not able to substantiate as to how the expenditure could be claimed to be exclusively for professional/business purpose – Whether any payment made to foreign party as subscription fee is to be disallowed for non deduction of tax at source even if no part of the payment to that foreign party has resulted in income in its hands – Whether the assessee's claim in respect of the amount paid to the legal heir of the deceased partner is not allowable u/s 37(1) of the Act.

[2013-TIOL-594-ITAT-BANG](#)

ACIT Vs M/s Jindal Aluminium Ltd (Dated: February 27, 2013)

Income Tax – Sections 80IA, 143(3), 148 – Whether deduction u/s 80IA is to be computed undertaking-wise - Whether loss incurred by an undertaking claiming deduction u/s 80IA is required to be set off against the profit of another undertaking claiming deduction u/s 80IA.

[2013-TIOL-593-ITAT-AGRA](#)

Jhansi Development Authority Vs DCIT (Dated: May 24, 2013)

Income Tax - Sections 143(1), 154 - Whether the A.O. has power u/s 154 to correct the return of income filed by the assessee.

[2013-TIOL-592-ITAT-MAD](#)

ACIT Vs M/s SPEL Semiconductor Ltd (Dated: May 28, 2013)

Income tax - Sections 2(24), 28(iv), 41(1), 43B, 143(1) & (3) - Waiver of interest, OTS & perquisite - Whether when the assessee has not been allowed any deduction u/s 43B in earlier years, provisions of Sec 41(1) will not apply in case of grant of waiver of interest to the assessee - Whether when the waiver of interest is a cash benefit, the provisions of Sec 28(iv) do not apply.

[Also see analysis of the Order](#)

[2013-TIOL-591-ITAT-MUM](#)

Gujarat Glass Pvt Ltd Vs ACIT (Dated: April 5, 2013)

Income Tax - Sections 32(1)(ii), 254(2), 255(5) - Whether scope of proceedings before the Tribunal qua appeal is limited to the issues raised in grounds of appeal - Whether an additional ground can be taken for the first time before the Bench in recalled proceedings if the same is legal one - whether non-compete rights are akin to goodwill and hence capital rights and therefore entitled for depreciation as per the provisions of section 32(1) (ii) of the Act.

[2013-TIOL-590-ITAT-AHM](#)

DCIT Vs M/s Indu Nissan Oxo Chemical Industries Ltd (Dated: May 17, 2013)

Income Tax – Sections 32, 40A(2), 80HHC, 145 - Whether deduction u/s 80HHC is allowable with respect to inclusion of excise duty and sales tax as part of turnover and considering the lease rent, interest etc as part of business income – Whether in a manufacturing process if the production could not be correlated with the consumption of raw materials, it is a valid and legally sound basis for rejection of books of accounts u/s 145(3) – Whether remuneration paid to the director of the company can be disallowed u/s 40A(2) on the ground that the remuneration was excessive in view of the fact that the remuneration was more than 10 times that was paid to the president of the company.

[2013-TIOL-589-ITAT-AHM](#)

Gujarat Ambuja Export Ltd Vs ACIT (Dated: April 17, 2013)

Income Tax - Sections 37, 143(3), 145(3) - Whether without tinkering the sales of a firm or Company as the case may be, purchase can be termed as bogus - Whether a token disallowance is justifiable where there is small variance in the statement of the directors of the seller company particularly where no defect is pointed out by the AO in quantitative details of the sale and purchase-Held- Appeal of the assessee is partly allowed.

[2013-TIOL-588-ITAT-HYD](#)

Lanconet Ltd Vs DCIT (Dated: June 28, 2013)

Income Tax - Section 32 - Whether the assessee is entitled for depreciation when the assessee owned the assets but it was not actually used, and there was not even passive usage of the assets.

[2013-TIOL-587-ITAT-CHD](#)

ACIT Vs M/s Jaiparkash Hydro Power Ltd (Dated: June 7, 2013)

Income Tax – Sections 80IA, 115JB – Whether the interest received by the assessee from delayed payment from customers can be said to have direct nexus with such sale and hence would be eligible for deduction u/s 80IA – Whether the provision of leave encashment is ascertained liability and therefore, need not to be added back to the book profits u/s 115JB of the Act – Whether interest on FDRs could not be said to have been derived from eligible business, and therefore, the assessee is not entitled to deduction u/s 80IA of the Act in respect of such interest – Whether scrap generated out of stores and from repair of plant cannot be said to have been generated during the process of manufacture for the purpose of deduction u/s 80IA.

[Also see analysis of the Order](#)

[2013-TIOL-586-ITAT-HYD](#)

Sri S Ranjith Reddy Vs DCIT (Dated: June 7, 2013)

Income Tax - Section 2(47), 132, 143(1) & (3), 147 - Whether mere formation of another view in the course of assessment proceedings for future assessment years would justify the Revenue for reopening the assessment for past assessment year u/s 147 though the reopening of assessment has taken place within the period of 4 years - Whether the condition that the AO must have reason to believe and the further condition that those reasons must have a live link with the formation of the belief is applicable equally to cases where the return was processed u/s 143(1) as also to cases where the return was examined and an assessment was made by a speaking order u/s 143(3) - Whether the execution of the development agreement bring into existence any tangible asset that could be transferred between the parties for the purpose of section 2(47) of the Act.

[2013-TIOL-585-ITAT-HYD](#)

Sri Krishna Ventures Pvt Ltd Vs ITO (Dated: February 8, 2013)

Income Tax - Sections 69, 145 - Whether, rejection of books is justified where consumption of raw material is not ascertainable - Whether rates of state PWD will prevail over the rates of CPWD - Whether DVO can accept and reject the books of account as per his convenience if not then whether while estimating cost of construction the deduction towards the supervisions of the project is required to be given to an assessee who has supervised his building.

[2013-TIOL-584-ITAT-HYD](#)

Ms Pushpa Devi Tibrewala Vs ITO (Dated: June 7, 2013)

Income Tax - Section 263 - Whether the CIT can invoke powers u/s 263 where the AO after examining the issue and applying his mind to the entire issue adopted one of the possible views - Whether the order passed by the AO can be said to be erroneous and prejudicial to the interests of the revenue for the purpose of section 263 only because the view adopted by the AO was not acceptable to the CIT.

[2013-TIOL-583-ITAT-HYD](#)

ACIT Vs M/s Moonray Educational Society (Dated: January 9, 2013)

Income Tax - Section 10(23)(V) - Whether the CIT(A) erred in directing the AO to consider the assessee as eligible for exemption u/s 10(23)(V) when the contention of the Revenue was that the society was not formed solely for the purpose of education.

[2013-TIOL-582-ITAT-HYD](#)

DCIT Vs M/s Alkali Metals Ltd (Dated: May 31, 2013)

Income Tax - Section 10B, [Circular No. 01/2005](#) - Whether relevance to "newly established undertaking" is only to identify initial year of period of 10 years for which the assessee is eligible for claim of exemption u/s 10B.

[2013-TIOL-581-ITAT-AGRA](#)

ACIT Vs M/s Gurukul Technologies Ltd (Dated: May 31, 2013)

Income Tax - Sections 44AD, 68, 133A, 145(3) - Rejection of books - Estimation of profit - Whether while making a best judgement assessment, the A.O. does not possess absolute arbitrary authority to assess any figure he likes - Whether AO should be guided by rules of justice, equity and good conscience even though he is not found by strict judicial principle - Whether addition on account of unexplained cash receipt can be sustained when the assessee was able to explain the source of cash receipt from the parties by furnishing ledger account of these parties and showing that it rendered services to these parties for which certain payments were made in cash - Whether addition on account of entry charges can be made even when no evidence was in possession of the A.O. about the involvement of the assessee company in entry business.

[2013-TIOL-580-ITAT-MUM](#)

ITO Vs Mr Gope M Rochlani (Dated: May 24, 2013)

Income Tax - Sections 54F, 72, 74A, 139(1), 271(1)(c) - Whether the provisions of section 139(4) is actually the extension of the due date of section 139(1) and, therefore, the due date for filing of the return of income can also be reckoned with the date mentioned in section 139(4) - Whether the fact that the legislature has not specified the "due date" as provided in section 139(1) in Explanation 5A to section 271(1)(c), then by implication, it has to be taken as the date extended u/s 139(4) - Whether penalty u/s 271(1)(c) can be levied on estimated income.

[2013-TIOL-579-ITAT-MUM](#)

M/s Clar Idges Investment And Finance Pvt Ltd Vs ITO (Dated: June 5, 2013)

Income Tax - Sections 14A, 73 - Whether the CIT(A) is justified in sustaining the disallowance of Rs. 1,83,75,418/- being valuation loss on conversion of shares into stock -in-trade when the conduct of the assessee clearly suggest that his only intention is to create artificial loss by converting investment in stock in trade and setting it off against the bad debts recovered - Whether Rule 8D has prospective operation.

[2013-TIOL-578-ITAT-AGRA](#)

ITO Vs Shri Bal Kishan Gupta (Dated: May 24, 2013)

Income Tax - Section 194C - Whether the assessee is required to deduct tax at source in terms of Section 194C of the Act on payments made to the channels for using of plant & machinery i.e. DSR Digital Satellite Receiver for the purpose of distribution and transmission of signals to the cable operator.

[2013-TIOL-577-ITAT-DEL](#)

Anjala Exhibition Pvt Ltd Vs ACIT (Dated: May 31, 2013)

Income Tax - Sections 22, 143(3), 250, Rule 46A - Whether the CIT (A) can reject the additional evidence submitted by the assessee to support the claim without considering the cause which prevented the assessee to file it before the AO - Whether deviation or change of opinion by the Assessing Office on the same material and facts in the subsequent assessment proceedings is permissible even if the AO has not brought out any justified or proper reasoning for doing so - Whether income derived as rent from property must be computed under that specific head regardless of the fact that property had at one point of time been utilized by the assessee for business purposes - Whether such property cannot be treated as a business asset and rent thereof as income from business.

[2013-TIOL-576-ITAT-COCHIN](#)

Apollo Tyres Ltd Vs DCIT (Dated: May 29, 2013)

Income Tax - Sections 36(2), 37(1), 40(a)(ia), 43B, 139, 201(1A) - Whether in case of short deduction of tax at source, the provisions of section 40(a)(ia) would not be applicable at all - Whether if there is any shortfall due to any difference of opinion as to the taxability of any item or the nature of payment falling under various TDS provisions, the assessee can only be declared as an assessee in default u/s 201 of the Act and no disallowance can be made by invoking the provisions of section 40(a)(ia) of the Act - Whether the foreign currency exchange loss incurred in the course of advancing loan to the subsidiary company for the object of acquiring a company in South Africa is to be treated as revenue loss or capital loss - Whether the loss suffered by the assessee company in the forward contract has to be allowed as business expenditure - Whether even if the claim of loss was not made in the return of income, the CIT(A) ought to have admitted the claim as an additional ground and examined the issue on merit - Whether the expenditure incurred towards entrance fee / subscription fee can be termed as business expenditure and the cost of service could be allowed if the commercial expediency in incurring the expenditure is proved - Whether the irrecoverable part of the amount advanced by the assessee in the course of its business activity is to be treated as business loss and hence allowable as deduction - Whether employees' contribution to provident fund is allowable expenditure if the same was paid before the due date of filing the return of income.

[Also see analysis of the Order](#)

[2013-TIOL-575-ITAT-DEL](#)

M/s K L Concast Pvt Ltd Vs Addl.CIT (Dated: March 26, 2013)

Income Tax - Sections 40(a)(ia), 192, 194H - Whether commission paid to Managing Director partakes the character of salary if the Director has actually rendered services attributable to commission works and has been authorized by the Board for drawing salary as well as commission.

[2013-TIOL-574-ITAT-MUM](#)

Hercules Pigment Industry Vs ITO (Dated: May 29, 2013)

Income Tax - Section 43B, 145A - Whether the profit disclosed by the assessee is required to be enhanced by the amount unutilized in the CENVAT credit account in terms of section 145A of the Act - Whether the provision of 43B and 145A, both non obstante provisions, are to be read in harmony and, there is in fact no conflict or inconsistency between the two sections.

[2013-TIOL-573-ITAT-DEL](#)

M/s Express Retail Services (P) Ltd Vs DCIT (Dated: February 8, 2013)

Income Tax - Section 145(3) - Whether there is a case for invoking section 145(3) when the assessee has maintained proper books of accounts under the ERP system and the entire claim of expenditure was supported from the audited accounts and the AO has not found no mistakes or irregularity.

[2013-TIOL-572-ITAT-KOL](#)

DCIT Vs M/s Darjeeling Dooars Plantations (Tea) Ltd (Dated: May 14, 2013)

Income Tax - Sections 10(1), 32 - Whether the CIT(A) is justified in allowing the claim of depreciation in respect of machineries when the assessee could not produce any evidence that these machineries were put to use as on 31.03,2005 - Whether the entire amount paid as cess on green leaf is eligible for deduction - Whether the CIT(A) is justified in deleting the addition of the sum being sale of tea plants when the assessee before the AO as well as before CIT(A) has produced the evidences in the shape of agricultural receipts on account of sale of tea plants, which were agricultural income.

[2013-TIOL-571-ITAT-MUM](#)

Atul Madhursinh Ramaiya Vs Addl.CIT (Dated: June 5, 2013)

Income Tax - Section 271(1)(c) - Whether penalty u/s 271(1)(c) is sustainable when as regards Rs. 3 lakhs, genuine error gets established on the strength of the nature of the omission, i.e., adoption of figure '9' instead of '6' but in respect of 27.01 lakhs the assessee has no explanation, for the excess of Rs. 27.01 lakhs, except want of due diligence.

[2013-TIOL-570-ITAT-LKW](#)

M/s Kanpur Plastipack Ltd Vs ITO (Dated: June 21, 2013)

Income tax - Sections 80HHC, 143(3), 147, 148 - Contempt of Court Act, 1971 - Sec 15(2).

Whether adjournment should necessarily be granted in a case where the counsel for the assessee has certain reservations against the Judicial Member of the Bench and a representation is pending before the ITAT President - Whether when a contempt case is pending before the High Court on a reference from the Judicial Member, such Member should not hear cases and grant adjournment merely because about 25% of cases before the Bench are represented by the Advocate and the CA accused of contempt - Whether when the counsel for the assessee does not want to represent the case before a particular Bench, the assessee should be hiring the services of other professionals to represent them before the Bench - Whether a counsel of a taxpayer can choose his own judicial member in the Bench - Whether seeking repeated adjournments on the ground of a complaint being lodged against the Judicial Member amounts to holding the Tribunal to ransom - Whether such behaviour of an advocate amounts to de facto boycott of the judicial proceedings.

[Also see analysis of the Order](#)

[2013-TIOL-569-ITAT-DEL](#)

ITO Vs Cane Development Council Chini Mill Compound (Dated: May 31, 2013)

Income Tax - Sections 2(24), 37 - Whether only surplus remaining after allowing expenses as per the account of the assessee should be brought to tax without appreciating the fact that each and every expenditure claimed by the assessee and not supported by any evidence may not be an allowable expenditure.

[2013-TIOL-568-ITAT-MUM](#)

Balaji Export Co Vs JCIT (Dated: April 5, 2013)

Income Tax - Sections 10A(2)(iii), 80HHC, 143(2), 143(3), 147, 148, 154, 254 - SEZ - forward contract - export service charges - Whether in case the facts necessary to decide a legal issue are on record and undisputed, the same can be raised at any

stage of the proceedings - Whether a letter of a Chartered accountant can be considered as a part of record for the purpose of reopening assessment - Whether in case the assessee has disclosed all the primary facts at the time of assessment, the non-disclosure of tertiary facts can become the valid reason for reopening the assessment - Whether change of opinion can take place only if there has been an examination of and an expression of view in the matter - Whether an assessing authority is allowed to review its own order.

[2013-TIOL-567-ITAT-DEL](#)

DCIT Vs Career Launcher (India) Ltd (Dated: May 31, 2013)

Income Tax - Sections 36(1)(ii), 40(1)(i)(a), 194C, Rule 8D - Whether disallowance u/s 40(1)(i)(a) can be made on account of franchise fees paid by the assessee to the Licensee when the assessee has not deducted TDS u/s 194C - Whether Rule 8D has prospective operation - Whether the CIT(A) is justified in deleting the disallowance u/s 36(1)(ii) being a bonus to the directors - Whether processing charges are allowable u/s 36(1)(iii) - Whether the CIT (A) is justified in deleting addition on account of advance written off - Whether the CIT(A) is justified in deleting the disallowances of 4/5 of the advertisement expenditure.

[2013-TIOL-566-ITAT-BANG](#)

Sri Vikram Vishwanath Vs JCIT (Dated: June 14, 2013)

Income Tax - Sections 4, 5, 47(xiv) - "business", "venture capitalist", "doctrine of lifting the corporate veil", "Succession of proprietary concern".

Whether the benefit of exemption from capital gain tax u/s 47(xiv) is available, when the assessee has corporatized his business of holding investments (shares) in the proprietary concern by transferring the same to an incorporated company in which he held virtually all the shares - Whether under the scheme of succession of section 47(xiv), there is any requirement that the capital or other intangible asset transferred to the company should be used by the sole proprietor for the purpose of his business - Whether when the only asset held in the proprietary concern was equity shares which got transferred into the succeeding company, the exemption of benefit from capital gain u/s 47(xiv) is not available - Whether the definition of "business" in Income Tax Act is an inclusive definition and includes any trade, commerce or manufacture or any adventure or concern in the nature of trade, commerce or manufacture - Whether there is any decisive test of the intention to carry on the business - Whether facts and circumstances of a given case have to be seen before coming to a conclusion whether a person carries on business or not - Whether physical manifestation of business is the requirement to come to a conclusion that a person carried on business or not - Whether "Business", even "a concern in the nature of commerce", would be sufficient - Whether when the assessee has no other preoccupation, vocation, profession or activity-other than whole heartedly promotion of his investments in the company besides discharging his duties as an employee and director, the same amount to business - Whether the activities of the assessee holding shares in a proprietary concern can be considered akin to venture capitalist and not that of a mere shareholder, when he has taken all the possible steps to promote the growth of the business - Whether a person can be in the business of holding of investments, with no particular form in which such business needs to be carried on - Whether the principles applicable in deciding whether a person carries on business or not is different in the case of individual's and companies - Whether the doctrine of lifting the corporate veil,

piercing the veil or peeping or seeing through the veil, needs to be invoked, if the corporate personality is found to be opposed to justice or convenience - Whether the doctrine of corporate veil needs to be lifted, when the business of the assessee and the proprietary concern are one and the same.

[Also see analysis of the Order](#)

[2013-TIOL-565-ITAT-MUM](#)

Anik Financial Services Pvt Ltd Vs ITO (Dated: June 5, 2013)

Income Tax - Section 22 - Whether income of the assessee from 'business service centre' can be considered as income from business when the entire income, flows to the assessee from one party.

[2013-TIOL-564-ITAT-MUM](#)

M/s Neeta Enterprises Vs CIT (Dated: March 13, 2013)

Income Tax - Sections 80-IB(10), 263 - Whether deduction 80IB(10) demands fulfillment of two conditions i.e. commencement of project and completion of project - Whether AO has to examine both aspect before granting deduction of 80IB(10) - Whether a case where AO could not touch the second aspect such an order is erroneous and prejudicial - Whether order of AO is erroneous if the same is passed without considering the circular of Board prevailing at the time of assessment.

[2013-TIOL-563-ITAT-DEL](#)

Ikea Trading (India) Pvt Ltd Vs DCIT (Dated: June 7, 2013)

Income Tax – Section 37 - Whether the repairs and maintenance expenditure incurred on leasehold property and the expenditure incurred on account of transportation and minor modification of moulds is to be treated as capital in nature on the ground that such expenses are towards items having longer life – Whether the advances and deposits written off cannot be allowed in computation of income on the ground that it is not wholly and exclusively for the purpose of business of the assessee.

[2013-TIOL-562-ITAT-BANG](#)

TTK Healthcare Tpa Pvt Ltd Vs DCIT (Dated: February 28, 2013)

Income Tax - Section 201(1A) - Whether the action of the AO (TDS) is justified on levy of interest u/s 201(1A) till the due date of filing of the returns of income without finding out whether the creditors (hospitals) have filed their returns and paid the taxes.

[2013-TIOL-561-ITAT-DEL](#)

ITO Vs Sindhwani Sagar (Dated: April 26, 2013)

Income Tax - Section 40(a)(ia) - Whether disallowance u/s 40(a)(ia) can be made if the assessee deducted statutorily required TDS on the payments made to the sub-contractors on 31.3.2008 and deposited the same on 10.04.2008.

[2013-TIOL-560-ITAT-DEL](#)

M/s Kostub Investment Ltd Vs ACIT (Dated: May 31, 2013)

Income Tax - Sections 14A, 37(1), 68, 71, 73, Rule 8D - Whether merely by pleading that the assessee has approached the shareholders for appearing before the AO, who refused to appear, would absolve the assessee of its duty to file correct and latest addresses, more particularly when it is claiming the bona fide and honesty in its dealing, for the purpose of section 68 of the Act - Whether the failure of the assessee to comply with the requirement of the AO in producing Principal Officers/Directors of the share applicant companies, can be said to be the failure on the part of the assessee to prove the identity as well as genuineness of the transaction and hence addition u/s 68 is justified - Whether the expenses incurred by a company on the education of its employee are allowable expenditure - Whether Rule 8D is not applicable, prior to AY 2008-09 - Whether the activity of the assessee in purchase and sales of the shares is to be treated as a speculative activity by applying Explanation to section 73 - Whether the additions made u/s 68 cannot be set off against one head of income from other head u/s 71.

[2013-TIOL-559-ITAT-BANG](#)

ACIT Vs M/S Makino India Pvt Ltd (Dated: May 24, 2013)

Income Tax - Section 10A – Whether the CIT(A) is justified in directing the AO to exclude travel expenditure incurred in foreign currency both from the export turnover as well as from the total turnover while calculating deduction u/s 10A.

[2013-TIOL-558-ITAT-AHM](#)

DCIT Vs Shri Birjmohan Devkiandan Chiripal (Dated: January 4, 2013)

Income Tax - Sections 47(iii), 49(ii), 49(2), 49(2C), 68 - Whether the CIT (A) erred in deleting a addition of Rs.55,45,500/- u/s. 68 on the ground that the case of the assessee falls u/s. 47(iii) and Sec. 49(ii) and not u/s.49(2) or 49(2C) and this finding of CIT (A) has not been disputed by the Revenue.

[2013-TIOL-557-ITAT-PUNE](#)

ACIT Vs Ali Akbar Jafari (Dated : April 19, 2013)

Income Tax - Sections 45(3), 50C, 132(4) - Whether the profit and gains from the sale of asset held as stock in trade, is liable to be taxed as profit and gains from business or as capital asset - Whether the provision of section 50C has no application where transfer of immovable property is on account of sale of stock - Whether statement recorded during the course of search u/s 132(4) has to be considered and accepted as a whole if the AO wants to use it as an evidence and the revenue could not be permitted to use that part of the statement which was beneficial to it and reject the other part of the statement which was detrimental to it - Whether the money found during the search and declared by the assessee as additional income has to be assessed under the head "business and profession" and not under the head "income from other sources".

[Also see analysis of the Order](#)

[2013-TIOL-556-ITAT-MUM](#)

ACIT Vs Shri Vrajraj Morarjee(Dated : May 15, 2013)

Income Tax - Sections 23, 68 - Whether the CIT(A) is justified in deleting the addition made on account of unexplained cash credit when the claim of withdrawal of amounts for purchasing plot of land and re-depositing the same in the bank a/c is not been supported by any plausible explanation - Whether the notional interest on the interest-free security can be taken as determinative factor to arrive at a 'fair rent'.

[2013-TIOL-555-ITAT-MUM](#)

DCIT Vs M/s Volant Textile Mills Ltd (Dated : April 5, 2013)

Income Tax - Section 271(1)(c) - Whether penalty u/s 271(1)(c) can be levied when the assessee has duly furnished particulars and nothing was dug out by the AO outside the books or Returns of income.

[2013-TIOL-554-ITAT-DEL](#)

Tupperware India Pvt Ltd Vs ACIT (Dated : June 7, 2013)

Income Tax - Section 145A - Whether the CIT(A) is justified in disallowing the provision of obsolete stock amounting to Rs.65,11,174/- when the assessee was continuously following the policy of valuation of closing stock on the basis of net realizable value which was in accordance with accounting principle.

[2013-TIOL-553-ITAT-DEL](#)

M/s Tulip Investments Ltd Vs ACIT (Dated : April 26, 2013)

Income Tax - Sections 35D, 36(2)(iii), 37 - Whether addition can be made on the ground that the assessee was paying interest on ICD taken by it but not charging interest on ICD placed by it when interest free ICDs were made out of interest free funds of the company - Whether expenditure incurred for the purpose of increasing authorized capital is revenue expenditure.

[2013-TIOL-552-ITAT-DEL](#)

ACIT Vs Therapeutic India (P) Ltd (Dated : May 31, 2013)

Income Tax - Sections 145(3), 153C - Whether the CIT(A) is justified in deleting the addition by holding that no incriminating document was found when the revenue has not brought anything contrary to the findings of the CIT(A) and has not brought any fact which could substantiate that there were other incriminating documents upon which the AO had relied to estimate the turnover of the company.

[2013-TIOL-551-ITAT-MUM](#)

Satish L Babladi Vs DCIT (Dated : March 19, 2013)

Income Tax - Sections 45, 54F, 68, 139(1), 143(1), 143(3), 153A - Whether the capital gain arises on transfer, and the charge to tax in its respect u/s 45 is attracted on accrual basis - Whether assessee can claim deduction u/s 54F when the assessee did not deposit such investment in the capital gains account scheme with a specified bank or institution by the due date of filing the return of income u/s.139(1) for the relevant year - Whether the jurisdiction to assess or reassess is assumed on the basis of the search or requisition, and is to assess the 'total income', irrespective of the assessment having been made earlier and, further, either u/s.143(1) and s.143(3) - Whether the treatment of the credit as the assessee's unexplained income u/s.68 was justified when both the capacity and the genuineness of the credit have not been proved by the assessee.

[2013-TIOL-550-ITAT-MUM](#)

M/s Santosh Synthetics Vs ITO (Dated : March 15, 2013)

Income Tax - Sections 32(1)(iia), 40A(8), 143(3), 271(1)(c) - penalty for concealment - disallowance - capitalisation - mistake - inaccurate particulars - Whether when the assessee has not disclosed the fact that the machinery on which additional depreciation claimed u/s 32(1)(iia) is an old machinery, it would be considered as a misrepresentation of facts, attracting the provisions for the levy of penalty for concealment - Whether penalty for concealment can be levied even if there is no actual addition in the income of the assessee - Whether the expenditure incurred on account of foreign or inland travel can be considered as capital in nature.

[2013-TIOL-549-ITAT-MUM](#)

Sanket Food Products Pvt Ltd Vs ACIT (Dated : February 8, 2013)

Income Tax - Sections 41(1), 132, 142(1), 143(2), 144, 153A, 153C, 282, Rule 46A - additional evidence - mode of service - affixation - Whether when an order is not challenged by the Revenue during a particular year, the Revenue can be prevented from contesting against the same in any subsequent years - Whether the assessing authority's action of exclusive mode of service by affixation, is in accordance with the provisions of sec. 282 - Whether the assessment made on the basis of invalid service of notices, can be held as valid.

[2013-TIOL-548-ITAT-MUM](#)

Salil Shah Family Pvt Trust Vs ACIT (Dated : February 1, 2013)

Income Tax - Sections 28, 45 - Whether income derived from sale of shares and securities can be considered as "profits and gains of business or profession" when the assessee has appointed Portfolio Managers and all decisions regarding investments, its timings etc. were made by the PMS provider and not by the assessee per se and there were no borrowed funds.

[2013-TIOL-547-ITAT-AHM](#)

Riddhi Steel & Tubes Pvt Ltd Vs ACIT (Dated : April 12, 2013)

Income Tax - Sections 69B, 251, 253 - Whether appellate authorities under the I-T Act can entertain a new claim which was raised, but not made before the AO by way of revised return - Whether stock statement furnished to bank for obtaining credit facility is sacrosanct - Whether any addition on the basis of such statement can be made without pointing out any defect in regular audited books of account of the assessee.

[2013-TIOL-546-ITAT-AHM](#)

Prarthana Construction Pvt Ltd Vs ITO (Dated : April 12, 2013)

Income Tax - Sections 140A, 145, 249(4)(1), 264 - Whether the defect in the appeal, being the non payment of such tax is removed, the earlier defective appeal becomes valid.

[2013-TIOL-545-ITAT-AGRA](#)

Addl.CIT Vs Jamia Urdu (Dated : May 17, 2013)

Income Tax - Sections 40A(3), 144 –Whether for any disallowance made u/s 40A(3) to be sustainable, the assessee should necessarily be involved in any business or profession.

[2013-TIOL-544-ITAT-MUM](#)

M/s Swan Energy Ltd Vs Addl.CIT (Dated : May 3, 2013)

Income Tax – Section 28 – Whether repayment of a loan, utilized in discharging capital liability is application of Income or diversion of Income by overriding title or business expenses - Whether amount paid over and above to the actual loan liability partakes the character of loan and hence the same is a deduction allowable while computing the business Income as per the provisions of section 28 of the Income Tax Act - Whether loan of a closed business or stale business is allowable with the income of other business carried on by the same assessee if there is interdependence, interlacing, and common management involved.

[2013-TIOL-543-ITAT-DEL](#)

ACIT Vs Power Grid Corporation Of India Ltd (Dated : May 10, 2013)

Income Tax - Section 201(1A) - Whether when tax demand is deposited in a separate bank account on a direction from the High Court, the levy of interest u/s 201(1A) on the said demand is warranted.

[2013-TIOL-542-ITAT-DEL](#)

Triveni Engineering & Industries Ltd Vs DCIT (Dated : February 7, 2013)

Income Tax – Section 271(1)(c), 275(1)(a) - Penalty - Period of limitation - Recording of reasons - Whether the period of limitation is correctly computed as six months from end of the month in which order of Tribunal was received by the Commissioner - Whether non-recording of satisfaction for reasons to levy penalty by AO could lead the penalty proceedings void-ab-initio.

[2013-TIOL-541-ITAT-DEL](#)

W Diamant (India) Ltd Vs DCIT (Dated : May 31, 2013)

Income Tax – Section 145(3), Rule 46A – Whether the AO can reject the books of accounts by holding that the assessee's accounts were incomplete and incorrect without substantiating anything to prove that its accounts were incomplete and incorrect – Whether CIT(A) can reject the application of the assessee u/s 46A of the Rules without any reasonable and justified basis.

[2013-TIOL-540-ITAT-KOL](#)

REI Agro Ltd Vs DCIT (Dated : June 19, 2013)

Income tax - Sections 14A(2), Rule 8D(i) & (iii) & (2)(iii) - exempt income - dividend - administrative expenditure - interest expenditure - Whether it is necessary for the AO to record satisfaction if he proposes to invoke Sec 14A - Whether before bringing any interest expenditure under the ambit of Rule 8D(2)(ii), it is necessary for the AO to prove that such interest is not directly attributable to any particular receipt.

[Also see analysis of the Order](#)

[2013-TIOL-539-ITAT-DEL](#)

Hero Moto Corp Ltd Vs Addl.CIT (Dated: June 11, 2013)

Income tax - Sections 9(1)(vi) & (vii), 37(1), 40(a)(ia), 92CA(3), 142(1) & (2A), 143(1) & (2), 144C, 194B, 194C, 195 - AS-1, TDS, closing stock, clearing charges, terminal charges, destuffing charges, shipping income, agent, business profits, export commission, actual cost, game show, stitching charge - Whether when assessee makes emergency purchases for immediate consumption, clearing charges paid for the same are to be included in the value of closing stock - Whether first time insurance premium paid to register a vehicle purchased for business purposes is to be included in the actual cost of the asset and the same is to be treated as capital in nature - Whether when assessee sponsors gifts to winners of a game show on TV, any TDS obligation arises on such gifts - Whether TDS is deductible on stitching charges invoiced for making uniform of the assessee's employees.

[Also see analysis of the Order](#)

[2013-TIOL-538-ITAT-RAJKOT-TM](#)

DCIT Vs Atul Auto Ltd (Dated: May 30, 2013)

Income Tax - Sections 10(34), 14A, 35(1)(i), 37, 43(4) - Whether the CIT (A) was justified in deleting addition on account of disallowance of expenditure on Scientific Research and Development when the CIT (A) has accepted the claim of the assessee for deduction without proper scrutiny and examination? Whether CIT (A) was justified in directing the AO to grant the exemption of Rs.22,96,155/- u/s. 10(34) in respect of dividend received by the assessee in respect of shares held in subsidiary company and reflected in the balance-sheet under the head investments? Whether unreported judgment, which was never cited by the parties nor otherwise brought to the notice of the Bench nor to the notice of Member proposing the order, can be used by another Member for passing dissenting order without giving any opportunity in this behalf to the parties.

[2013-TIOL-537-ITAT-MUM](#)

ACIT Vs M/s Meerwanjee Poonjiajee And Sons Pvt Ltd (Dated: May 29, 2013)

Income Tax - Sections 40(a)(ia), 194C(5), 194H - Whether purchase of labels can be held as work contract when the labels were procured by the printer though the specification of the printing material which was given by the assessee - Whether addition in respect of payments under the head 'Clearing and Forwarding' is justified when out of total amount of Rs. 2.17 Lakhs, assessee itself had disallowed Rs 1.91 Lakhs and had claimed Rs 26,230/- as Export Duty - Whether disallowance on account of expenses incurred through Credit Cards of Directors is justified when FAA had given a categorical finding that expenditure incurred on Credit Cards issued by the company is allowable expenditure - Whether the CIT(A) is justified in deleting the disallowance made on account of foreign travel without obtaining details and mentioning the same in this order.

[2013-TIOL-536-ITAT-MUM](#)

ITO Vs M/s Calico Dyeing And Printing Mills Pvt Ltd (Dated: June 5, 2013)

Income Tax - Whether the CIT(A) is justified in holding that income from sale of shares and the occupancy rights cannot be assessed in the hands of the appellant company when occupancy rights were attached to the shares of the company, the share holders have transferred their shares, the assessee has only received the cost of construction whereas the entire gain from such transfer arose to the share holder.

[2013-TIOL-535-ITAT-CHD](#)

RFCL Ltd Vs DCIT (Dated: April 2, 2013)

Income Tax - Section 32(1)(ii) - Whether depreciation on goodwill is allowable in view of the principle of ejusdem generis as decided by various High Courts and the Benches of Tribunal.

[2013-TIOL-534-ITAT-KOL](#)

M/s Triveni Engicons Pvt Ltd Vs ITO (Dated: March 13, 2013)

Income Tax - Section 40(a)(ia) - Whether CIT(A) is justified in holding that no disallowance u/s 40(a)(ia) is warranted with respect to the TDS amount which had been deposited before the due date of filing of the return.

[2013-TIOL-533-ITAT-MUM](#)

ACIT Vs M/s H Dipak & Co (Dated: April 30, 2013)

Income Tax - Section 37(1) - Whether the claim of the assessee is allowable on account of "marked to market" loss on revaluation of the pending forward contract for foreign exchange.

[2013-TIOL-532-ITAT-COCHIN](#)

M/s Indian Coffee Board Workers Co-Op Society Vs ITO (Dated: April 12, 2013)

Income Tax - Section 80P(2)(a)(vi) - Whether the CIT (A) is justified in holding that the assessee was entitled for deduction of its entire income u/s. 80P(2)(a)(vi) when the CIT(A) has not carried out the required verification/examination and the assessment order was silent about the issue of sec. 80P(2)(a)(vi).

[2013-TIOL-531-ITAT-COCHIN](#)

M/s Raja & CO Vs DCIT (Dated: March 22, 2013)

Income Tax - Sections 40A(3), 253(5), Rule 6DD - Whether, pursuance of some other remedy instead of appeal shows that assessee was serious in pursuing the matter and hence delay happened in persuasion of other remedy deserve condonation - Whether payments made for purchase of rice from the dealer is covered by the exception provided in rule 6DD(f) - Whether independent dealers are not covered by exception carved out in rule 6DD - Whether provisions of section 40A(3) debaring splitting up of a payment in a day are not prospective - Whether amended provisions debar only splitting up of an amount for a day not otherwise, whether while applying the provisions of section 40A(3) each invoice is to be treated in a separate manner and not in a consolidated manner.

[2013-TIOL-530-ITAT-MUM](#)

DCIT Vs Shri Vikas Oberoi (Dated: March 20, 2013)

Income tax – Sections 2(22)(e), 54F, 269SS – Whether the amount received as share application money which is returned after a period of three years without allotting the shares will be treated as loan or advance for the purpose of section 2(22)(e) – Whether the assessee is entitled for exemption under section 54F in respect of two adjacent flats treating it as one residential house.

[2013-TIOL-529-ITAT-MUM](#)

Vrajlal T Gala (HUF) Vs ACIT (Dated: April 23, 2013)

Income Tax - Sections 139, 271(1)(C), 153A, 153C - Resurgent India Bonds - Whether provisions of section 153A and 153C are complete code in itself for framing the assessment of search matter - Whether assessment under these provisions are not continuation of normal assessment, as prescribed under section 139 to 153 - Whether abated or not, whether for levying penalty under section 271(1)(C) in respect of assessment framed under new search provisions return filed in pursuance to the notice of 153A has to be seen for judging concealment.

[2013-TIOL-528-ITAT-HYD](#)

Capital IQ Information System (India) Pvt Ltd Vs Addl.CIT (Dated: May 31, 2013)

Income Tax - Sections 36, 37(1), 143(3), 144C, 144C(2), 234B, 271(1)(c) - gratuity, control, annual contribution, LIC - Whether when the assessee had made gratuity payment into the fund maintained with LIC, the Revenue is justified to make a disallowance on the ground that it was an unapproved gratuity fund.

[2013-TIOL-527-ITAT-DEL](#)

ACIT Vs M/s Logitronics Pvt Ltd (Dated: April 12, 2013)

Income Tax - Section 143(2) - Whether the CIT(A) is justified in deleting additions on account of outstanding balances of share capital, unsecured loan and cash & bank balances and sundry creditors when AO had just taken the old outstanding balances and computed the income.

[2013-TIOL-526-ITAT-DEL](#)

ACIT Vs M/s Jet Air Pvt Ltd (Dated: April 30, 2013)

Income Tax - Sections 4, 143(3), 154, 194C, 194H - Whether disallowance of TDS credit is permissible where proper reconciliation has been filed and difference in matching of TDS figure and income figure is explained.

[2013-TIOL-525-ITAT-DEL](#)

DCIT Vs M/s Fun Foods (P) Ltd (Dated: May 28, 2013)

Income Tax - Section 40A(2) - Whether the CIT(A) is justified in deleting the addition in respect of payment made through credit card when except the ledger account of business development expenditure, no other evidence is brought by the assessee on record to prove that the expenses were not the personal expenses - Whether the provisions of Section 40A(2)(b) are applicable in the case of the assessee as Shri Rajiv Behal does not fall within the definition of the person referred to clause B of section 40A(2).

[2013-TIOL-524-ITAT-DEL](#)

DCIT Vs M/s Food Corporation Of India(Dated: February 1, 2013)

Income Tax - Section 37 - Whether the expenditure incurred on repair and maintenance of approach roads of godowns can be said to be Revenue Expenditure.

[2013-TIOL-523-ITAT-HYD](#)

Mrs Durdana Khatoun Vs ACIT (Dated: March 15, 2013)

Income Tax - Sections 2(47)(v), 45 - Whether taxability of capital gain relatable to the year of transfer de hors of the receipt of entire consideration and registration of sale deed - Whether concept of exclusive possession is alien to the Income Tax Act.

[2013-TIOL-522-ITAT-MUM](#)

Dresser-Rand India Pvt Ltd Vs DCIT (Dated: May 8, 2013)

Income Tax - Sections 43B, 143(3), 271(1)(c) - Whether addition can be made on account of treating an expense incurred for business purposes by categorising the same as of capital nature, even if nothing in support of the same has been presented by the Revenue authorities - Whether ad hoc disallowance can be made by an assessing authority for want of supporting voucher - Whether in such a case penalty for concealment can be levied.

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| 2013-TIOL-521-ITAT-DEL |
| M/s Avtec Ltd Vs Addl.CIT (Dated: May 31, 2013) |
| Income Tax - Sections 32, 37 - Whether the CIT(A) is justified in upholding the disallowance on account of reimbursement of warranty claims as revenue expenditure when as per business transfer agreement the assessee has taken over the two units from HML as a going concern, but, with regard to warranty, there was a specific clause which says "Warranty shall mean the warranties of the seller - Whether the CIT(A) was justified in disallowing the claim of depreciation on capitalization of professional charges when depreciation was claimed on assets year after year and the cost of the assets was determined after allocation of professional charges. |
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| 2013-TIOL-520-ITAT-AHM |
| DCIT Vs Aditya Medisale Ltd (Dated: March 22, 2013) |
| Income Tax - Section 36(1)(iii) - Whether the CIT(A) is justified in deleting the disallowance made out of the interest claimed u/s 36(1)(iii) when the past precedent was in assessee's favour - Whether the CIT(A) is justified in deleting the disallowance of differential amount of interest on overdue bills of SPIL, an associate concern when the Tribunal/High Court was taking a consistent view in favour of the assessee in the past. |
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| 2013-TIOL-519-ITAT-HYD |
| ITO Vs M/s Alkr Marketing Pvt Ltd (Dated: May 24, 2013) |
| Income Tax – Sections 40(a)(ia), 143(3) - Whether when an assessee is not able to justify the purchases made, by producing supporting bills or vouchers, it can be outrightly presumed that it has inflated the expenses on its own account – Whether while making a claim, it is the primary duty of an assessee to substantiate the said claim with a convincing evidence– Whether CIT(A) has the power to remand an issue to the assessing authority for verification purposes – Whether there is any such restriction on the Tribunal's power also. |
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| 2013-TIOL-518-ITAT-MUM |
| M/s Bhilad Textile Industries Pvt Ltd Vs DCIT (Dated: April 9, 2013) |
| Income Tax - Sections 14A, 32, 145A - Whether excess consideration paid for the goodwill is an asset within the meaning of section 32 and is eligible for depreciation - Whether Rule 8D can be invoked for the purposes of computing disallowance u/s 14A prior to A.Y 2008-2009 - Whether it is appropriate to include the closing CENVAT in the figure of closing stock without modifying the figures of purchases, sales and |

opening stock.

[2013-TIOL-517-ITAT-MUM](#)

ITO Vs Shri Digvijay H Sampat (Dated: June 10, 2013)

Income Tax – Section 54EC – Whether when an assessee has inherited a house property, cost inflation index, at the time of sale, should be computed from the year in which previous owner first held that asset.

[2013-TIOL-516-ITAT-DEL](#)

ITO Vs M/s CNR Leading Softek (P) Ltd (Dated: May 3, 2013)

Income Tax - Section 68 - Whether receipt of share application money, from a party who is already in the knowledge of the Department, can be doubted merely because there is a minor difference in the amount received and mentioned in the confirmation provided and that too without examining the party.

[2013-TIOL-515-ITAT-DEL](#)

Oriental Bank Of Commerce Vs ACIT (Dated: March 15, 2013)

Income Tax - Sections 10(23G), 36(1)(vii), 36(1)(viii) - Whether a legal ground can be admitted at any stage of the proceedings - Whether restrictions provided in section 36(1)(viii) are not applicable to bad debts covered by the provisions of section 36(1)(vii) - Whether a nationalized bank which has provided long term finance to a Infrastructure company is entitled for deduction of section 10(23G) of the Act.

[2013-TIOL-514-ITAT-MUM](#)

Payash Securities Pvt Ltd Vs DCIT (Dated: April 19, 2013)

Income Tax - Sections 143(3), 147 - Whether an assessment which is completed u/s 143(3) can be reopened on the basis of objection raised by audit party particularly when no new fact on material has come to the knowledge of AO.

[2013-TIOL-513-ITAT-MUM](#)

Perfect Engineering Products Ltd Vs Addl.CIT (Dated: April 16, 2013)

Income Tax - Section 37(1) - Whether expenditure incurred on upgradation of technology to boost the business is revenue in nature, and it cannot be said that any new asset of enduring nature has come into existence.

[2013-TIOL-512-ITAT-MAD](#)

M Nataraj Vs DCIT (Dated: May 2, 2013)

Income Tax – Sections 50C, 54EC – Capital Gains – Valuation of property – Reference to DVO – Whether once the consideration received on a transfer of land was fully invested in accordance with Sec. 54EC of the Act, then there can be no room for applying the deeming provision of Sec 50C of the Act – Whether when the value fixed by the DVO exceeded the value fixed by the Stamp Valuation Authority, then value fixed by the Stamp Valuation Authority alone had to be considered for the purpose of computing capital gains.

[2013-TIOL-511-ITAT-MUM](#)

ITD Cementation India Ltd Vs ACIT (Dated: May 22, 2013)

Income Tax - Sections 147, 148 - Whether the recourse to proviso to section 147 can be taken by the AO for his own failure to apply his mind to the material, which, according to him, was relevant.

[2013-TIOL-510-ITAT-KOL](#)

M/s Swastika Steel & Allied Products Vs ACIT (Dated: April 8, 2013)

Income Tax - Sections 40A(3), 132(4), 133A, 139(1), 143(1), 143(3), 145(3), 153A, rule 46A - survey - Whether undisclosed income, which was already a part of income, when has been declared by the assessee himself, can it be challenged for the purpose of invoking the provision of section 145(3) - Whether a survey can be carried out in the assessee's business premises on a weekly holiday - Whether an addition in income can be made on the basis of rough notes found during the course of survey.

[2013-TIOL-509-ITAT-JAIPUR](#)

M/s Rama Ajit Builders & Developers Vs DCIT (Dated: March 15, 2013)

Income Tax - Sections 144, 145(3) - Whether non-maintenance of stock register justifies rejection of books - Whether non-verification of some voucher invites rejection of audited books - Whether audited books of account of a firm can be rejected on the basis of statement of partners, particularly when such statement pertains to their individual business - Whether AO can change a regularly followed accounting method as per his convenience

[2013-TIOL-508-ITAT-MAD](#)

M/s Tagros Chemicals Ltd Vs ACIT (Dated: January 31, 2013)

Income Tax - Sec 263 - Whether the CIT is justified in invoking jurisdiction u/s 263 when AO had not applied his mind at all, qua the issue of SIPCOT subsidy, central excise duty and records no findings qua admissibility of additional depreciation

[2013-TIOL-507-ITAT-MAD](#)

ACIT Vs M/s Siva Ventures Ltd (Dated: January 31, 2013)

Income Tax - Sections 147, 148 - Whether reopening of assessment after lapse of 5 years is invalid when the assessee has itself furnished all relevant particulars which formed the reason for reopening

[2013-TIOL-506-ITAT-HYD](#)

DCIT Vs Laxmipriya Investments Ltd (Dated: January 4, 2013)

Income Tax - Section 234B - Whether the assessee is liable to pay interest u/s 234B on the amount of income assessed u/s 143(1) or 143(3) and not on the basis of income declared in the return by the assessee

[2013-TIOL-505-ITAT-HYD](#)

ADIT Vs Indian Institute Of Health And Family Welfare (Dated: May 31, 2013)

Income Tax - Section 10(23C) - Whether the assessee is entitled for exemption u/s 10(23C) when the assessee being an educational institution solely and substantially financed by the Government

[2013-TIOL-504-ITAT-DEL](#)

ACIT Vs M/s SBL Industries Pvt Ltd (Dated: May 23, 2013)

Income Tax - Sections 80IC, 115JB, 143(1) - Whether an incorrect claim of reduction from book profits of amount which the assessee was eligible u/s 80IC was made, it is an incorrect claim apparent from the record, which can be adjusted u/s 143(1)

[2013-TIOL-503-ITAT-DEL](#)

DCIT Vs Shri Kapil Dev (Dated: April 26, 2013)

Income Tax - Section 80HHC - Whether proviso third to section 80HHC, which was inserted in 2005, is applicable for assessment year 2002-03.

[2013-TIOL-502-ITAT-DEL](#)

ACIT Vs District Education Officer (Dated: May 31, 2013)

Income Tax - Section 271C - Whether CIT(A) is justified in deleting the penalty u/s 271C on the explanation of the assessee that it had no choice but to transfer the funds received in its account and that it had no control over the executing agency to detain its payments

[2013-TIOL-501-ITAT-DEL](#)

ACIT Vs M/s True Zone Buildwell Pvt Ltd (Dated: January 24, 2013)

Income Tax - Sections 132, 145, 145A - Search - AS7 - Construction income - Whether the CIT(A) is correct in deleting additions made by AO after examining evidences seized by AO, but not considered by the AO - Whether the assessee had an option to recognize income as per completed contract method or percentage completion method as per AS- & issued by ICAI.

[2013-TIOL-500-ITAT-MUM](#)

M/s United Freight Carriers Vs ACIT (Dated: April 19, 2013)

Income Tax - Section 40(a)(ia) - Whether disallowance u/s 40(a)(ia) can be made when tax deducted was deposited in Government account before due date of filing the return of income.

[2013-TIOL-499-ITAT-MUM](#)

Urmila & Co Ltd Vs DCIT (Dated : April 26, 2013)

Income Tax - Sections 37(1), 132(4), 158B - Contract Act - Section 24 - Indian Penal Code - Section 192 - "bogus bills", "retraction of statement" - Whether a voluntary statement made u/s 132(4) on affidavit disclosing undisclosed income can be later substantially retracted, on the ground that some of the genuine bills have been inadvertently considered as bogus bills, multiple due to non access to the records during the search operation - Whether a disclosure made through a series of statements on oath, after prior approval from the Board of Directors and duly corroborated, can be all of a sudden allowed to be retracted, unless substantially proved wrong - Whether it is incumbent upon the assessee to establish the basis of the grounds on which it is claimed that the earlier disclosure made was erroneous - Whether it is necessary that a payment to be allowable u/s 37(1) has necessarily to be contractual - Whether compensation paid to fishermen in connection with the construction of a jetty required for transportation of machinery, can be considered as a business expenditure - Whether such expenditure can be considered as illegal as per section 24 of the Contract Act, although the construction of such jetty is not prohibited under any law - Whether commission paid on obtaining bogus accommodation bills can be allowed as a business expenditure - Whether the activity of procuring bogus bills can be considered as an economic activity or an activity for artificially depressing the actual profit/income - Whether surcharge can be levied on tax on the disclosed income as per clarificatory amendment to section 113 by Finance Act, 2002 - Whether payments made for a business purpose, for instance here, compensation to fishermen in connection with the construction of jetty, even though sourced from the cash proceeds arising from the said bogus bill would not discredit the assessee to claim the expenditure.

[2013-TIOL-498-ITAT-MUM](#)

DCIT Vs Vipul Gadodia (Dated : January 31, 2013)

Income Tax - Sections 80HHC(3), 143(3) - Whether the assessee having export turnover not exceeding Rs.10 Cr in the A.Y 2001-2002 is entitled for deduction u/s 80HHC in respect of DEPB profits.

[2013-TIOL-497-ITAT-KOL](#)

Usha A Narayanan Vs DCIT (Dated : March 25, 2013)

Income Tax - Sections 28(v), 44AB, 271B - partners' salary - partnership deed - Whether penalty u/s 44AB can be attracted in case the professional income of the assessee received from partnership firm of Chartered Accountants is taxable under the head "income from business or profession".

[2013-TIOL-496-ITAT-BANG](#)

M/s Vanshree Builders & Developers (P) Ltd Vs CIT (Dated : April 12, 2013)

Income Tax - Sections 80-IB, 139(4), 143(3), 263 - Whether the assessee is entitled to claim deduction u/s 80-IB when the return of income furnished by the assessee is after the expiry of time specified u/s 139 (4) - Whether the CIT is justified in invoking the provisions of section 263 when the assessment proceedings were concluded after thorough scrutiny of the details furnished by the assessee that too u/s 147 r. w. s. 143(3).

[2013-TIOL-495-ITAT-MAD](#)

M/s Sethu Valliammal Educational Trust Vs ITO (Dated : January 10, 2013)

Income Tax - Section 11 (5), 12AA , 13(1)(d) - Whether the assessee-trust loses entitlement to exemption u/s 11 merely because it placed some funds with chit funds - Whether such participation by the assessee can be construed as investments or utilisation of surplus funds.

[Also see analysis of the Order](#)

[2013-TIOL-494-ITAT-MUM](#)

Abbott India Ltd Vs ACIT (Dated : May 31, 2013)

Income Tax – Sections 14A, 143(3), Rule 8D - Whether the expenditure actually incurred, whether direct or indirect, can be disallowed even though it may itself have no direct bearing or correlation with the income arising from the investments yielding such tax-free income.

[2013-TIOL-493-ITAT-MUM](#)

ITO Vs Dinesh Choudhary (HUF) (Dated : April 10, 2013)

Income Tax - Section 54F - Whether the CIT(A) is correct in holding that the assessee is eligible for deduction u/s 54F when construction work was completed in the month of August 2005 after the civil court decided the issue on 16-4-2005 which was the date of transfer between the assessee and the purchaser but the registration was made on 1-9-2005.

[2013-TIOL-492-ITAT-MUM](#)

DDIT Vs Maharashtra Industrial Development Corporation (Dated : March 15, 2013)

Income Tax - Sections 11, 12A - Whether the assessee is entitled to exemption u/s 11 to 13 when the assessee has already been granted a registration u/s12A and as per MID Act the assessee is required to carry out Government functions which are of public interest - Whether carry forward of deficit is allowable in the hands of the assessee as assessee was registered u/s 12A.

[2013-TIOL-491-ITAT-CUTTACK](#)

M/s P K M C R S (JV) Vs ITO (Dated : January 1, 2013)

Income Tax - Sections 133(6), 142(1), 143(1), 144, 194C - JV - Railways - proprietorship concerns - de novo assessment - sub-contract - Whether when the Assessing Authority had proceeded to pass the order by estimating the income @8% on the gross receipts shown as per the bills, it can be said the assessee was given a valid opportunity of being heard.

[2013-TIOL-490-ITAT-BANG](#)

ITO Vs M/s Karnataka Power Transmission Corporation Ltd (Dated : April 19, 2013)

Income Tax - Section 201(1), 201(1A) - Whether the assessee, being a company can claim that the delay in tax remittances is attributable to the Banker when it was mandatory for it to have paid the taxes electronically.

[2013-TIOL-489-ITAT-COCHIN](#)

ACIT Vs St Mary's Charity Fund (Dated : March 22, 2013)

Income Tax - Sections 11, 12AA, 13(3) - Whether the taxpayer Trust is eligible for exemption u/s 11 for the donations to the trust which was having similar object when there was any violation of provisions of section 13(1)(c) by the recipient trusts.

[2013-TIOL-488-ITAT-AGRA](#)

Smt Sudha Gupta Vs ITO (Dated : February 8, 2013)

Income Tax - Section 68 - Whether the addition on account of unexplained credit u/s. 68 is justified when none of the creditors were having any evidence of source of their earning to advance any loan to the assessee and they have failed to explain why cash of the equivalent amounts of loan were deposited in their bank account prior to issue of cheques in favour of the assessee.

[2013-TIOL-487-ITAT-HYD](#)

M/s Sigma Constructions Vs ITO (Dated : March 7, 2013)

Income Tax - Section 80IB(10) - Project Completion Method - Percentage completion Method - Departmental Valuation Officer - Occupancy certificate - Whether deduction u/s 80IB can be denied in case a portion of the plot area is earmarked for roads after the assessee entered into development agreement and the plan was duly sanctioned by the competent authority - Whether the year of the assessment of income and connected deduction can fall in different assessment year - Whether it is allowed to a Revenue authority to tax the profits on 'Percentage Completion Method' and allow the corresponding deduction on the same on 'Project Completion Method'.

[2013-TIOL-486-ITAT-BANG](#)

M/s Samatha Builders & Developers Vs ITO (Dated : March 22, 2013)

Income Tax – Sections 234B - Whether when the first appellate authority has not disposed of issues raised by the assessee during an appeal, the assessee can be allowed an opportunity of being reheard before Tribunal on the same issue – Whether when the appellate authority has considered entire receipts for the purpose of estimating profits from a contract, consideration of proportionate expenditure as against such profits is justified.

[2013-TIOL-485-ITAT-AHM](#)

Shakun Pharma Pvt Ltd Vs ITO (Dated : April 5, 2013)

Income Tax - Sections 143(3), 254 - Whether disallowance for payment of consultant charges is justified when the nature of the services rendered includes the work of technical nature and for which the consultant does have technical qualification.

[2013-TIOL-484-ITAT-AHM](#)

ACIT Vs M/s Yadunandan Corporation (Dated : April 19, 2013)

Income tax – Sections 40(b), 40A(2), 69C, 133A, 145, 271(1)(c) – Whether when the assessee accepted unaccounted expenditure during survey, the accounts were rightly rejected by AO u/s 145 – Whether the assessee is entitled to claim deduction for expenses out of the income offered to cover up the unaccounted expenditure – Whether an expenditure which is allowable as a deduction u/s. 40(b) can be disallowed u/s 40A(2)(b) of the Act as being excessive or unreasonable – Whether when the assessee accounted for the unaccounted income / expenditure in the books of account before filing of return of income, penalty is rightly deleted for the same as no particulars were concealed or inaccurate particulars were furnished.

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| 2013-TIOL-483-ITAT -BANG |
| Shri V Madhusudhan Reddy (HUF) Vs DCIT (Dated : February 8, 2013) |
| Income Tax - Sections 45(3), 185 - Whether when partners in a firm make capital contribution in a company by relinquishing their rights and such a company is succeeded by another company, which finally sells entire share-holding at book value, such a series of transactions can be construed as colourable device to avoid capital gains tax - Whether a partnership firm can hold shares in a company when all the partners relinquish their rights in favour of one of them and declare him to be the beneficial shareholder of the company - Whether it is open for a person to be a partner in a firm in more than one capacity - Whether a person, who is karta of HUF, can be introduced as a partner in a firm and whether he would be specified as karta of HUF in the partnership deed - Whether mere mentioning of the expression 'karta' prior to the name of the person would not make HUF as a partner of the firm, whether a tax planning which is done within the four corners of the law is permissible under the Income Tax Act. |
| Also see analysis of the Order |
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| 2013-TIOL-482-ITAT -BANG |
| ACIT Vs M/s Ikanos Communication (India) Pvt Ltd (Dated : May 24, 2013) |
| Income Tax - Sections 10A, 115JB, 143(1) & (3) - export turnover, total turnover, telecommunication charges, foreign currency, computer software, numerator, denominator - Whether when the assessee company, eligible for section 10A deduction, had claimed expenditure in foreign currency and telecommunication expenses, the Revenue is justified to recompute the section 10A deduction by exclusion of telecommunication expenditure and foreign currency expenditure from export turnover without a corresponding reduction of these expenditures from total turnover. |
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| 2013-TIOL-481-ITAT -PUNE |
| ACIT Vs Ashoka Infraways Pvt Ltd (Dated : April 29, 2013) |
| Income Tax - Section 32(1)(ii) - Whether 'Right to collect Toll' is an 'intangible asset' eligible for claim of depreciation @ 25% as per sec. 32(1)(ii). |
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| 2013-TIOL-480-ITAT -PUNE |
| City Development Corporation Vs DCIT (Dated : May 17, 2013) |

Income Tax - Section 80IB(10) - Whether the CIT(A) is justified in denying the benefit to the assessee in respect of section 80IB(10) when the Tribunal has allowed the claim of the assessee made u/s.80IB(10) in the immediately two preceding A.Y's.

[2013-TIOL-479-ITAT-HYD](#)

ACIT Vs M/s GVK Industries Ltd (Dated : May 31, 2013)

Income Tax - Section 115JA - Whether the CIT(A) is justified in deleting the sum and treating it as earned from business when it is already on record that the said amount was earned from the deposits made from the borrowers on which interest was also paid - Whether the amount accounted for as income was component of the enhanced capital cost which was directly related to sale of energy, can't be treated as 'other income' - Whether the reopening after four years was justified when no new information has been brought on record and the entire information having been placed on record before the AO in the course of original assessment.

[2013-TIOL-478-ITAT-AHM](#)

Narmada Chematur Petrochemicals Ltd Vs ACIT (Dated : April 30, 2013)

Income Tax - Section 37(1) – Whether expenditure incurred for restructuring of debt is allowable u/s 37(1) - Whether expenditure incurred for replacement of core engine of leasehold Captive Power Plant (CPP) is allowable u/s 37(1) - Whether lease rent paid on the leased assets, is allowable deduction.

[2013-TIOL-477-ITAT-MAD](#)

M/s Murugappa Morgan Thermal Ceramics Ltd Vs ACIT (Dated : May 2, 2013)

Income Tax - Section 115JA - Whether the addition for provision of bad and doubtful debts is rightly done by the AO while computing the 115JA profits when the assessee called the amount a provision, what was effectively done was only a write-off of bad debts.

[2013-TIOL-476-ITAT-KOL](#)

ITO Vs M/s MPR Marketings Pvt Ltd (Dated : March 14, 2013)

Income Tax - Sections 37, 194J - Whether salaries paid to part time teachers can be professional fees for the purpose of invoking the provision of section 194J when a perusal of Form NO.16 clearly shows that what was paid by the assessee was only salary - Whether settlement amount paid to Microsoft for violation of copyright can be termed as penalty.

[Also see analysis of the Order](#)

[2013-TIOL-475-ITAT-MUM](#)

DCIT Vs M/s Sporting & Outdoor Solutions (Dated : April 30, 2013)

Income Tax - Section 40A(3) - Whether the advances received from the parties in connection with the advertisement can be considered as sale - Whether the bill related to the previous year can be considered for A.Y 2007-08 when the material had been used for banner printing for display at Cricket Match held on 6.04.2006.

[2013-TIOL-474-ITAT-MUM](#)

Super Construction Co Vs DCIT (Dated : April 19, 2013)

Income tax – Sections 143(3), 147, 148 – Whether when there is no failure on the part of the assessee to disclose fully and truly all the material facts necessary for completion of assessment, the notice issued u/s 148 after completion of four year from the end of relevant assessment year is illegal in view of first proviso to section 147.

[2013-TIOL-473-ITAT-MUM](#)

Tata Communications Ltd Vs ACIT (Dated : May 8, 2013)

Income Tax - Sections 143(3), 154, 234B, 244A(1)(b) - Whether the issue of grant of interest on interest can be decided under the provisions of sec. 154.

[2013-TIOL-472-ITAT-MUM](#)

M/s Taurian Iron & Steel Co Pvt Ltd Vs Addl.CIT (Dated : March 6, 2013)

Income Tax - Sections 32(1), 36(1)(iii) - Whether the CIT(A) is justified in confirming the disallowance in respect of the alleged lease rental charges in relation to 'financial lease' as against the claim of the assessee as expenses when it was a case of payment of installment/EMI and not of lease rent payment - Whether the assessee is entitled to claim interest expenditure towards the purchase of railway wagons through financial lease u/s 36(1)(iii) and depreciation on the asset u/s 32(1).

[2013-TIOL-471-ITAT-DEL](#)

Subodh Gulati Vs DCIT (Dated : April 12, 2013)

Income Tax - Sections 54F, 143(3), 271(1)(c), 271(1B), 274 - Whether the levy of penalty for concealment u/s 271(1)(c) is possible without recording satisfaction of the AO before conclusion of assessment proceedings - Whether the words "I am satisfied" are required to be mentioned on every order initiating penalty for concealment - Whether a penalty for concealment can be raised without initiating same at the time of making assessment.

[2013-TIOL-470-ITAT-HYD](#)

M/s Srs & Sri Sai Ganesh Productions Vs ACIT (Dated : February 22, 2013)

Income Tax - Sections 68, 69C - Whether additional evidence is required to be considered when the assessee was guilty of remissness and gross negligence - Whether addition u/s. 68 is justified if the sum was duly assessed in the hands of other assessee as his income - Whether the provisions of section 69C prohibit any deduction towards unexplained expenditure which is deemed as income u/s. 69C.

[2013-TIOL-469-ITAT-CHD](#)

M/s Glossy Foods Ltd Vs DCIT (Dated : March 14, 2013)

Income tax – Sections 32(2), 37 - Capital vs Revenue Receipt – Whether the commission expenses paid to agent for sale of property which the assessee could not prove, is liable to be disallowed – Whether even if one business of the assessee is closed, the unabsorbed depreciation from the said business can be set off against other business income – Whether the subsidy received to the assessee, which was not directly attributable to any fixed assets, is correctly treated as capital receipt.

[Also see analysis of the Order](#)

[2013-TIOL-468-ITAT-MUM](#)

Development Co-Operative Bank Ltd Vs DCIT (Dated : May 8, 2013)

Income Tax – Sections 68, 80P, 132, 158BC, 158BD - Multi State Co-operative Bank Society Act of 1985 – Voluntary Disclosure of Income Scheme (VDIS) - Whether income disclosed under VDIS can be considered as a conclusive evidence about the source of credit in the books of some other assessee – Whether an assessing authority, in case not satisfied with the genuineness, can do further investigation in that regard - Whether declaration made by a person under VDIS regarding a certain amount and then making of a claim regarding the deposit with the Bank which is not in the name of such person, can be considered as an explanation u/s 68 – Whether an appraisal report of Commissioner can be a basis for making assessment – Whether

benefit u/s 80P can be provided to a cooperative bank whose income is not related to its members.

[2013-TIOL-467-ITAT-BANG](#)

ACIT Vs Chief Electrical Inspector To Government (Dated: April 19, 2013)

Income Tax - Sections 201(1), 251(1)(a) - Whether proceedings u/s 201(1) can be said to be akin to proceedings for assessment in the context of Sec 251(1)(a).

[2013-TIOL-466-ITAT-BANG](#)

M/s ACE Multi Axes Systems Ltd Vs DCIT (Dated: May 24, 2013)

Income Tax - Sections 33B, 80IB, 80IB(14), 143(1) & (3), 263 - Industries (Development and Regulation) Act 1951 - Section 11B - small scale industrial unit, plant and machinery, initial year, SSI unit, section 80IB benefit. Whether for claiming the section 80IB deduction, the condition of being a small scale industrial unit is required to be fulfilled on a year to year basis and not merely in the initial year alone - Whether when the assessee, having freshly invested, in plant and machinery, had availed of the 80IB deduction, the Revenue is justified to disallow this claim by holding that the assessee no longer qualified as a small scale industrial unit - Whether when the 80IB deduction was allowed in the initial year, this relief could not be denied in the subsequent years even if the investment in plant and machinery increased beyond the prescribed limit for that year.

[2013-TIOL-465-ITAT-AHM](#)

Ahmedabad Management Association Vs JT DIT, (Exemption) (Dated: March 22, 2013)

Income Tax - Sections 2(15), 11 - Whether when an assessee is engaged in the activity of providing continuing education of diploma certificate programme, management development programme, public talk and seminars and workshop and conferences, it can be said as part of education which is included in Section 2(15) with the object of providing general public utility.

[2013-TIOL-464-ITAT-AHM](#)

Chirag Harmanbhai Patel Vs DCIT (Dated: April 26, 2013)

Income Tax - Section 271(1)(c) - Whether penalty u/s 271(1)(c) is justified when regarding unsecured loan, the assessee has not even made an attempt to establishing the identity and creditworthiness of the loan creditors and genuineness of the transaction and regarding unaccounted income the assessee has not declared the same for tax purpose.

[2013-TIOL-463-ITAT-HYD](#)

ITO Vs M/s Chakkilam Constructions Pvt Ltd (Dated: May 3, 2013)

Income Tax – Sections 133A, 201(1) & 201(1A) - Whether when an order u/s 201(1) and 201(1A), is passed beyond the normal time period of four years from the end of relevant financial year, it is legally sustainable.

[2013-TIOL-462-ITAT-VIZAG](#)

Chandana Brothers Vs Addl.CIT (Dated: May 3, 2013)

Income Tax – Sections 40(a)(ia), 194C - Whether mere payments of lorry freights by itself, constitute a contract between the assessee and the transport agencies – Whether in such a situation deduction of TDS on payment of freight charges is a mandatory condition – Whether the transport bills or vouchers itself constitute a contract – Whether an assessing officer has authority to assess notional interest on interest free loans and advances.

[2013-TIOL-461-ITAT-MAD](#)

DCIT Vs M/s Indira Industries (Dated: May 7, 2013)

Income Tax - Section 147 - Whether the reassessment made u/s 147 beyond four years was bad in law when the AO has reopened the assessment based on the materials which were already available on record.

[2013-TIOL-460-ITAT-KOL](#)

ACIT Vs Kanoria Chemicals & Industries Ltd (Dated: April 12, 2013)

Income Tax - Section 147 - Whether reopening of assessment beyond four years is justified when nothing new tangible has come to the notice of AO for completion of assessment which forms reason or basis for reopening.

[2013-TIOL-459-ITAT-CHD](#)

ACIT Vs Punjab State Coop Bank Ltd (Dated: March 6, 2013)

Income Tax - Section 43D - Whether the Assessee is justified in opting to account for the interest on NPAs only on recovery of the same.

[2013-TIOL-458-ITAT-DEL](#)

ACIT Vs M/s A R Airways Pvt Ltd (Dated: April 26, 2013)

Income Tax - Section 32 - Whether the term Aircraft is generic - Whether it includes Aeroplane in it - Whether an Aircraft cannot be termed as plant and machinery and hence deserves higher rate of depreciation.

[2013-TIOL-457-ITAT-MUM](#)

M/s Damani Brothers Vs ITO (Dated: May 10, 2013)

Income Tax - Sections 28(iv), 143(3) - Whether in order to tax an income u/s 28, there must be a nexus between the business of the assessee and the benefit which the assessee has derived - Whether income u/s 28(iv) on account of benefit can be assessed to tax only on receipt basis.

[2013-TIOL-456-ITAT-KOL](#)

M/s Block Mines Pvt Ltd Vs JCIT (Dated: April 19, 2013)

Income Tax - Sections 2(22)(e), 40A(3) - Whether CIT(A) is justified in confirming the addition on account of alleged unaccounted and unexplained transfer of fund when the assessee has produced sufficient evidence to prove the claim as bona fide - Whether CIT(A) is justified in confirming the addition made by u/s. 40A(3), when the AO has not brought any instance of cash payment in violation of provisions of section 40A(3) - Whether the provisions of section 2(22)(e) are attracted when payments have been made by the shareholder to the company.

[2013-TIOL-455-ITAT-DEL](#)

ACIT Vs Bhushan Steels Ltd (Dated: May 23, 2013)

Income Tax - Sections 80HHC, 271 (1)(c) - Whether penalty u/s 271 (1)(c) can be levied when the judicial opinion got settled in favour of the assessee but due to retrospective affect the assessee has lost in the Quantum proceedings.

[2013-TIOL-454-ITAT-DEL](#)

Shri Anil Kumar Jain Vs ITO (Dated: April 26, 2013)

Income Tax - Section 50C(1) & (2) - Whether the AO should have referred the matter to the Valuation Officer u/s 50C(2) to determine the fair market value before invoking provisions of section 50C(1) when the assessee has made a claim before the AO that the value adopted or assessed by the stamp valuation authority was higher than the fair market value.

[2013-TIOL-453-ITAT-DEL](#)

ITO Vs M/s Aar Ess Exim Pvt Ltd (Dated: April 18, 2013)

Income Tax - Section 10B - Whether assembling of intermediary products, to be consumed in finalization of finished products, which finished products were exported abroad, is also manufacturing activity and hence is assessee entitled for deduction of 10B.

[2013-TIOL-452-ITAT-MUM](#)

S Vinodkumar Diamonds Pvt Ltd Vs Addl.CIT (Dated: May 3, 2013)

Income Tax - Sections 36(1)(iii), 43(5) - Whether proportionate interest incurred by the assessee is to be disallowed if no proof has been submitted by the assessee that non-interest bearing funds were diverted for the purpose of the making investment - Whether loss on account of marked to market exchange rate fluctuation incurred by the assessee cannot be said to be speculative transactions in terms of section 43(5) even if the transaction was not settled by actual delivery - Whether, in order that forward transactions in commodities may fall within proviso (a) to section 43(5) of the Act, it is necessary that the raw materials in respect of which the assessee has entered into forward transactions must be the same raw material which is used by him in his manufacturing business.

[2013-TIOL-451-ITAT-MUM](#)

M/s Ruby Mills Ltd Vs DCIT (Dated: April 26, 2013)

Income Tax - Sections 2(13), 14A, 234B, 234C, Rule 8D - "adventure in the nature of trade" - Whether when a cotton manufacturing company, which fails to successfully utilise the plot of land originally allotted under a scheme for construction of corporate office, assigns its rights to a third party for consideration by way of a tripartite agreement and earns profit, whether such transaction can be classified in the nature of trade - Whether a single isolated transaction of sale of plot for profit, can give the colour of business income to such transaction, although the plot was originally acquired exclusively for business expansion.

[2013-TIOL-450-ITAT-MUM](#)

Reliance Industrial Infrastructure Ltd Vs Addl.CIT (Dated: April 5, 2013)

Income Tax - Sections 10(23), 10(34), 14A, 115JB, Rule 8D - Whether the CIT(A) is justified in making disallowance u/s 14A by applying Rule 8D when the authorities below have not given a finding that the assessee has incurred any expenditure exclusively for earning of the exempt - Whether the amount disallowed u/s 14A can be considered while computing the book profit u/s 115JB.

[2013-TIOL-449-ITAT-KOL](#)

Ramesh Kumar Singhania Vs JCIT (Dated: April 5, 2013)

Income Tax - Sections 40(a)(ia), 40A(3), 139(1), 143(3), 145(3), 194C - Whether when there was no basis for rejecting the books of accounts, the assessing authority can still reject the same in order to compute correct income - Whether an amount can be disallowed u/s 40(a)(ia), even if the TDS in respect of the same has been deposited before the due date of return filing u/s 139(1) - Whether there can be a provision for disallowance either u/s 40(a)(ia) or 40A(3) simultaneously - Whether there can be a proportionate disallowance u/s 40(a)(ia) or 40A(3) - Whether when the payments made as freight for using trucks do not exceed Rs.20,000 in a single day, disallowance u/s 40A(3) can be made.

[2013-TIOL-448-ITAT-MAD](#)

M/s Precot Meridian Ltd Vs DCIT (Dated: May 8, 2013)

Income Tax - Sections 37, 220(2), 234B, 234C - Whether the expenditure incurred by the assessee towards replacement of machinery is revenue or capital expenditure - Whether interest u/s 234B and 234C, are mandatory in nature.

[2013-TIOL-447-ITAT-MUM](#)

Shri Prakash Amritlal Shah Vs ACIT (Dated: December 14, 2012)

Income Tax - Sections 4, 14 - Whether an investor can sell his investments on loss - Whether a person who is carrying on full-time share trading can be termed as investor when facts show that the volume, frequency and period of holding are not supporting the claim of the assessee.

[2013-TIOL-446-ITAT-DEL](#)

ITO Vs M/s Laxmi Precision Screws Ltd (Dated: April 26, 2013)

Income Tax - Section 24(1)(vi), 80C, 192(1), 201(1) & 201(1A), Rule 26B - Whether Rule 26B stipulates obtaining of completion certificate of house before allowing deduction u/s. 24(1)(vi) and u/s. 80C for arriving at the TDS liability - Whether it can be held that the assessee was in default u/s. 201(1A) when the assessee company has deducted correct TDS u/s. 192(1) by making adjustments during the financial year.

[2013-TIOL-445-ITAT-DEL](#)

ACIT Vs M/s Micron Steels Pvt Ltd (Dated: February 19, 2013)

Income Tax - Sections 142(1), 143(2) - Whether assessment of a company, which has been dissolved by amalgamation u/s. 391 and 394 of the Companies Act, 1956, is not sustainable.

[2013-TIOL-444-ITAT-VIZAG](#)

K Venkataraju Vs Addl.CIT (Dated: May 3, 2013)

Income Tax - Sections 40(a)(ia), 44AD, 56 - Whether interest on FDRs can be assessed as income from other sources even if the income from contract works is taken on estimate basis - Whether the disallowance can be made u/s 40(a)(ia) independently, even if the business income was estimated after rejecting the book results.

[2013-TIOL-443-ITAT-DEL](#)

ACIT Vs M/s Jindal Poly Films Ltd (Dated: April 26, 2013)

Income Tax - Sections 10B, 32, 154 - Whether the Assessee has rightly calculated the amount of deduction u/s. 10B by considering the Excise Duty on indigenous sales as part of the total turnover for the purpose of computing eligible profits - Whether every item of the assets for being part of the block of assets needs to be actually used for the purpose of depreciation.

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| 2013-TIOL-442-ITAT-BANG |
| ACIT Vs M/s Infosys Technologies Ltd (Dated: April 19, 2013) |
| Income Tax - Sections 115WB(2)(F) - Whether Visa charges including legalization charges, residence permits, work permits, green card fees, etc. were liable to fringe benefit tax covered u/s. 115WB(2)(F). |
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| 2013-TIOL-441-ITAT-MUM |
| Fine Jewellery Manufacturing Ltd Vs DCIT (Dated: March 28, 2013) |
| Income Tax - Sections 10AA, 35D, 37(1), 56 - Whether penalty levied by the RBI for compounding the contravention is allowable expenditure - Whether the expenditure for raising capital is revenue in nature and deductible u/s. 37(1) - Whether assessee is eligible for deduction u/s 10AA of the above mentioned disallowances as the same stand expensed from the profits of a 100% export oriented unit located at SEEPZ-SEZ, eligible for deduction u/s 10AA. |
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| 2013-TIOL-440-ITAT-MUM |
| Bakliwal Financial Services (I) Pvt Ltd Vs DCIT(Dated: May 10, 2013) |
| Income Tax - Sections 2(22)(e), 36(1)(iii) - Interest on borrowings - Business Loss - Deemed Dividend - Whether interest on borrowings can be allowed u/s 36(1)(iii) even without establishing the fact that the advance was given for the business purpose - Whether disallowance of interest is warranted even if the interest free advances are covered by own funds - Whether the written down of value of the Stock Exchange Card should be allowed as a loss - Whether the loan/advance obtained by the assessee company from the sister concerns can be treated as deemed dividend u/s 2(22)(e) in the hands of the assessee company when the assessee company is not the registered holder of shares of the lender concern. |
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| 2013-TIOL-439-ITAT-MUM |
| ACIT Vs IOT Infrastructure & Energy Services Ltd (Dated: May 17, 2013) |
| Income Tax – Sections 14A, 28, 37(1), 115JB, Rule 8 – Accounting Standard 7 – AS-7 - Whether provision made for the performance warranty and other contractual liability as per AS-7 cannot be said to be an ascertained liability and accordingly not allowable as deduction – Whether such provision is also not allowable while computing the income of the assessee u/s 115JB of the Act – Whether the disallowance u/s 14A for the years prior to A.Y. 2008-09 has to be made on some reasonable basis and Rule 8D cannot be applied to those assessment years - Whether the mobilization and other advances received by the assessee by raising progress billings cannot be said to |

represent income of the assessee at the time of raising the progress bills and the same therefore had no effect whatsoever on the income of the assessee, which was recognized by following consistently a well recognized method of percentage of completion.

[Also see analysis of the Order](#)

[2013-TIOL-438-ITAT -DEL](#)

DCIT Vs Escorts Construction Equipment (Dated: May 24, 2013)

Income Tax - Section 271(1)(c) - Whether penalty u/s 271 (1) (c) can be levied when the additions were confirmed due to retrospective amendment in the provisions of section 115JB.

[2013-TIOL-437-ITAT -MUM](#)

M/s Prime Developers Vs DCIT (Dated: March 22, 2013)

Income Tax - Sections 28, 145 - Whether estimation of profits in the case of unaccounted turnover can be made with any straight jacket formula, or each case of unaccounted turnover has to be seen with other circumstantial evidences - Whether in the cases of best judgment assessment, it is expected from AO to framed the assessment on the basis of some material - Whether whimsical additions are tenable in law - Whether in absence of exact net profit by way of comparable cases, the net profit is to be determined on the basis of books of the assessee - Whether entire sale proceeds of an unaccounted turnover can be taxed as income.

[2013-TIOL-436-ITAT -HYD](#)

M/S Bhagyanagar India Ltd Vs DCIT (Dated: May 10, 2013)

Income Tax - Sections 14A, 35D, 37, 43A, 80IB - FCCB Bonds - Whether when in accounts, assessee has set off all expenditure incurred against share premium or it has not debited any amount in its profit and loss account, it will prevent assessee to claim expenditure, which is otherwise allowable under the Income Tax Act - Whether expenditure incurred on issue of debenture is an allowable deduction u/s 37 - Whether loss arising on exchange fluctuation in respect of loans acquired for revenue purpose, is an allowable deduction - Whether annual maintenance charges can be included for computing deduction u/s 80IB - Whether relief u/s 80IB can be availed only in respect of manufacturing activities - Whether in case it has been proved that the entire borrowing on which interest expenditure had been incurred, was for business purposes only, any disallowance can be made u/s 14A.

[2013-TIOL-435-ITAT -CHD](#)

M/s Steel Strips Wheels Ltd Vs ACIT (Dated: March 6, 2013)

Income Tax - Sections 32(1)(ii), 40(a)(ic), 115JB, Circular No 8/2005 - Whether while computing book profit u/s 115JB, deduction is to be made for fringe benefit tax, agricultural income and prior period adjustment on account of income tax refund and provision for income tax reversed – Whether the expenditure incurred for modernization of existing projects, which was already manufacturing the same products, and simply to increase the business more efficiently and more profitability, expenses were incurred for making technological changes, the expenditure is allowable as revenue – Whether the technical knowhow expenditure incurred by assessee for increasing the efficiency and productivity of the project which did not result into acquiring a capital asset of enduring nature is allowable as revenue expenditure.

[2013-TIOL-434-ITAT-MAD](#)

M/s Summit Works Technologies P Ltd Vs ACIT (Dated: February 22, 2013)

Income Tax - Sections 10B, 28 - Whether income, which consists of recoveries from candidates as Security deposits & Bank guarantee invoked, Administrative fees collected from candidates, Interest income from bank fixed deposit, Excess received from overseas client etc. were income assessable under the head 'profits and gains of business or profession'.

[2013-TIOL-433-ITAT-HYD](#)

Smt Usharani Kalidindi Vs ITO (Dated: March 15, 2013)

Income Tax - Section 54F - Whether Sec 54 deduction is available in respect of vacant plot - Whether word 'residential house' as used in section 54 would confine to only such places which are fit for habitation of human beings.

[2013-TIOL-432-ITAT-KOL](#)

Metro Railway Vs ITO (Dated: March 8, 2013)

Income Tax - Sections 194LA, 201 - Whether the authorities below were justified in proceeding on the basis that the payments made by Dy FA and CAO Metro Railways, Kolkata, to Competent Authority Metro Railways Kolkata, attracted the tax deduction at source u/s 194LA, and that the TDS compliance was required to be made by the Dy FA and CAO, Metro Railways, Kolkata, and not the Competent Authority, Metro Railways, Kolkata.

[2013-TIOL-431-ITAT-MUM](#)

Sonia Maria Mistry Vs ITO (Dated: February 1, 2013)

Income Tax - Section 48 - Whether while computing the valuation of a property, built-up area or carpet area is to be taken into account - Whether while computing the quantum of capital gain only such amounts which are prescribed under section 48(i) and (ii) are deductible or other sums alleged to have been charged for overriding title are also deductible, particularly when no such charge is apparent in the sale deed.

[2013-TIOL-430-ITAT-DEL](#)

DCIT Vs M/s Speciality Food India (P) Ltd (Dated: May 3, 2013)

Income Tax - Section 271 (1)(c) - Whether penalty u/s 271 (1)(c) can be imposed when the assessee has deliberately furnished inaccurate particulars of income by way of making false depreciation claim.

[2013-TIOL-429-ITAT-MUM](#)

Daman Metallic Oxides Vs CIT (Dated: May 23, 2013)

Income Tax - Sections 5, 28, 44AB, 56, 143(3), 145A, 263 - Whether when an assessee follows the mercantile system of accounting, it has the freedom to follow the receipt system merely to account for VAT refunds - Whether any income by way of cash incentive accrues to an assessee at the time of filing of the claim in this respect - Whether method of accounting of refund claims can be changed in case there is a procedural delay in release of refund by the Revenue authorities.

[Also see analysis of the Order](#)

[2013-TIOL-428-ITAT-MUM](#)

RGA International Reinsurance Co Ltd Vs ADIT (Dated: April 1, 2013)

Income Tax - TDS - deduction - claims - Whether a claim for TDS can be allowed in the current financial year, even if the expense on which the same was deducted pertains to the next financial year.

[2013-TIOL-427-ITAT-MUM](#)

Triumph International Finance India Ltd Vs DCIT (Dated: April 19, 2013)

Income tax - Whether the assessee is entitled to carry forward the loss for set off which arose because of the ban imposed on trading activity by SEBI and was beyond the assessee's control - Whether the bad debts written off as irrecoverable in relation to stock broking business is allowable - Whether the amount written off for the loans and advances given to franchises for working capital requirement is allowable as business expenditure - Whether when the prior period expenses are not having any nexus with the prior period income offered during the year, the same is correctly not allowed as expenditure.

[2013-TIOL-426-ITAT-DEL](#)

Gillette Group India Pvt Ltd Vs DCIT (Dated: March 22, 2013)

Income Tax - Sections 14A, 43A, 57 - non-compete fee - joint venture agreement - termination of agreement - separate and legal entity - legal and professional fees - Whether when the assessee had claimed the legal and professional fees incurred on termination of its joint venture agreement with another Indian entity, whereby non-compete fees were paid by the foreign parent company to the Indian JV partner of the assessee, the Revenue is justified to reject the assessee's contention of being a separate and distinct legal entity to disallow these expenses, as having been incurred by the assessee on behalf of its parent company - Whether when the assessee had incurred net loss on foreign exchange fluctuations which included the restatement of liability on the existing value of foreign currency, the Revenue is justified to disallow these losses.

[2013-TIOL-425-ITAT-MUM](#)

ACIT Vs M/s West Gujarat Expressway Ltd (Dated: April 5, 2013)

Income Tax - Sections 32, 36(1)(iii) - Whether the depreciation is allowable on road - Whether the depreciation is allowable on toll road - Whether the debenture issue expenses would be admissible as revenue expenditure.

[2013-TIOL-424-ITAT-MUM](#)

Vnet Communications Pvt Ltd Vs ITO (Dated: March 20, 2013)

Income Tax – Sections 41(1), 143(3) - Whether there can be an automatic set off of the amounts relating to amounts payable against the amount receivable from sundry debtors - Whether when a debt has become time barred, its liability also ceases to have effect – Whether in order to claim an amount, the burden to prove the identity of the creditors and to establish their genuineness is upon the assessee - Whether in a given law, assessee can be granted right to both approbate and reprobate at the same time, for a same fact – Whether in case of omission to pay over a period of time, the resultant benefit derived by an assessee, can qualify as a cessation of liability u/s 41(1).

[2013-TIOL-423-ITAT-MUM](#)

Triumph Securities Ltd Vs ACIT (Dated: April 30, 2013)

Income Tax - Sections 32(1)(ii), 43B, 139(1), 147, 148, 271(1)(c) - BSE membership rights - depreciation - Whether when the assessee has not made any disallowance u/s 43B in respect of interest which remained unpaid before the due date of filing of return, as it was the first year of such amendment, it can be considered as a bona fide mistake - Whether in case there is a bonafide and inadvertent mistake by the assessee while submitting the income, it can be held that assessee was guilty of furnishing inaccurate particulars of income - Whether allowance of depreciation on BSE card is a legal issue - Whether in case such card has been purchased slightly prior to the date allowed as per the statute, claim of depreciation on the same becomes illegal in nature - Whether penalty for concealment can be levied in such case.

[2013-TIOL-422-ITAT-BANG](#)

M/s Technoart Constructions Pvt Ltd Vs DCIT (Dated: May 17, 2013)

Income Tax - Sections 44AB, 143(2), 143(3) - Karnataka Value Added Tax Rules - Rule 3(2)(m) - Whether disallowance can be made on adhoc basis, in case assessee has not maintained proper books of accounts – Whether in case assessee's books of account are audited u/s 44AB, estimation of 10% for the purposes of disallowance can be made on any materials or comparative cases.

[2013-TIOL-421-ITAT-HYD](#)

M/s SSPDL Ltd Vs DCIT (Dated: April 5, 2013)

Income Tax - Sections 14A, 80IA(4) - Whether deduction under section 80IA(4) is dependent of conditions mentioned in the section - Whether notional disallowance of interest is permissible where the funds have been advanced on account of commercial expediency.

[2013-TIOL-420-ITAT-DEL](#)

ACIT Vs Ms Asha Kataria (Dated: May 20, 2013)

Income Tax – Sections 44AD, 69, 132, 142A, 153A – Search Assessment - Whether assessment can be made u/s 153A even when no incriminating material or evidence was found or seized at the time of search and there is no reference to the same in the AO's order – Whether merely because the payment for investment in property was made through the bank account, it can be presumed that the source is explained and verified and hence no addition on account of unexplained investment can be made – Whether in case of search in the absence of any incriminating material found during search, no addition can be made on the basis of Report of the DVO.

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| Also see analysis of the Order |
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| 2013-TIOL-419-ITAT-DEL |
| JCIT Vs M/s SMS Demag Pvt Ltd (Dated: February 8, 2013) |
| Income Tax - Sections 143(3), 147, 148 - Whether reopening of assessment can be resorted to after 4 years when it cannot be alleged that there was failure on part of the assessee to disclose fully and truly all primary material facts. |
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| 2013-TIOL-418-ITAT-MUM |
| M/s Dedicated Healthcare Services Tpa (India) Pvt Ltd Vs ACIT (Dated: May 1, 2013) |
| Income Tax – Sections 194J, 201(1), 201(1A) - service level agreement – IRDA – TPA - Whether condonation of delay for filing appeal can be granted on account of delay due to retirement of assessee's accountant – Whether the payment made by the TPA to the hospitals, in connection with the insurance policies, attracts the provisions of section 194J. |
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| 2013-TIOL-417-ITAT-MUM |
| M/s Bristlecone India Ltd Vs ACIT (Dated: May 8, 2013) |
| Income Tax - Sections 10A, 115JB - time price contract - Whether in case of a self sufficient Sec 10A unit, no portion of common expenses can be attributed while computing profits of the unit - Whether allocation of profits on the basis of turnover alone, is a suitable criteria in such a case. |
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| 2013-TIOL-416-ITAT-HYD |
| Sri K Anji Reddy Vs DCIT (Dated: May 10, 2013) |
| Income Tax - Sections 2(24) & (40), 28, 35AC, 80GGA, 144, 147, 148, 153A, 234D - "income", "regular assessment" - Whether when the AO has not at all examined the issue, it cannot be said that there is a change of opinion while reopening the assessment - Whether the term "income" in section 2(24) of the Act is an inclusive term and includes both positive and negative income - Whether deduction u/s 80GGA cannot be allowed, although the assessee has only incurred losses under the head of "profits from business or profession" - Whether both positive and negative profits are of revenue character - Whether an assessee engaged in business or profession can claim deduction towards eligible contribution only u/s 35AC and not as per section 80GGA - Whether an alternative claim for deduction u/s 35AC can be allowed in reassessment proceedings, when such proceedings was limited only to the issue of |

allowance of claim of deduction u/s 80GGA - Whether when the assessee has given up its claim of deduction u/s 35AC in the revised return filed by him, the same cannot be allowed anymore on the basis of the original return - Whether interest u/s 234D of the Act is leviable on the assessee in the assessment completed u/s 147, although the assessment was already completed once as per section 143(3).

[2013-TIOL-415-ITAT-CUTTACK](#)

Orissa State Beverages Corporation Ltd Vs ACIT (Dated: February 1, 2013)

Income Tax - Sections 4, 28, 37(1) - Whether expenses incurred in relation to procurement of manufacturing rights are revenue - Whether security deposits received from customers and shown as liability in the balance sheets are capital receipt.

[2013-TIOL-414-ITAT-RAJKOT](#)

Prakashkumar Devshibhai Dharodiya Vs ITO (Dated: April 12, 2013)

Income Tax - agency - freight - commission - Whether in case of a agency contract, a commission agent can be taxed on the freight portion too - Whether a disallowance in respect of revenue expenditure incurred during the course of business can be made, in case there is no conclusive basis for the same.

[2013-TIOL-413-ITAT-PUNE](#)

Shirish Vinayak Godbole Vs ITO (Dated: February 13, 2013)

Income Tax - Sections 37(1), 48, 54, 54EC, 54F - Whether deduction u/s 48 can be allowed in respect of amount paid to assessee's wife who has seperated from assessee - Whether an assessee can claim deduction u/s.54 in respect of flat purchased in the name of his wife - Whether in order to claim deduction u/s 54, the residential property acquired must be in the name of assessee only.

[2013-TIOL-412-ITAT-DEL](#)

Zebian Real Estate Pvt Ltd Vs ITO (Dated: April 12, 2013)

Income Tax - Sections 40(a)(ia), 143(3), 194C, 194H, 201, 234A, 234B - consolidation charges, real estate, principal to principal, sale of rights, TDS, closing stock, principal to agent - Whether any TDS obligation arises u/s 194H when the assessee makes payments to a land consolidator for transfer of rights on a principal to principal basis - Whether any disallowance is warranted for such payments when the assessee claims no deduction for the same.

[2013-TIOL-411-ITAT-MUM](#)

M/s IGFT Ltd Vs ITO (Dated: May 13, 2013)

Income Tax - Sections 28, 32(1)(ii), 36 - "colourable device", "sham transaction", "capital receipt", "revenue receipt", "non-compete fee", "merchant banking business"- Whether a transaction of sale of merchant banking business to an erstwhile internationally acclaimed accountancy firm can be considered as a colourable device, although the combined reading of the provisions of the Business Transfer Agreement suggests that the payments have been made only for transfer of business and contracts - Whether only when the document is not bona fide nor intended to be acted upon, but is only used as a cloak to conceal a different transaction, a transaction can be regarded as a sham or colourable - Whether consideration received by the assessee for transfer of its sole merchant banking business, which was discontinued thereafter, is in the nature of capital receipt - Whether any amount is received as compensation or damages for any wrong done which does not affect any capital asset or the capital structure of the assessee's business, but causes injury to the assessee in its trade, will normally constitute a trading receipt - Whether it is beyond the purview of the Revenue to question the adequacy of the consideration involved in a transaction - Whether non-compete fee paid consequent to transfer of merchant banking business, which resulted in its discontinuation causing loss of enduring trading assets, is nothing but a capital receipt - Whether when the intangible assets involved no cost of acquisition, the same cannot be taxed under the head capital gains - Whether the non compete agreement is for a limited period or absolute is not a relevant factor for determining the nature of non-compete fee - Whether the claim of deduction towards expenditure incurred in respect of discontinued business of the assessee in the absence of any nexus with the existing business can be allowed

[Also see analysis of the Order](#)

[2013-TIOL-410-ITAT-MUM](#)

JSW Energy Ltd Vs ACIT (Dated: April 30, 2013)

Income Tax - Section 115JB - Whether the amount set aside out of the profits as Debenture Redemption Reserve (DRR) by the assessee, such sum is to be considered as a 'reserve', i.e., an appropriation of profits, or as a 'provision', for meeting a liability and, therefore, deductible in the computation of 'book profit' u/s.115JB.

[2013-TIOL-409-ITAT-AHM](#)

Jayco Synthetics Pvt Ltd Vs Addl.CIT (Dated: May 17, 2013)

Income Tax - Sections 36(1)(iii), 40A(2)(b) - Whether the disallowance can be made u/s 40A(2)(b) on account of very small difference in purchase price charged by related parties as against the third party even on the ground of various reasons such as better quality, timely supply, extra credit period provided by the related parties - Whether any interest can be disallowed when no evidence has been brought on record

by the Revenue to show any direct nexus between interest free advances given by the assessee and interest bearing borrowed funds of the assessee - Whether any disallowances on account of commission can be made when the assessee has established that the services were rendered by the commission agents and the expenditure were incurred wholly and exclusively for the purpose of business.

[2013-TIOL-408-ITAT-MUM](#)

ACIT Vs Hitesh S Bhagat (Dated: May 15, 2013)

Income Tax - Sections 28, 111A - Income arising from sale of shares - Business income vs. Capital Gains - Whether the income arising to the assessee from repetitive transactions of purchase and sale in the same scrips/ shares is to be treated as business profit or capital gains - Whether the principles of res judicata as well as estoppel are applicable in the matter of taxation.

[2013-TIOL-407-ITAT-DEL](#)

ACIT Vs M/s Hind Industries Ltd (Dated: March 22, 2013)

Income Tax - Section 40A(3) - Whether payments made to grower /farmers are covered by exception provided under rule 6DD (f) of the Act - Whether in absence of proximate nexus between the exempt income and the expenses incurred any disallowance under section 14A read with rule 8D is sustainable - Whether in presence of sufficient interest free funds any disallowance of section 14A is maintainable vis - à - vis interest expenses.

[2013-TIOL-406-ITAT-MUM](#)

Hercules Industrial Chemicals Pvt Ltd Vs ITO (Dated: April 30, 2013)

Income Tax - Whether there is any justification in disallowing 50% of the expenses on adhoc basis in respect of traveling expenses when the entire traveling expenses were incurred by the assessee for the purpose of its business and the same were to be borne by the assessee as per agreement.

[2013-TIOL-405-ITAT-AHM](#)

DCIT Vs Gujarat Narmada Valley Fert Co Ltd (Dated: May 10, 2013)

Income Tax - Section 14A – Whether disallowance can be made on interest free advances to the subsidiary Companies when the assessee has demonstrated that it was having sufficient interest free funds at its disposal - Whether addition u/s. 14A can be made when, the interest free funds available with the assessee were far in

excess of investments.

[2013-TIOL-404-ITAT-KOL](#)

DCIT Vs M/s BMW Industries Ltd (Dated: May 3, 2013)

Income Tax – Sections 36(1)(iii), 40(a)(ia) – Whether contractual obligation in relation to which no TDS deduction certificate was obtained can be disallowed by invoking 40(a)(ia) - Whether any notional disallowance of interest paid is permissible when assessee is possessing sufficient interest free funds in its kitty.

[2013-TIOL-403-ITAT-AHM](#)

Harshadbhai Dahyalal Vaidhya Vs ITO (Dated: April 26, 2013)

Income Tax – 56(2)(v) - "relative" - Whether when assessee receives a gift from a relative in HUF capacity, exemption u/s 56(2)(v) cannot be denied as the term 'relative' is very much covered by the provisions of Sec 56.

[Also see analysis of the Order](#)

[2013-TIOL-402-ITAT-MAD](#)

Tiruchirappalli Multi Purpose Social Service Society Vs ACIT (Dated: January 31, 2013)

Income Tax - Section 80G - Whether the CIT(A) is justified in rejecting the application for grant of renewal of exemption u/s 80G when the assessee neither before the CIT nor before the Tribunal has brought anything on record to show that charitable activities were carried out by the assessee trust.

[2013-TIOL-401-ITAT-MAD](#)

ITO Vs Smt Swarnambal Dayashankar (Dated: January 24, 2013)

Income Tax - Section 54 - Whether utilization of capital gains for purchase or construction of new house property before the due date of furnishing of return of income u/s

[2013-TIOL-400-ITAT-MAD](#)

M/s Super Spinning Mills Ltd Vs ACIT (Dated: February 7, 2013)

Income Tax – Sections 80HHC, 234B, 234C – capital expenditure – charge – transit – export – interest - Whether the expenditure incurred on replacement of machinery can be treated as revenue expenditure - Whether interest u/s 234B can be levied by the assessing authority, without creating a charge in the Assessment Order - Whether insurance receipts and miscellaneous income are to be excluded for the purpose of computing relief u/s 80HHC in its entirety.

[2013-TIOL-399-ITAT-MAD](#)

M/s Raja Fertilizers Vs ITO (Dated: January 7, 2013)

Income Tax - Sections 45, 54F - Whether the entries made in the books of account maintained by a firm would be sufficient to hold that an immovable property was owned by the firm when there was no conveyance deed registered in the name of the assessee-firm.

[2013-TIOL-398-ITAT-MAD](#)

ACIT Vs Shri V N Devadoss (Dated: February 4, 2013)

Income Tax - Sections 10A(1A), 80AC, 80IA, 80IB(10), 80IE, 132, 139(1), 139(4), 140A, 143(3), 153A, 234A, 234B, 234C, 276CC, CBDT circular No.14 of 2006 - housing projects - liberal interpretation - substantial compliance - Whether provisions of section 80AC are directory or mandatory - Whether the returns filed in response to notices issued u/s 153A can be taken as returns filed within the time limit stipulated u/s 139(1) - Whether in order to claim benefit u/s 80IB(10), filing of return under section 139(1) within the due date is a mandatory provision - Whether the liability to file a return of income in response to a notice issued under section 153A is as much good as the liability of file a return under section 139(1) - Whether a claim made by an assessee cannot be denied only on the ground that the return is filed in consequence of search - Whether the returns filed u/s 153A can be treated as returns filed under section 139(1) - Whether the interest chargeable u/s 234A can be taken from the date of expiry of the notice period given under section 153A to the date of completion of assessment u/s 143(3) - Whether while computing deduction u/s 80IB, both direct expenses as well as indirect expenses including the administrative expenses are to be considered.

[2013-TIOL-397-ITAT-MAD](#)

DCIT Vs M/s Vinbros & Co (Dated: January 29, 2013)

Income Tax - Sections 14A, 80IB, Rule 8D - Whether the assessee is entitled to deduction u/s 80IB when the assessee is a small scale industry and operates from an industrially backward State - Whether disallowance u/s 14A r/w Rule 8D is justified when the assessee itself computed the disallowance, instead of challenging the very applicability of the provisions.

[2013-TIOL-396-ITAT-RAJKOT](#)

ACIT Vs M/s Aditya Marine Ltd (Dated: April 12, 2013)

Income Tax - Sections 194C, 194I - Whether cargo handling charges can be considered as work contract u/s 194C when from the perusal of relevant terms and conditions it is evident that possession and control over the equipment and manpower do not vest with the assessee company.

[2013-TIOL-395-ITAT-BANG](#)

M/s Medi Assist India Tpa (P) Ltd Vs DCIT (Dated: March 22, 2013)

Income Tax - Sections 2(31), 10(23C), 64, 64(1)(i), 133A, 191, 194A, 194J, 197(1), 201(1), 201(1A), 271C, Circular No. 8 of 2009 - assessee-in-default - Whether the third party administrator responsible for making payment to hospitals for rendering medical services to policy holders, is liable to deduct TDS u/s 194J from the payments made to the hospitals - Whether a professional activity is an activity carried on by an individual by deploying his personal skill and intelligence only - Whether in case both spouses are professionals and form a partnership for the purpose of carrying on a professional activity, their income can be clubbed - Whether when a business activity is carried on by such firm, income arising out of that activity would partake of a business activity and hence be liable to be clubbed - Whether it can be said that TPAs, at the time of making payments to hospitals, are liable to deduct TDS u/s 194 - Whether liability of TDS deduction can be affected in case a third person and not the payer has actually availed of the professional services rendered - Whether in case the principal debtor does not file return and pays tax, then the vicarious liability exists on the persons who should have deducted at source or ought to have deducted at source - Whether interest chargeable u/s 201(1A) is to be calculated up-to the due date of filing of return instead of calculating the same till the date of payment of taxes by the deductees.

[2013-TIOL-394-ITAT-MUM](#)

M/s Topline Foods Vs ACIT (Dated: April 30, 2013)

Income Tax - Section 80IB - Whether when the assessee specialises in transforming raw food materials into therapeutic food by adopting customised processes, it cannot be denied Sec 80IB benefits - Whether the computation of deduction u/s 80IB as made by the assessee is erroneous when the assessee has removed the interest paid on partners capital which has resulted into enhancement of profit.

[Also see analysis of the Order](#)

[2013-TIOL-393-ITAT-MUM](#)

Piyush Avlani (HUF) Vs DCIT (Dated: March 1, 2013)

Income Tax - Sections 28, 45 - Whether the entire income of the assessee on account of purchase and sale of shares is business income when the assessee has shown all the investments in shares under the head investment portfolio and the Revenue has admitted this facts in previous two years, where the STCG shown by the assessee has been accepted.

[2013-TIOL-392-ITAT-MUM](#)

ACIT Vs Shri Parvez Abdulkader Khatri (Dated: November 21, 2012)

Income Tax - Sections 36(1)(vii), 37(1), 40(a)(ia), 143(3), 194C - 'Trading debt ' - Whether when the advances given for purchase of goods is written off in the books, the same can be allowed as business loss - Whether when such advances are given as loan only, the write off of the same can be allowed as a business loss - Whether in order to claim bad debts, assessee has to establish that the debts given in the normal course of business have actually become bad - Whether the disallowance for non-deduction of TDS can be made on the amounts actually 'paid' during the relevant year.

[2013-TIOL-391-ITAT-MUM](#)

ACIT Vs M/s Music Broadcast Pvt Ltd (Dated: February 13, 2013)

Income Tax - Section 143(3) - broadcasting services - recorded music - royalty - license fees - bank guarantee - Whether when an order of a Revenue authority is challenged before higher authorities, provision made in respect of tentative amount to be paid can be disallowed during assessment - Whether a disallowance can be made merely on the basis, that it is a provision for expenses - Whether provision for business expenses is not allowable even as per the accounting principles.

[2013-TIOL-390-ITAT-MUM](#)

M/s Multi Screen Media Pvt Ltd Vs Addl.CIT (Dated: April 30, 2013)

Income Tax - Sections 143(3), 263 - Whether the CIT can invoke the provisions of Section 263 when the AO after conducting an enquiry accepted the claim of the assessee and the decision of the AO was one of the possible permissible views.

[2013-TIOL-389-ITAT-MUM](#)

Mahindra Holdings & Finance Ltd Vs ACIT (Dated: March 13, 2013)

Income Tax - Sections 14A, 32, 36(1)(iii), 143(3), 271(1)(c) - Whether in order to claim depreciation u/s 32, ownership of asset is an essential pre-condition - Whether for claiming depreciation in respect of a building it should be 'put to use for business or profession' and the burden of proof is on assessee to prove that it was actually put to use for such purposes - Whether when the assessee company had not been able to justify as to why it had not correctly furnished the particulars of its income, penalty for concealment u/s 271(1)(c) can be levied - Whether as per the established principles of tax-jurisprudence assessee is required to file some positive evidences whenever he makes a claim for deductions in respect of revenue expenses incurred - Whether in case assessee has claimed depreciation which otherwise is not allowable under the Act, it proves that the assessee had claimed excess depreciation and thereby evaded payment of taxes to that extent.

[2013-TIOL-388-ITAT-MUM](#)

M/s Pharmaceutical Research Associates India Pvt Ltd Vs ITO (Dated: March 20, 2013)

Income Tax - Sections 10B, 32, 80HHE - Whether the CIT(A) is justified in upholding the disallowance of claim u/s 10B and section 80HHE on technical grounds, and not consider it necessary to decide the issue whether the assessee can be considered a manufacturer/producer of computer software? Whether expenditure on furniture and fixtures at the office of the director in rented premises can be considered as capital in nature.

[2013-TIOL-387-ITAT-HYD](#)

M/s Leo Meridian Infrastructure Projects & Hotels Ltd Vs DCIT (Dated: March 28, 2013)

Income Tax - Sections 32(1)(ia), 80IB(7B), 143(3), 145, 263, 288, rule 18DC - Whether the CIT has the power to suo moto invoke the provisions of section 263 in every case - Whether there is any condition prescribed which is required to be fulfilled, before invoking such power - Whether the provisions of section 263 can be invoked to correct each and every type of mistake or error committed by the Assessing Officer - Whether when an issue has not been argued before the Commissioner, can it be argued directly before the Tribunal - Whether in case separate books of account are not maintained, deduction u/s. 80IB(7B) could be granted to the assessee in proportion to the turnover to profit of each unit - Whether the power of the Commissioner under sec. 263(1) is limited only to the material which was available before the Assessing Authority - Whether when the AO is not able to find any defects in the books of account or any other evidence to justify the plea that

there is unaccounted investment in the landed property, addition in income is possible on such account.

[2013-TIOL-386-ITAT-DEL](#)

ACIT Vs M/s Keshav Shares & Stocks Ltd (Dated: April 26, 2013)

Income Tax - Sections 14A, 88E, 115JB, Rule 8D - Whether disallowance u/s 14A, can be made merely on the gross interest expenses, although there is interest income earned by the assessee - Whether tax liability u/s 115JB can be computed without considering the rebate u/s 88E towards the securities transaction tax paid by the assessee.

[2013-TIOL-385-ITAT-CUTTACK](#)

M/s Falcon Marine Exports Ltd Vs ACIT (Dated: February 14, 2013)

Income tax – Section 40A(3) – Whether no disallowance is to be made u/s 40A(3) in respect of payment made by the assessee for purchases of shrimp and fishes from fisherman and farmers which are covered under clause (e) of Rule 6DD of the Act and the payment is made due to unavoidable reasons .

[2013-TIOL-384-ITAT-DEL](#)

ACIT Vs M/s Crystal Phosphate Ltd (Dated: April 12, 2013)

Income Tax - Sections 40A(ia), 194H - Whether the provisions of section 194H are applicable in case of cash discount when the cash discount was for the prompt payment for the goods supplied.

[2013-TIOL-383-ITAT-CUTTACK](#)

Biraja Construction Vs ACIT (Dated: January 11, 2013)

Income Tax - Sections 40(a)(ia), 194C - Whether disallowance u/s.40(a)(ia) is justified for non deduction of tax u/s.194C when the facts and circumstances led to payment in cash to Sardars more than Rs 50,000 when the individual payments to reach a bench mark of Rs 50,000 in the order is neither for the same person .

[2013-TIOL-382-ITAT-COCHIN](#)

ACIT Vs Shri Arun Thomas (Dated: March 22, 2013)

Income Tax - Sections 36(cb1)(iii), 37(1), CBDT Circular No 772 of 1998 - Whether unlawful expenditure is an allowable deduction u/s 37(1) while making computation of income - Whether the illegal payments like protection money, extortion, hafta, bribe, etc. when paid, even during the course of business, can be claimed as business expenditure - Whether any interest paid on the capital borrowed for the purpose of business or profession can be allowed as deduction u/s 36(1)(iii) - Whether the provisions of section 37(1) are applicable in respect of interest on the capital borrowed for business purpose - Whether it is material that the amount has been borrowed in the name of individual for the purpose of allowing interest claim u/s 37(1).

[2013-TIOL-381-ITAT-MUM](#)

Shri Chiranjeev Lal Khanna Vs ITO (Dated: March 26, 2013)

Income Tax - Sections 54, 54EC, 54F, 254(2), 263 - redevelopment agreement - residential unit - residential house - Whether exemption u/s 54 is restricted to a 'residential unit' or a 'residential house' having multiple floors with independent entrance - Whether when there are two views possible on a particular issue, the view of higher authority should be given preference, even if the view taken by the lower authority is sustainable in law - Whether revision can be made on a debatable issue.

[Also see analysis of the Order](#)

[2013-TIOL-380-ITAT-MUM](#)

Health India Tpa Services Pvt Ltd Vs ITO (Dated: April 17, 2013)

Income Tax - Sections 194J, 197, 201(1), 201(1A), CBDT Circular No 8 of 2009 - Whether provisions of Sec 194J is applicable on payment made to the hospitals/nursing homes - Whether when a certificate has been issued for NIL TDS deduction, there is no liability on the payer to deduct TDS - Whether when assessee company proves that tax has been paid by the deductee, recovery of demand can still be enforced.

[2013-TIOL-379-ITAT-MUM](#)

International Knowledge Park Pvt Ltd Vs DCIT (Dated: April 5, 2013)

Income Tax - Sections 14A, 37, Rule 8D - Whether the expenditure incurred on the play ground for (a) removal of bushes, trees, trees, stumps, roots and their disposal, (b) Filling and leveling of ground (c) Repairing of gutters and broken boundary walls etc, constitutes revenue expenditure.

[2013-TIOL-378-ITAT-MUM](#)

ACIT Vs Jetking Infotrain Ltd (Dated: March 20, 2013)

Income Tax - Sections 14A, 35(1)(iv), rule 8D - research and development activity - Whether in case an assessee is engaged in research activities and no conclusive evidence regarding such activities was produced before the AO, subsequent presentation thereof before the appellate authority directly, is tenable in law - Whether disallowance u/s 14A can be made on adhoc basis - Whether when there is no evidence regarding the actual expenditure incurred by the assessee, disallowance u/s 14A can be made on reasonable basis.

[2013-TIOL-377-ITAT-MUM](#)

DCIT Vs M/s Kemper Holding Pvt Ltd (Dated: April 26, 2013)

Income Tax - Sections 2(47), 48 - "conversion of share warrants" - Whether conversion of warrants into shares by paying the remaining 90% amount is neither an extinguishment nor relinquishment of any rights in the assets - Whether the conversion of warrants into equity shares upon exercising of options embedded in such warrants, is in the nature of transfer of warrant to any other person or an investment - Whether capital gain based on the market value of equity shares can arise on mere conversion of share warrants into such equity shares - Whether section 48 can be applied to conversion of such warrants into equity shares.

[2013-TIOL-376-ITAT-MUM](#)

JCIT Vs M/s Laffans Petrochemicals Ltd (Dated: April 26, 2013)

Income Tax - Sections 36(1)(iii), 43 - Whether interest-bearing funds were used for making investments or interest free funds were available at the time of making investments is a pure question of facts, which cannot be analysed by taking into consideration the day-to-day cash flow statement - Whether it is incumbent upon the assessee to establish its claim that the entire profit of the current year was deposited in the same cash credit account with the same bank and investments as well business expenditure were incurred from out of the same account

[2013-TIOL-375-ITAT-MUM](#)

Mafatlal Fabrics Pvt Ltd Vs ACIT (Dated: March 22, 2013)

Income Tax – Sections 14A, 40(a)(ia), 143(3), Rule 8D - Whether when an assessee receives dividend income during the course of its business operations, the expenditure can be incurred in relation to, be straightaway disallowed by the AO without going into the merit of the case – Whether just because the transactions are few in number, it is a valid and just reason to prove that the acquisition is of a capital asset only – Whether even a single transaction can be a transaction in the nature of a normal trade.

[2013-TIOL-374-ITAT-MUM](#)

M/s Bharti Airtel Ltd Vs ACIT (Dated: April 19, 2013)

Income Tax - Sections 133A, 194C, 194J, 201(1A) - "margin money", "Sim-cards", "commission", "distributors" - Whether margin money allowed by a telecom operator to its distributors is discount in relation to the sale of Sim cards and recharge coupons to the distributors and not commission - Whether mere supply of Sim cards to the distributors can be considered as transfer of property in the Sim cards to the distributors - Whether by merely selling the Sim cards to the distributors, the telecom operator is transferring the right to use the air time captured in Sim cards to such distributors - Whether the distributor, who is responsible under the distribution agreement for enrollment of subscribers with proper verification and documentation, plays the role of a middle men between the telecom operator and the customer - Whether it is the telecom operator, who is accountable to the subscribers for rendering prompt services, whereas the distributor only acts as an agent of the operator - Whether CIT(A)'s remand order can be set aside, when pursuant to such order, a fresh assessment has already been framed by the AO - Whether payments made towards clerical work outsourced from a sister concern, warrants deduction of TDS as per section 194J.

[2013-TIOL-373-ITAT-COCHIN](#)

Upasco (India) Pvt Ltd Vs ITO (Dated: March 22, 2013)

Income Tax - Sections 5(2), 40(a)(i), 40A(3), 68, 139(4), 143(3), 147, 148, 195, 271(1)(c) - Transportation overseas charges - SBT Packing credit - cash credit - non-existent liability - Whether when the assessee had not declared the claim of commission expense in the export documents filed before the Customs Department, it can be presumed that assessee has failed to substantiate its claim of payment of commission with adequate evidences - Whether for the purpose of disclosure in Balance sheet, assessee has to club the balance of a saving bank account and a packing credit account - Whether in order to make addition u/s 68, an assessee is required to prove the identity of the creditor, the credit worthiness of the creditor and the genuineness of the transaction - Whether penalty for concealment u/s 271(1)(c), can be raised in respect of matter which has been referred back to the AO for further consideration - Whether penalty for concealment u/s 271(1)(c), can be raised merely on the basis of technical grounds - Whether an addition made in the assessment proceeding would not automatically give rise to penalty and the scope of penalty has to be examined afresh during the course of penalty proceedings - Whether the addition made in the quantum proceedings would automatically give rise to penalty.

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| 2013-TIOL-372-ITAT -DEL |
| ITO Vs M/s KJH Financial Services (P) Ltd (Dated: April 30, 2013) |
| Income Tax - Sections 40(a)(ia), 194H - Securities Contracts (Regulation) Act, 1956 - Whether TDS u/s 194H needs to be deducted on the commission or brokerage payable on distribution of mutual funds. |
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| 2013-TIOL-371-ITAT -MUM |
| M/s Trinetrans Consultants Pvt Ltd Vs DCIT (Dated: April 5, 2013) |
| Income Tax – Sections 10(38), 143(3), CBDT circular no.4 of 2007 - Whether the parameters like volume, frequency, continuity, holding period, intention of the assessee and treatment given in books, though are relevant for judging a share related transaction - Whether the same can be used for judging the nature of the transaction – Whether they can be used as an all embracing formula to judge share dealing transactions – Whether when transactions undertaken by assessee are delivery based and it has not undertaken any speculative or derivative trading of shares, it can be said that the assessee was engaged in share dealing business – Whether a remark in auditor's report can be held as a conclusive proof for drawing adverse opinion against the assessee, when the same was repeated in the earlier year's auditor report also. |
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| 2013-TIOL-370-ITAT -PUNE |
| ACIT Vs OM Rolling Mills Pvt Ltd (Dated: February 28, 2013) |
| Income Tax - Sections 132, 132(4), 143(3), 271(1)(c) - Whether when CIT has estimated suppressed sale and gross profit during the course of survey, penalty for concealment is possible on the basis of such income alone. |
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| 2013-TIOL-369-ITAT -PUNE |
| R R Builders Pvt Ltd Vs ACIT (Dated: February 28, 2013) |
| Income Tax - Sections 44AB, 132, 133A, 142(1), 271B, 273B - tax audit - penalty - search - Whether penalty u/s 271B is not warranted even if there was a delay in obtaining the auditor's report, which was due to a change of the auditor and consequent delay in getting NOC from the previous auditor - Whether delay on the part of the assessee due to court litigation can be accepted as a valid reason for not imposing penalty u/s 271B. |

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| 2013-TIOL-368-ITAT-MUM |
| M/s Windermere Properties Pvt Ltd Vs DCIT (Dated: March 22, 2013) |
| Income Tax – Sections 2(28A), 24(b) - prepayment charges - Whether it can be said that the foreclosure charges paid for early repayment of a housing loan are directly linked to bank loan availed for acquisition of the property - Whether such foreclosure charges are covered under the definition of Interest u/s 24(b) of the Act. |
| Also see analysis of the Order |
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| 2013-TIOL-367-ITAT-RAJKOT |
| ITO Vs M/s Wockhardt Hospital Ltd (Dated: April 12, 2013) |
| Income Tax - Sections 194C, 194J, 201(1) & (1A) - Whether services of repair and maintenance rendered on works contract basis is in the nature of technical services, merely because the same was rendered by technically qualified personnel - Whether services rendered of such nature warrants deduction of TDS u/s 194J. |
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| 2013-TIOL-366-ITAT-MUM |
| ITO Vs M/s Virbac Animal Health India Pvt Ltd (Dated: April 3, 2013) |
| Income Tax - Sections 32(1)(ii), 240 - depreciation - goodwill - money transfer services - distribution network - Whether depreciation can be allowed on goodwill in every case - Whether distribution rights are eligible for depreciation being an intangible asset eligible for depreciation - Whether the diminution in value of the asset is a relevant factor for allowing depreciation u/s 32 - Whether deduction under the Act can be claimed in respect of provision created for expected sales return, although the same was not claimed in the return of income. |
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| 2013-TIOL-365-ITAT-MUM |
| Tata Communications Ltd Vs ACIT (Dated: April 17, 2013) |
| Income tax - Sections 32, 80(IA) - Whether the assessee is entitled for deduction u/s 80IA as per the amended provisions of Act that digital data transmission is entitled for deduction - Whether the expenses for which liability is crystallized during the year under considered cannot be disallowed as prior period expenses - Whether the assessee is entitled to depreciation in respect of undersea flag cable on the value of indefeasible rights as the beneficial owner is entitled to depreciation notwithstanding the absence of legal title. |

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| 2013-TIOL-364-ITAT-MUM |
| M/s Tata Chemicals Ltd Vs DCIT (Dated: April 26, 2013) |
| Income Tax - Sections 37, 43B - Whether an expense, which is crystallized, however accrued in previous year, can be disallowed merely because the assessee is following mercantile system of accounting - Whether amount belonging to Govt. exchequer can be allowed on accrual basis. |
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| 2013-TIOL-363-ITAT-DEL |
| ITO Vs Shri Satya Parkash Aggarwal & Sons (Huf) (Dated: February 15, 2013) |
| Income Tax - Sections 147, 148 - Whether reopening of assessment on the basis of audit objection is valid. |
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| 2013-TIOL-362-ITAT-MUM |
| DCIT Vs Kotak Mahindra Investment Ltd (Dated: May 3, 2013) |
| Income Tax - Sections 37, 145 - "derivative contracts", "mark to market loss", "contingent contracts" "Notes to Accounts" - Whether an assessee trading in derivative contracts can treat the same as regular stock in trade - Whether the normal rule of valuation of stock -in-trade that they are valued at cost or market price whichever is less at the end of the year can be applied to derivative contracts - Whether the ordinary principle of commercial accounting requires that while anticipated loss is taken into account, anticipated profit in the shape of appreciated value of the closing stock is not brought into account - Whether "mark to market loss" arising on such contracts can be allowed, even though when there is no actual loss - Whether derivative contracts are not purely contingent in nature rather loss or profit is somewhat ascertainable in view of constant watch on daily market value. |
| Also see analysis of the Order |
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| 2013-TIOL-361-ITAT-MUM |
| ACIT Vs Shri Ranjitsingh D Bindra (Dated: March 13, 2013) |

Income tax - Sections 133(6), 143(3), 153A - Whether when the assessee has proved that the transaction of sale and purchase of shares and the assessing officer could not bring on record any evidence that the shares were purchased as penny stocks, such transaction can still be treated as bogus transaction.

[2013-TIOL-360-ITAT-MUM](#)

M/s R W Promotions Pvt Ltd Vs ACIT (Dated: January 16, 2013)

Income Tax - Sections 37, 143(3), 147 - Whether reassessment proceedings can be annulled merely because the AO supplied only the gist of the reasons recorded - Whether reassessment order has to be framed after expiry of four weeks from the date when the order rejecting the objections has been passed - Whether condition prescribed in proviso to section 147 are applicable only when four years have expired - Whether test of genuineness and purpose of an expense plays important role - Whether cases where this test is not satisfied by the assessee the expenses are liable to disallowance, *de hors* of the statutory compliance such as payment of service tax and deduction of TDS and non grant of opportunity to cross examine the provider of bogus bills.

[2013-TIOL-359-ITAT-MUM](#)

M/s R R Hosiery Vs ACIT (Dated: December 14, 2012)

Income Tax - Sections 10(38), 54D, 271(1)(c) - Whether penalty u/s 271(1)(c) can be imposed in respect of claim of exemption u/s 10(38) when none of the two conditions stipulated u/s 10(38) were satisfied in the case of the assessee.

[2013-TIOL-358-ITAT-MUM](#)

ITO Vs Pursarth Trading Co Pvt Ltd (Dated: December 18, 2012)

Income Tax - Sections 50, 72(1), 73 - Whether brought forward business loss can be set off against capital gain that has arisen to the assessee on account of sale of its premises and computed u/s 50 - Whether explanation to Section 73 is applicable when the short term capital gain computed u/s 50 is held as capital gain of the assessee and admittedly, the income of the assessee from capital gain and house property is more than the share loss computed by the AO.

[2013-TIOL-357-ITAT-MUM](#)

Ratanchand J Oswal Vs DCIT (Dated: March 28, 2013)

Income Tax - Sections 45, 133A - Whether the Revenue is justified in treating the LTCG and the STCG as 'income from other sources when the admission was not retracted at any stage; rather, duly honoured by filing 'revised returns', admitting the said income as income from other sources paying full tax thereon - Whether the Revenue is justified in treating share transactions carried out through other brokers as business income when it was a clear case of systematic activity being perused with a profit motive, deploying capital and bearing the concomitant risk.

[2013-TIOL-356-ITAT-AHM](#)

DCIT Vs M/s KECL Radhe Joint Venture (Dated: March 15, 2013)

Income Tax - Sections 40A(3), 43B - Whether the CIT(A) is justified in deleting the disallowance out of the labour expenses when the A.O. had not pointed out any specific defect in the books of account, dis-respecting audit report before disallowing the labour expenses - Whether the CIT(A) is justified in granting the relief on account of disallowance u/s. 43B when the CIT(A) has verified all the accounts and finally he determined the total unpaid tax liability u/s. 43B.

[2013-TIOL-355-ITAT-KOL](#)

M/s IFB Agro Industries Ltd Vs JCIT (Dated: March 12, 2013)

Income Tax - Sections 2(22)(e), 14A, 36(1)(vi), 43B, 269T, 269SS, rule 8D - Interest Tax Act, 1974 - Section 2(7) - Inter-corporate Deposit - deemed dividend - foreign exchange fluctuations - advance - bad debts - Whether inter corporate deposits can be treated as 'loans' or 'advance' in context of the provisions of section 2(22)(e) - Whether in order to attract disallowance u/s 14A, there must be a proximate relationship between the expenditure and the income which does not form part of the total income - Whether the loss arised on account of foreign exchange fluctuation on working capital loan can be allowed as a revenue expenditure - Whether a bad debt claim is a business loss having direct nexus with the dealings of the business - Whether such claim can be disallowed even if the assessee has in an earlier year shown the same as income.

[2013-TIOL-354-ITAT-MUM](#)

ACIT Vs Smt Datta Mahendra Shah (Dated: February 27, 2013)

Income Tax - Section 45(2) - Securities Transaction Tax - shares - Whether when income from capital gains is considered as business income by the AO, allowance for fall in market value of shares and claim of S.T.T paid is justified as deduction - Whether mere volume of transaction can be considered as a sole criteria for deciding the nature of taxability in case of share dealing - Whether when motive of the transaction of sale and purchase was not to realize the profit at the earliest possible occasion but to retain share for appreciation of the value, it can still be held that the transactions are made as a regular business transaction.

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| 2013-TIOL-353-ITAT -DEL |
| ACIT Vs Shri Darwan Singh Parihar (Dated: April 12, 2013) |
| Income Tax - Sections 40(a)(ia), 44AE(7), 194C, CBDT Circular No. 681 of 1994 - Whether in order to apply provisions of section 194C, there should be a written or oral contract between any person responsible for paying any sum to any resident and the recipient of the said sum - Whether section 194C apply to the Transport Contracts for mere carrying of goods without loading and unloading. |
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| 2013-TIOL-352-ITAT -MAD |
| M/s Ceebros Hotels Pvt Ltd Vs ACIT (Dated: March 8, 2013) |
| Income Tax - Sections 14A, 37, 80IA, Rule 8D - Whether the expenditure incurred by the assessee for repairs and replacements are revenue in nature - Whether the CIT (A) is justified in following the decision of the HC in the case of Velayudaswamy Spinning Mills and directing the AO to allow deduction u/s 80IA with certain directions to the AO regarding unabsorbed depreciation and loss. |
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| 2013-TIOL-351-ITAT -DEL |
| Whirlpool of India Ltd Vs ACIT (Dated: April 12, 2013) |
| Income Tax - valuation of stock - AS 2 issued by ICAI - Whether when there is a bona fide change in the method of accounting which is consistently followed by an assessee, no adverse inference can be drawn against the assessee - Whether an assessee is allowed to change its method of stock valuation voluntarily, even if it has resulted in excessive losses - Whether the guidelines issued by ICAI can override the provisions of Income Tax Act, 1961. |
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| 2013-TIOL-350-ITAT -DEL |
| ACIT Vs Jag Mohan Khanna (Dated: April 26, 2013) |
| Income Tax - Sections 2(47), 54F - Whether deduction on capital gains u/s 54F can be claimed, once the assessee has admittedly paid the entire consideration under the Apartment Buyer's Agreement for the purchase of the residential premises, even before the capital gain accrued to him - Whether the expression "purchase" used in section 54F means both ownership and possession - Whether section 54F being a beneficial section, benefits available under this section cannot be denied, merely because the legal ownership has not been vested with the assessee - Whether the word 'purchase' in Section 54F must be given its common meaning as buying for a price or payment - Whether obtaining occupation certificate, registration of the deed etc., |

which are necessary conditions for acquiring legal ownership under the respective Housing Schemes are not a pre-requisite for claiming deduction u/s 54F.

[2013-TIOL-349-ITAT-DEL](#)

M/s Filatex India Ltd Vs DCIT (Dated: February 15, 2013)

Income Tax - Sections 32, 37(1), 43(1) & (6), 43A - Central Excise Settlement Commission - yarn - foreign exchange fluctuation loss - written down value - depreciation - Whether addition in income, on disclosure made regarding suppressed sales by assessee itself, can be made under the Income Tax Act, on the basis of search conducted by Excise Department - Whether before amendment in section 43A, it was allowed to add any loss arising on account of foreign fluctuation to the cost of assets in the year of such fluctuation - Whether the amendment to section 43A is prospective in nature.

[2013-TIOL-348-ITAT-DEL](#)

DCIT Vs M/s Essix Biosciences Ltd (Dated: April 12, 2013)

Income Tax - Sections 10(38), 14A, rule 8D, CBDT Circular No. 4 of 2007 - experimental development - natural sciences - interest - tax-free income - Whether when the number of transactions entered into for dealing in shares is neither large enough nor frequent, it can be held that there has been any intention on part of the of assessee to indulge into business of trading in shares - Whether it is relevant to see the intention of assessee at the time of making of investment so as to determine whether the transactions is for dealing in shares or making investment for earning dividend and appreciation from such investments - Whether disallowance u/s 14A can be made on a reasonable basis in case rule 8D is not into existence.

[2013-TIOL-347-ITAT-DEL](#)

DCIT Vs M/s DLF Universal Ltd (Dated: March 8, 2013)

Income Tax - Sections 36(1)(vii), 37, 41(1) - marketing survey - Whether when a bad debt claim has been allowed in an earlier year, recovery in respect thereof can be assessed to tax in the year of recovery - Whether in case the claim of maintenance charges as bad debt was disallowed and on recovery it is treated as income, would it amounts to double taxation - Whether the nature of receipt of enhanced compensation can be different from that of the original compensation received - Whether expenditure incurred by a subsidiary company in an earlier year in respect of a new project, can be claimed as bad debt - Whether an amount which was not reflected as income in the P&L account, the same can be claimed by the assessee as a bad debt.

[2013-TIOL-346-ITAT-DEL](#)

Late Shri Sudhir Jain Vs ACIT (Dated: April 30, 2013)

Income Tax - Sections 132(4), 263, 264, 271(1)(C), 271AAA - Whether when Department has taken a view that surrendered income belongs to the members individually and not to AOP, can a different view be taken in the case of AOP by taking the same amount again on the ground that the assessee himself had originally filed the return in the hands of AOP - Whether penalty u/s 271(1)(C) is warranted, when the assessee has disclosed on affidavit the undisclosed income and the manner it was earned during a search operation u/s 132.

[Also see analysis of the Order](#)

[2013-TIOL-345-ITAT-PUNE](#)

ACIT Vs Ajeet Seeds Ltd (Dated: March 22, 2013)

Income Tax - Sections 2(1A), 37, 40A(2)(b), Circular No 6P of 1968 - Whether provisions of section 40A(2)(b) are required to be invoked in a judicious manner, *de hors* of the agreement of the assessee to the addition - Whether these provisions are invokable where there is no tax evasion - Whether addition agreed under misconception of law are tenable - Whether there is estoppel against statute - Whether expenses incurred on live stock is allowable if the income earned from the selling of milk is taxed, whether income earned from the cultivation of foundation seeds or hybrid seeds on assessee's own land or on the lands taken on lease is agriculture income.

[2013-TIOL-344-ITAT-PUNE](#)

Harish Kawadmal Bajaj Vs ITO (Dated: January 11, 2013)

Income Tax - Sections 68, 131- Whether certain impugned deposits received by the assessee though relating to previous years can be added in the year under consideration u/s 68 of the Act - Whether a remedy available to the Department in the preceding years cannot be made a ground to make an addition in the present assessment year - Whether the assessee can be considered to have discharged its onus of proof with respect to the loan amount, when the assessee has produced the loan creditors before the AO along with their bank statements - Whether once the AO in the remand report has accepted the credit as genuine, the CIT(A) should have accepted the same - Whether as per section 68, the onus is on the assessee to prove the identity, credit worthiness of the creditor and genuineness of the transaction and the same cannot be extended to prove the source of the creditors to the hilt - Whether when the genuineness of the credit is doubtful, can it be added only in the year of receipt but certainly not during this year.

[2013-TIOL-343-ITAT-INDORE](#)

ACIT Vs M/s S K Jain (Dated: March 22, 2013)

Income tax - Sections 153A, 271(1)(c) - Whether when estimated addition is confirmed by ITAT but no incriminating evidence was found/seized either in kind or in coin to substantiate that the income assessed and ultimately sustained on estimations, was, the concealed income earned by the assessee, penalty u/s 271(1)(c) is not sustainable.

[2013-TIOL-342-ITAT-PUNE](#)

M/s Varun Developers Vs DCIT (Dated: March 22, 2013)

Income tax - Section 80IB(10) - Whether the assessee is entitled to deduction u/s 80IB(10) in respect of completed project which fulfills all the conditions stipulated in section 80IB and it cannot be rejected in view of the fact that one part of the project could not be completed for which no deduction was claimed by the assessee.

[2013-TIOL-341-ITAT-MUM](#)

Dufon Laboratories Pvt Ltd Vs ACIT (Dated: March 15, 2013)

Income Tax - Sections 14A, 37(1) - Whether assessee can claim educational expenses of its Director u/s 37(1).

[2013-TIOL-340-ITAT-DEL](#)

ITO Vs M/s Equinox Hospitality Pvt Ltd (Dated: April 5, 2013)

Income Tax - Whether the CIT(A) is justified in deleting the disallowance when in the Remand Report the AO has accepted the veracity in the submissions of the assessee.

[2013-TIOL-339-ITAT-PUNE](#)

Nashik Capital Financial Services Pvt Ltd Vs DCIT (Dated: March 28, 2013)

Income Tax - Section 73 - Whether the CIT(A) is not justified in confirming the orders of the AO which were based on assumption about the reconstruction of profit and loss account by allocation of explanation on prorata basis for the normal business and speculation business, whereas books of accounts were audited.

[2013-TIOL-338-ITAT-AHM](#)

ITO Vs M/s Swastik Engineering Stores (Dated: February 15, 2013)

Income Tax - Sections 143(3), 145(3) - Whether the CIT(A) has erred in deleting the addition made by the A.O. on account of unexplained investment in stock when the observation of the CIT (A) that the declaration of higher stock to bank was out of business expediency was not supported by any material on record.

[2013-TIOL-337-ITAT-DEL](#)

DCIT Vs Haldiram Products Pvt Ltd (Dated: February 2, 2013)

Income Tax - Section 14A - Revenue or Capital Expenditure - Whether one time conversion charges paid by assessee to municipal authorities for converting industrial unit into commercial, are to be treated as revenue in nature.

[Also see analysis of the Order](#)

[2013-TIOL-336-ITAT-DEL](#)

DCIT Vs Anjala Exhibitors Pvt Ltd (Dated: April 26, 2013)

Income Tax - Sections 147, 148 - Whether AO is justified in initiating proceeding u/s section 147 regarding claim of the assessee in respect of deduction as per section 24 when the original assessment proceedings have been completed u/s 143(3) by making detailed query regarding the claim of the assessee.

[2013-TIOL-335-ITAT-AHM](#)

Om Finance Vs DCIT (Dated: April 4, 2013)

Income Tax - Sections 41(1), 143(3), 250 - Whether when assessee has transferred the money taken on interest from its sister concern in P&L account, and the sister concern has dissolved without receiving either the interest or principal sum nor has it demanded from the assessee, such sum warrants addition u/s 41(1) in the hand of the assessee - Whether the nature of receipt, which was capital in the beginning, can

undergo a change with influx of time and the same can become revenue receipt.

[Also see analysis of the Order](#)

[2013-TIOL-334-ITAT-AHM](#)

Niya Finstock Pvt Ltd Vs CIT (Dated: March 8, 2013)

Income Tax - Sections 36(1)(iii), 37, 143(3), 263 - Indian Evidence Act - Section 114 - revisionary order - sick - erroneous - prejudicial - Whether when assessee had valid reason to waive off the interest income due from an outsider, the same can be included as income of the assessee.

[2013-TIOL-333-ITAT-AHM](#)

Nirma Ltd Vs JCIT (Dated: February 28, 2013)

Income Tax - Sections 80I, 80HHC - Whether, while disallowing interest income from the purview of business profits for the purpose of deduction of section 80-I and 80HHC netting of interest is permissible - Whether netting of rental income while excluding the same from the ambit of eligible income is permissible - Whether disallowance of interest, attributable to borrowed funds, is permissible merely because the same were utilized for meeting the advance tax liability ignoring that on the date of borrowing the assessee was possessing own funds - Whether miscellaneous income is available for deduction of 80HHC - Whether deduction u/s section 80 I is allowable on gross profit and that too without deducting the eligible deductions.

[2013-TIOL-332-ITAT-KOL](#)

Nila Bagchi Vs DCIT (Dated: February 15, 2013)

Income Tax - Section 271(1)(c) - Whether penalty can be imposed when the AO has not brought out any reason to prove how a sum was concealed income whereas the identity of the creditors, creditworthiness and genuineness of transaction was proved - Whether the penalty can be sustained when the explanation was not held to be false.

[2013-TIOL-331-ITAT-MUM](#)

Addl.CIT Vs Nicholas Piramal India Ltd (Dated: March 15, 2013)

Income Tax - Sections 14A, 34, 36(1)(iii), 37(1), 43(1), 115JA, - Whether payments made under the Voluntary Retirement Scheme amounts to an expenditure giving rise to an asset yielding enduring benefits - Whether such expenditure should be allowed in its entirety in the year in which it was incurred and the same could not be spread over a number of years - Whether payments made towards gratuity benefits is a capital expenditure - Whether a new division spun off as a separate company can be considered as part of the existing business, if the control and management remains the same - Whether interest paid on loan for investment in such new division till the date of commencement of production can be claimed as business expenses u/s 36(1)(iii) - Whether expenses incurred on closure of one of the units of the business and payments made to the residuary staffs cannot be allowed as business expenses, although the business is continued from some other location - Whether when the entire investment in shares, mutual funds and tax free bonds is made out of own funds in the form of fresh share capital issued at premium, on which no interest was payable, the interest paid on borrowed funds can be disallowed invoking section 14A - Whether debenture redemption reserve debited to the P&L account to create a provision for ascertained liability, is deductible while computing the book profit u/s 115JA - Whether expenses once ascertained of revenue nature and debited to the P/L account cannot be later added back for computing book profit u/s 115JA on any new ground cited by the AO - Whether community expenditure has any nexus with business for being eligible as deduction u/s 37(1).

[2013-TIOL-330-ITAT-BANG](#)

Mubarak Hussain Motin Khan Vs ITO (Dated: January 17, 2013)

Income Tax - Section 40(A)(3) - Whether the AO is justified in invoking the provisions of section 40(A)(3) and disallowing the cash payment made to the railway department.

[2013-TIOL-329-ITAT-AHM](#)

ACIT Vs M/s Ishan Dyes & Chemicals Ltd (Dated: January 4, 2013)

Income Tax - Sections 40(a)(ia), 145(3) - Whether AO can make addition by applying GP rate without rejecting the books or even findign any instance of bogus expenditure - Whether the expenditure on which TDS is deducted and paid after the due date but deposited before filing of return calls for disallowance in view of the provisions of Sec. 40(a)(ia).

[2013-TIOL-328-ITAT-HYD](#)

Smt Pushpa Devi Tirbrewala Vs ITO (Dated: March 22, 2013)

Income Tax - Sec 54F, Circular No 667 of 1993 - Whether when assessee invests in purchase of land, which is transferred to a builder for construction of flats on sharing basis, assessee continues to be eligible for Sec 54 benefits.

[Also see analysis of the Order](#)

[2013-TIOL-327-ITAT-BANG](#)

M/s Mangalore Electricity Supply Company Ltd Vs DCIT (Dated: October 31, 2012)

Income Tax - Section 80IA - Whether deduction under section 80-IA(4)(iv)(c) is allowable on proposed investment in plant and Machinery or the same is allowable only on actual investment - Whether in the absence of any evidence which could prove that the assessee had set-up a new line for distribution of electricity benefits of proviso to section 80-IA (3) can be given.

[2013-TIOL-326-ITAT-MAD](#)

ACIT Vs M/S Manatech Electronics Pvt Ltd (Dated: January 28, 2013)

Income Tax - Sections 35(1)(i), 80IB - Whether to claim deduction u/s 80IB(4) the undertaking needs to be SSI even if an industrial undertaking was established in an industrially backward area as specified in the Eighth Schedule - Whether the assessee is eligible for deduction u/s 35(1)(i) when the assessee has incurred expenditure on the research and development activity in relation to its own business and produced DISR Letter in support.

[2013-TIOL-325-ITAT-AHM](#)

ACIT Vs Gujarat Alkalies & Chemicals Ltd (Dated: March 5, 2013)

Income Tax - Section 37(1) - Whether expenses, which are incurred for borrowing funds which are utilized for restructuring the corporate entity are revenue in nature as the same are going to reduce the liabilities of the corporate entity, however the same are allowable on proportionate basis - Whether a liability which is written off in subsequent year deserves reversal if the same is disallowed in the year of incurring.

[2013-TIOL-324-ITAT-MUM](#)

ACIT Vs M/s Allied Instrument Pvt Ltd (Dated: April 19, 2013)

Income Tax - Sections 14A, 40(a)(ia), 143(1), 143(2), 194C - contract - packaging - Whether when an assessee has not provided any raw material to the producer, it can be said that the transaction of sale is on principal to principal basis - Whether a taxable income has to be proportionate to the expenditure - Whether oral contracts are valid in law.

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| 2013-TIOL-323-ITAT-CHD |
| Aarti International Ltd Vs CIT (Dated: March 7, 2013) |
| Income tax - Sections 14A, 36(1)(iii), 263, Rule 8D - Whether when the AO has applied his mind on the issue on the basis of which jurisdiction is invoked u/s 263 and further the jurisdiction is assumed merely on the basis of audit objections, the proceedings initiated u/s 263 are still valid. |
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| 2013-TIOL-322-ITAT-AHM |
| ACIT Vs M/s 20 Micron Ltd (Dated: April 26, 2013) |
| Income tax - Section 37 - Revenue or Capital Expenditure - Whether the expenditure claimed for diminution of value of raw material on account of deterioration of the material and the same was valued as per accounting standard at cost price or net realizable value whichever is less, the same has to be allowed - Whether the expenditure incurred for repair of asset due to which no new asset has come into existence, is revenue in nature - Whether the assessee is allowed claim in respect of stock which was damaged and lying at the customers place and written off in the books of account as expenditure. |
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| 2013-TIOL-321-ITAT-MUM |
| M/s Maharashtra Airport Development Company Ltd Vs DCIT (Dated: March 15, 2013) |
| Income tax – Sections 37, 57, 148 – Change of opinion - Whether the reopening of assessment merely on change of opinion that the expenditure are not allowable as business did not commence, is invalid – Whether appointment of consultants for various works would mean as setting up of business though necessary reports are yet to be received by the assessee – Whether the interest income earned on investing surplus money for a short period is assessable under the head income from other sources and not under the head business income. |
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| 2013-TIOL-320-ITAT-DEL |

DCIT Vs Lifetree Cyberworks Pvt Ltd (Dated: April 5, 2013)

Income Tax – Section 37 - Whether in case assessee has not acquired any capital asset or any benefit of enduring nature by incurring a certain amount, the said payment can be disallowed on the ground that these it is capital in nature - Whether when an issue has been elaborately considered by first appellate authority, can it be contested again, on the same issue, before Tribunal.

[2013-TIOL-319-ITAT-MUM](#)

M/s Larsen & Toubro Ltd Vs JCIT (Dated: May 1, 2013)

Income tax – Sections 32, 37(2), 40A(3), 145 - Whether telephone expense incurred at guest house are not allowable– Whether community welfare and rural development expenses are also business expenditure– Whether modvat credit on valuation of closing stock is to be added – Whether in the absence of proper details commission expenses are disallowable – Whether expenses incurred prior to setting up of business are not allowable as expenditure– Whether assessee is entitled to depreciation in respect of assets given on lease – Whether depreciation is allowable in respect of capitalized expenditure on account of exchange loss – Whether the conference expenses incurred by assessee are correctly treated as entertainment expenses as disallowed u/s 37(2) of the Act.

[2013-TIOL-318-ITAT-HYD](#)

M/s Dhatri Constructions Pvt Ltd Vs DCIT (Dated: March 15, 2013)

Income Tax - Sections 37(1) 40A(3), 153A - Whether disallowance of part expenses is justified where some expenses are not properly vouchered - Whether an appeal is maintainable before CIT(A) where there is request of adjustment of cash seized with the tax - Whether under the new provisions of assessment relating to search and seizure any addition can be made in the value of the land, sold via registered sale deed, in absence of any incriminating document - Whether any disallowance of 40A(3) is permissible if the payments are made in such areas where there is no Banking Facility.

[2013-TIOL-317-ITAT-MUM](#)

Blend Financial Services Pvt Ltd Vs ACIT (Dated: April 19, 2013)

Income Tax - Section 37(1) - Whether making of payments by cheque and deduction of TDS is enough for claiming deduction of an expense, or it is incumbent upon the assessee to prove that the expense in question is incurred for the purpose of business.

[2013-TIOL-316-ITAT-MUM](#)

Mrs Amisha B Koradia Vs ITO (Dated: April 19, 2013)

Income Tax - Section 2(22)(e) - Whether the loan can be treated as deemed dividend u/s 2(22)(e) when the Assessee was engaged in the business of construction and dealing in properties and the purpose of advancing money to the assessee, as per the record of the company was for purchase of property - Whether the AO was justified in assessing the interest income received from the firm as income from other sources.

[2013-TIOL-315-ITAT-COCHIN](#)

Goutham Reddy Vs ITO (Dated: April 5, 2013)

Income Tax – Section 80C – Whether Sec 80C benefits can be availed even if insurance premium is paid by a relative on behalf of the beneficiary - Whether the provisions of present Section 80C are different from the earlier provisions where the Section had specified that the deduction was available only if the payment was made out of the income chargeable to tax.

[Also see analysis of the Order](#)

[2013-TIOL-314-ITAT-AHM](#)

ACIT Vs M/s J S Diamond (Dated: February 22, 2013)

Income Tax - Section 145(3) - Whether the AO is justified in rejecting the books u/s 145(3) and making addition when the A.O. had not pointed out any specific defect in the books of account, except not maintaining qualitative stock and increasing outstanding labour charges liability.

[2013-TIOL-313-ITAT-MUM](#)

ACIT Vs M/s Johnson & Johnson Ltd (Dated: January 18, 201)

Income Tax - Section 40A(3) - Whether adjustment in the sale price is required if the same is made to subsidiary and that too at a price lower than the market price - Whether in the absence of the correct quantification of adjustment the matter requires fresh consideration.

[2013-TIOL-312-ITAT-RAJKOT](#)

ITO Vs M/S Ruchi Builders & Developers (Dated: February 8, 2013)

Income Tax - Sections 44AB, 144, 147, 148 - Whether reopening of the assessment after 4 years is justified when the assessee has disclosed complete particulars regarding project advances in the Balance Sheet, which was the basis of reopening.

[2013-TIOL-311-ITAT-MUM](#)

ADIT Vs Sterlite Foundation (Dated: March 13, 2013)

Income Tax - Sections 11(1)(d), 35AC, 80G, 143(3), CBDT circular No 1132 of 1978 - Whether in case an assessee has not diverted funds from specified funds under Sec 35AC for projects towards non specified projects, it can still be considered to be engaged in non-charitable activities - Whether depreciation can be allowed in respect of those capital assets of a trust, on which depreciation has been availed for the entire cost - Whether in case a charitable trust grants donation to another trust, which had utilized the same for charitable activities, exemption of such donation can be denied to the donor trust - Whether the certificate u/s 80G is a litmus test for grant of exemption u/s 11.

[2013-TIOL-310-ITAT-AMRITSAR](#)

M/s TRG Industries Pvt Ltd Vs DCIT (Dated: March 19, 2013)

Income tax - Sections 36(1)(vii), 80(IA) - Whether the assessee is entitled to deduction u/s 80(IA) for only developing a part of the airport and not operating and maintaining the same as these are not the cumulative conditions to be fulfilled - Whether the unutilized quota for export of goods is allowable as revenue loss or capital loss - Whether the advances given to staff and to suppliers remained unrecovered written off are allowable as revenue expenditure.

[Also see analysis of the Order](#)

[2013-TIOL-309-ITAT-DEL](#)

ACIT Vs Hughes Software Systems Ltd (Dated: March 22, 2013)

Income Tax - Sections 9(1)(vii), 192, 194J, 201(1) – Whether the assessee can be treated as “assessee in default” u/s 201(1) in response of non-deduction of tax at source u/s 192 in respect of non-inclusion of performance incentive for the purposes of calculating exemption u/s 10(13A) when no case has been made out by the Revenue to show that the assessee has acted dishonestly and/or in a mala fide manner(2) Non deduction of TDS u/s 194J from the payment made for the use of telecommunication services and band width charges as “fee for technical services” .

[2013-TIOL-308-ITAT-RAJKOT](#)

M/s Newage Hose Mfg Co Vs DCIT (Dated: February 8, 2013)

Income Tax - Section 37 - Whether when all the manufacturing expenses are not verifiable, any addition is warranted in case of a fall in the GP rate - Whether the expenditure of penal interest is allowable u/s 37 .

[2013-TIOL-307-ITAT-MUM](#)

Heaven Ansal Mendes Vs DCIT (Dated: March 13, 2013)

Income Tax - Sections 45, 55A - Whether it will be appropriate to compute capital gain without taking cognizance of the DVO report and BMC just for the reason that the same was going against the revenue .

[2013-TIOL-306-ITAT-BANG](#)

DCIT Vs M/s Healthcare Global Enterprises Ltd (Dated: January 18, 2013)

Income Tax - Section 37 - Whether expenditure can be considered as Revenue Expenditure when there was no finding on the basis of the material available on record that these expenses were revenue expenses - Whether disallowance of interest can be made when the Assessee has demonstrated that borrowed funds on which interest was paid had been used for the purpose of business of the Assessee .

[2013-TIOL-305-ITAT-CHD](#)

ITO Vs M/s Gymkhana Club (Dated: March 15, 2013)

Income Tax - Whether the interest income earned by the assessee on FDRS and also saving account falls within the principles of mutuality, and is thus exigible to income tax in the hands of the assessee .

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| 2013-TIOL-304-ITAT-AHM |
| ACIT Vs Gujarat State Pet Ronet Ltd (Dated: March 8, 2013) |
| Income Tax - Sections 194C, 201(1A) - Whether TDS u/s 194C is required to be deducted on payment in respect of Vehicle hire charges, Connectivity charges and Gas transportation Charges. |
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| 2013-TIOL-303-ITAT-MUM |
| Edwise Consultants Pvt Ltd Vs ACIT (Dated: April 19, 2013) |
| Income tax - Sections 32, 40A(2) - Whether the expenses incurred by assessee towards incentive of huge amounts without mentioning what extra or specialized services were given, the expenses were rightly disallowed as excessive under section 40A(2) of the Act - Whether the assessee is entitled for depreciation in respect of cars used for business purposes but were in the name of the director of the assessee company. |
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| 2013-TIOL-302-ITAT-MUM |
| E-City Entertainment (India) Pvt Ltd Vs ACIT (Dated: March 26, 2013) |
| Income Tax - Section 37 - Whether method of claiming expenses as per capital allocation is a recognized method - Whether interest received from Head office is necessarily capital receipt - Whether expenses which are legitimate and genuine can be disallowed merely because they are termed as prior period expenses. |
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| 2013-TIOL-301-ITAT-DEL |
| ACIT Vs M/s Sovereign Securities Pvt Ltd (Dated: April 5, 2013) |
| Income tax – Sections 73, 143(3), 271(1)(c) – Whether where the assessee has not furnished any inaccurate particulars or concealed any particulars, no penalty can be levied merely as the addition was made on the basis of difference in view. |

[2013-TIOL-300-ITAT-DEL](#)

M/s Barista Coffee Company Ltd Vs DCIT (Dated: January 4, 2013)

Income Tax - Section 271(1)(c) - Whether penalty u/s 271(1)(C) can be imposed merely because the claim of the assessee related to project report u/s 35D was not accepted.

[2013-TIOL-299-ITAT-MAD](#)

M/s Mani & Money Ltd Vs DCIT (Dated: February 14, 2013)

Income Tax - Sections 132(3), 158BC, 158BE - Whether a prohibitory order as prescribed in section 132(3) of the Act has to be vacated before the expiry of sixty days from the date of authorization of search - Whether delay in removal/lifting of prohibitory order amounts to harassment - Whether period of limitation for framing block assessment is to be reckoned from the date of last panchnama - Whether a panchnama drawn without any seizure is not a valid panchnama and hence the same is to be ignored for the purpose of limitation.

[2013-TIOL-298-ITAT-KOL](#)

ITO Vs M/s MGB Transport (Dated: March 15, 2013)

Income Tax - Section 40(a)(ia) - Whether the law stipulates the existence of a written contract as a condition precedent for invoking the provisions of section 194C with respect to payment of TDS.

[2013-TIOL-297-ITAT-MUM](#)

Mr Bony Elies Demello Vs ACIT (Dated: April 5, 2013)

Income Tax - Sections 45, 55A - Whether AO lacks jurisdiction for referring FMV u/s 55A wherein the Valuation determined by the DVO is less than the FMV declared by the assessee.

[2013-TIOL-296-ITAT-MUM](#)

M/s Atlas Documentary Facilitators Co Pvt Ltd Vs DCIT (Dated: January 18, 2013)

Income Tax - Sections 37, 115WC(1) - Whether the diminution in the value of investment can be claimed as revenue expenditure - Whether FBT can be levied on flood relief expenses.

[2013-TIOL-295-ITAT-KOL](#)

Aristocon Engineers Cooperative Society Ltd Vs DCIT (Dated: April 5, 2013)

Income Tax – Sections 40(a)(ia), 80P, 143(3), 194C – civil contractor – Munshis - Whether expenses u/s 40(a)(ia) can be disallowed for non-deduction of TDS u/s 194C, for the payments made to the labourers through the Sardars, by the assessee contractor.

[2013-TIOL-294-ITAT-HYD](#)

M/s Bathina Technologies (India) Ltd Vs ITO (Dated: February 8, 2013)

Income Tax - Section 254 - Power of ITAT - Whether the cause of substantial justice would prevail over technical consideration - Whether delay in filing appeal against CIT(A) order, on the ground of non-service, after six years can be condoned - whether mere filing of an affidavit and medical records are enough.

[2013-TIOL-293-ITAT-PUNE](#)

ITO Vs M/s Chaitanya Builders & Land Developers (Dated: February 28, 2013)

Income Tax – Sections 44AB, 80IB(10) – Floor Space Index – Whether for the purpose of claiming deduction u/s 80IB, there is a stipulation in law that entire Floor space Index has to be utilized for construction purposes.

[2013-TIOL-292-ITAT-AHM](#)

M/s Detibh Indian J V Vs ITO (Dated: February 8, 2013)

Income Tax - Sections 40(a)(ia), 40A(2)(b), 44AB, 145, 194C - joint venture - transfer of profit - member - AOP - sub contract - de novo adjudication - Whether when the nature of payment made by an AOP to its member is not clear, disallowance u/s 40(a)(ia) can be made, even if the said TDS was deposited before the return filing date - Whether in case, an AOP makes payment to its member, it can be considered in the nature of expenditure in the hands of that AOP.

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| 2013-TIOL-291-ITAT -DEL |
| ACIT Vs M/s Hero Management Service Ltd (Dated: March 8, 2013) |
| Income tax - Recruitment and training expenses - call centre - BPO services - Whether the expenses incurred by the assessee on training of its employees, which is utmost necessary for the smooth running of operations of the business, can be considered to be capital in nature. |
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| 2013-TIOL-290-ITAT -HYD |
| ACIT Vs M/s Kiran Constructions (Dated: January 18, 2013) |
| Income Tax - Sections 40(a)(ia), 143(3), 147, 194C, 194I, Circular No. 681 of 1994 - machinery hire - work contract - Whether the hiring of machinery for the purpose of using them in the assessee's business amounts to a contract for carrying out any work as contemplated u/s 194C - Whether mere providing of the machinery without any manpower can be termed as carrying out of any work by the plant and machinery owners - Whether when a contract is for machinery hire and not for carrying out any work, the provision of section 194C get attracted. |
| Also see analysis of the Order |
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| 2013-TIOL-289-ITAT -CUTTACK |
| Ortel Communications Ltd Vs ACIT (Dated: January 24, 201) |
| Income Tax - Sections 194C, 201(1), 201(1A) - assessee in default - broadcasters - TV channel - Whether the payment made to broadcaster falls under the purview of section 194C and the default for such non-deduction would render the assessee in default. |
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| 2013-TIOL-288-ITAT -HYD |
| M/s CTR-Railone-JV Vs ITO (Dated: December 31, 2012) |
| Income Tax - Section 40(a) (ia) - Whether disallowance of expenses on which TDS was deducted but deposited not within the statutory time but before the filing of return, is justified - Whether provisions of Sec 40(a) (ia) are not applicable to the expenses which are already subjected to TDS. |
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[2013-TIOL-287-ITAT-HYD](#)

ACIT Vs M/s Karvy Computershare Pvt Ltd (Dated: March 28, 2013)

Income Tax - Section 40(a)(ia), 194J - Whether the assessee is liable to deduct TDS on payments made to the NSDL/CDSL as Settlement and Custody Fees.

[2013-TIOL-286-ITAT-CUTTACK](#)

ITO Vs M/s Kamala Kanta Engineering & Construction Company (Dated: January 11, 2013)

Income Tax - Sections 40(a)(ia), 40A(3), 143(3), 147, 148, 194C, 263 - reassessment - disallowance - reason to believe - Whether the expenditure incurred on transportation and hire charges can be disallowed in the computation of income, even if the provisions of section 194C are duly complied with - Whether when the reasons for reassessment are duly recorded, the jurisdiction is validly assumed by the Assessing authority and the Court cannot look into the adequacy or sufficiency of reasons.

[2013-TIOL-285-ITAT-PANJI](#)

Sesa Goa Ltd Vs JCIT (Dated: March 8, 2013)

Income Tax - Sections 14A, 37, 40(a)(ia), Rule 8D - Whether for invoking the provisions of section 14A read with rule 8D a proximate connection between the expenditure incurred and income earned is sine-qua-non - Whether burden of proving the proximate nexus between the exempt income and expenditure incurred is on Revenue - Whether any disallowance under section 14A can be made without proving the proximate nexus - Whether expenses which are not directly related to the exempt income can be disallowed merely because rule 8D permits to do so - Whether for invoking the provisions of rule 8D the "satisfaction" of the AO about the inaccuracy of accounts and also to correctness of expenses suo-motto disallowed is a condition precedent - Whether Revenue can sit in the arm chair of a businessmen and decide what expense is necessary - Whether once it is proved that an expense is bonafide and has been incurred wholly and exclusively for the purpose of business any disallowance can be made by checking the necessity of the expense - Whether necessity behind an expense is an alien if the expense is incurred in the interest of business - Whether any disallowance under section 40(a)(ia) can be made on account of payment of commission to foreign residents - Whether education cess is revenue expense.

[Also see analysis of the Order](#)

[2013-TIOL-284-ITAT-HYD](#)

DCIT Vs M/s SDE Engineers Pvt Ltd (Dated: January 31, 2013)

Income Tax - Section 80IA - Whether for the purpose of availing deduction u/s 80IA, in case the commencement of Industrial Park is delayed by more than one year from the date of indicated in the notification issued under the Industrial Park Scheme, 2002, fresh approval will be required - Whether providing of entire infrastructure required for the purpose of construction of Industrial Unit can be construed as equivalent to the actual making of such unit - Whether the consequences of a suggested construction can alter the meaning of a statutory provision - Whether the deduction u/s 80IA can be allowed in case the assessee is engaged in operating and maintaining the industrial units only.

[2013-TIOL-283-ITAT-MUM](#)

M/s SBI Commercial & International Bank Ltd Vs ITO (Dated: January 18, 2013)

Income tax – Sections 115JB, 145 – Whether when the interest has not accrued or become due on securities, the same is not taxable till it becomes due – Whether the interest income received is to be considered as business income or income from other sources – Whether since being a banking company, the assessee was not required to prepare its profit and loss account in accordance with the provisions of Part II and III of Schedule VI of the Companies Act, section 115JB cannot be applied.

[2013-TIOL-282-ITAT-MUM](#)

M/s Shamrock International Ltd Vs ITO (Dated: October 19, 2012)

Income Tax - Sections 32, 56(2), 143(3) - Whether assessee is entitled for deduction in respect of the payments made for employees contribution to the Provident Fund u/s 56(2) which were actually paid before the return of income was filed - Whether disallowance on account of depreciation, interest on motor car loan and motor car expenses is justified when the cars were purchased by the Company in the name of the Director or employee in order to save insurance premium and vehicle tax - Whether the foreign travel expenditure of an executive employee is allowable when the assessee could not establish the business purpose of their visit abroad.

[2013-TIOL-281-ITAT-MAD](#)

ITO Vs M/s Sarvodaya Mutual (Dated: February 5, 2013)

Income Tax - Sections 40(a)(ia), 194A - Whether the surplus distributed by the assessee trusts can be brought to tax when the assessee trust was distributing the surplus on the basis of proper accounts, formula and procedure and the surplus was nothing but the income of those SHGs themselves - Whether the assesseees are bound by the provisions of section 194A when the assessee trust was facilitator and representative assesseees of the SHGs, who were ultimately utilizing the loan and incurring interest by way of expenditure.

[2013-TIOL-280-ITAT-MAD](#)

DCIT Vs M/s Sify Technologies Ltd (Dated: January 30, 2013)

Income Tax - Sections 9(1)(vi), 37 - Whether purpose test in relation to the allowability of an expense would prevail over the nature and tenure of an expense - Whether network and communication charges paid to foreign Companies for using certain bandwidth are royalties.

[2013-TIOL-279-ITAT-PUNE](#)

B T Patil & Sons Belgaum Constructions Pvt Ltd Vs ACIT (Dated: February 28, 2013)

Income Tax - Sections 80IA, 255(4) - "Sub-contractor", "Contractor", "Developer", "Owned" - Whether when the assessee originally a sub-contractor, but subsequently becomes a direct party to the main agreement in its own right, directly responsible for the work done and dealing with the Government on behalf of the developer, cannot claim the benefit of deduction u/s 80IA, merely because they have not developed the entire project - Whether in such a situation, a contractor cannot be considered to have stepped into the shoes of the developer, even though it completed a part of the infrastructural project - Whether the infrastructure facility should be 'owned' by the contractor for claiming deduction u/s 80IA, although it has shouldered out investment & technical risk in respect of the work executed and is also liable for liquidated damages under the agreement - Whether for the purpose of claiming deduction u/s 80IA, nature of responsibilities and activities undertaken by the contractor i.e., the substance is irrelevant, and instead, the form has to be given priority - Whether the Amendment of 2009 which debars sub-contractors from availing benefits u/s 80IA, can be applied to the assessee, even though it has shouldered the responsibility of completing a part of the infrastructural project - Whether the opinion of the Third Member gets automatically overruled, when subsequently, the jurisdictional High Court has given a contrary ruling in a matter having facts identical to the assessee.

[Also see analysis of the Order](#)

[2013-TIOL-278-ITAT-KOL](#)

DCIT Vs Binani Industries Ltd (Dated: March 15, 2013)

Income Tax - Sections 147, 148 - Whether an assessment can be reopened on the ground that no TDS was deducted while paying interest but the fact is that all the details were available with the AO at the time of original assessment.

[2013-TIOL-277-ITAT-MUM](#)

Hercules Hoists Ltd Vs ACIT (Dated: February 13, 2013)

Income Tax – Sections 14A(1), 23(1)(a), 70, 71, 80IA, 147, Rule 8D, Circular No 281 of 1980 - Setoff - Notional Rent – Disallowance - Reassessment - Whether the assessee's claim for set off of loss u/s 32(2), 70 and 71 of eligible undertaking u/s 80-IA, against other income, admittedly from a non-eligible business/source is sustainable in law – Whether the Annual Letting value is required to be computed at higher of last rent received or that certified by concerned society - Whether the amended provisions of Sec 14A read with Rule 8D are applicable retrospectively or prospectively from A.Y. 2007-08 - Whether the reason recorded for reopening of assessment is required to pass sufficiency test.

[2013-TIOL-276-ITAT -DEL](#)

M/s Diamond Leasing & Finance Ltd Vs DCIT (Dated: February 15, 2013)

Income Tax - Sections 28, 36(1)(iii) - discontinuation - losses - interest - Whether when the assessee has not been able to discharge its onus to establish that borrowed money has been utilized for the purpose of business, the interest expenditure can be disallowed - Whether even after a long period of inactivity, the business of an assessee may continue - Whether the interest expenditure incurred by an assessee, can be disallowed merely on the basis that the business of was discontinued.

[2013-TIOL-275-ITAT -MUM](#)

Life Insurance Corporation Of India Vs ACIT (Dated: April 3, 2013)

Income tax - Sections 10(34), Rule 2 - Insurance Act - Sec 44 - Whether the assessee, which is required to compute income under section 44 of the Insurance business is eligible for exemption under section 10(34) of the Act - Whether the assessee has correctly taken the negative reserve at '0' value as AO has no power to modify the amount after actuarial valuation was done, which was the basis for assessment under Rule 2 of 1st Schedule r.w.s.44 of the I.T. - Whether the profit earned on investments is to be taxed as income from other sources and is to be taxed as income transferred to policy holders' a/c.

[Also see analysis of the Order](#)

[2013-TIOL-274-ITAT -MUM](#)

Kec International Ltd Vs ACIT (Dated: February 13, 2013)

Income Tax - Sections 32, 36(1)(iii), 80HHC - Whether the AO is justified in adopting the WDV as per the preceding year and computing the depreciation when the assessee had not claimed depreciation in the preceding year, but the AO allowed the same - Whether the provisions of section 36(1)(vii) gets attached when the observation of the CIT(A) was that, it has been actually written off during the year under consideration in the debtors account? Whether excise duty can form part of the total turnover? Whether DEPB can be excluded from the eligible profits for the

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| computation of deduction u/s 80HHC |
| 2013-TIOL-273-ITAT-MUM |
| M/s Johnson & Johnson Ltd Vs ACIT (Dated: February 15, 2013) |
| Income Tax - Sections 10(33), 37, 40A(2)(b), 80HHC, 80-IB - Whether Revenue is justified in disallowing 2% of the gross dividend as incidental expenses for earning exempt income - Whether sustenance of disallowance of deduction u/s 80HHC on rent is justified - Whether expenses incurred on production of ad films is revenue expenditure - Whether the depreciation should be allowed on the testing equipment provided to laboratories and hospitals free of charge - Whether disallowance u/s 40A(2)(b) can be made when the A.O. did not bring on record any material to indicate that the payment was in fact excessive - Whether expenses for repairs and maintenance like false ceiling, paneling and monsoon shed of temporary period were allowable expenditure? Whether deduction of entrance fee paid for club is allowable in the year of incurring. |
| 2013-TIOL-272-ITAT-MUM |
| ACIT Vs Dolly K Vajifdar (Dated: March 8, 2013) |
| Income Tax - Sections 28, 45 - Whether income earned by the assessee through online trading in shares can be considered as business income when the voluminous transactions of purchase and sale have been made continuously and regularly throughout the year without any interval, showing that assessee was keeping a constant vigil on the ups and downs of the market, and purchasing and/or selling the shares accordingly. |
| 2013-TIOL-271-ITAT-MUM |
| DCIT Vs M/s Essar Steel Ltd (Dated: March 22, 2013) |
| Income Tax - Sections 10(15)(iv)(c), 36(1)(iii), 40(a)(ia), 43(1) - "actual cost" - Whether expenditure originally shown as Capital Work in Progress can be later claimed as revenue expenditure for income tax purposes upon commencement of the commercial production - Whether any question of TDS liability on interest payable on External Commercial Borrowing can arise, although when the same has been specifically exempted by CBDT u/s 10(15)(iv)(c) - Whether when the deployment of the funds borrowed has been already verified by the Department at the time of granting the exemption, the exemption granted u/s 10(15)(iv)(c) continues to apply - Whether when there is no question of TDS liability, section 40(a)(i) has no application - Whether when interest is payable on advance money, no notional addition is warranted on the account of interest - Whether loan given for purchase of plant and machinery but later waived off, can be reduced from the written down value of block of assets for computing 'actual cost' as per Section 43(1) of the Act - Whether any further depreciation shall be allowed only on this reduced 'actual cost'. |

[Also see analysis of the Order](#)

[2013-TIOL-270-ITAT-HYD](#)

ACIT Vs M/s Ecil Ltd (Dated: January 4, 2013)

Income Tax - Sections 32, 35(2AB) - Whether the unabsorbed depreciation relating to the A.Ys 1990- 91 to 1992-93 can be eligible for set off against the profits pertaining to the A.Y 2002-03.

[2013-TIOL-269-ITAT-DEL](#)

DCIT Vs M/s Honeywell International India Circle (P) Ltd (Dated: March 22, 2013)

Income Tax - Sections 10A, 36, 92CA - "export turnover", "total turnover" - Whether when telecommunication expenses excluded from the export turnover also needs to be excluded from the total turnover for computing deduction u/s 10A - Whether computer peripherals form an integral part of the computer, eligible for the same rate of depreciation as the computer - Whether expenses incurred on training of employees has an enduring benefit and thus, not allowable as a revenue expenditure.

[2013-TIOL-268-ITAT-CUTTACK](#)

Executive Engineer Vs ACIT (Dated: January 11, 2013)

Income Tax - Section 272A(2)(k) - penalty - delay - TDS return - technical lapse - Whether when the reason for delay in filing TDS return is due to technical lapse in uploading the data by the government officials, levy of penalty for such delay on assessee u/s 272A(2)(k) is as per law.

[2013-TIOL-267-ITAT-AHM](#)

Garden Silk Mills Ltd Vs ACIT (Dated: February 15, 2013)

Income Tax - Sections 32, 97(7), 115JB - AS-3 - Whether in view of the provisions of section 94(7) loss suffered on transaction of securities, which are sold within a period of three month of the purchase, is to be ignored while computing profit and loss - Whether such loss is required to be added in the book profit - Whether in the light of AS-3 periodical review of the depreciation on account of change in technology and market condition is permissible whether an assessee who is following straight line method for depreciation can switch over to WDV method as both methods are recognized by Company law - Whether enhanced value of depreciation accruing as a result of change in method is available while computing book profit - Whether while computing book profit, the AO can go behind the book profit.

[2013-TIOL-266-ITAT-MAD](#)

DCIT Vs M/s Caterpillar India Pvt Ltd (Dated: February 12, 2013)

Income Tax - Sections 10A, 115JB(2) - Clayton's rule - Whether deduction u/s 10A is allowed without setting off of brought forward losses of earlier years of non-eligible units from the profits of the eligible unit u/s 10A - Whether when the unabsorbed depreciation has been completely adjusted against profits in the previous AY, for computing book profit u/s 115JB, and there is no other brought forward loss left in the present AY, the loss deduction allowable under clause (iii) of Explanation to section 115JB(2) becomes 'NIL' - Whether Clayton's rule can be applied while availing deductions for computing book profit u/s 115JB, i.e., setting off subsequent profit against the earlier losses, although the mandate under the said section is, only to deduct unabsorbed book depreciation or unabsorbed book loss, whichever is less.

[2013-TIOL-265-ITAT-MUM](#)

M/s Silver Land Developers Pvt Ltd Vs ITO (Dated: March 8, 2013)

Income Tax - Section 271(1)(c) - Whether penalty u/s 271(1)(c) is warranted when the dispute is only relating to the year in which the said expenses were allowable and not about the very deductibility of the said expenses.

[2013-TIOL-264-ITAT-MUM](#)

M/s Varun Shipping Co Ltd Vs ACIT (Dated: April 3, 2013)

Income Tax - Sections 33AC, 115VI, 115VP, 143(3), Rule 11R - maritime education - tonnage taxation - cruise ships - Manning Agency Agreement - VISA processing fees - Whether recruitment fees received is a part of the relevant shipping income of Tonnage Tax Company for the purpose of Chapter XII-G - Whether there is any scope for addition of the same separately by treating such fees as income not incidental for computing shipping income under Tonnage Tax Scheme - Whether when an assessee receives miscellaneous income on account of VISA processing fees, charges for seaman book and had claimed adhoc expenses in respect thereof, the same can be allowed by the assessing authority.

[Also see analysis of the Order](#)

[2013-TIOL-263-ITAT-BANG](#)

DCIT Vs M/s Ray+ Keshavan Design Associates Pvt Ltd (Dated: January 11, 2013)

Income Tax - Sections 36(1)(vii), 40(a)(ia), 131, 192, 194J - 'designing and brand consultancy services' - Whether in order to claim bad debts, it is required for the assessee to prove its irrecoverability - Whether it is sufficient that the bad debts are written off as irrecoverable in the accounts - Whether when commercial expediency of a payment is accepted and TDS has been effected thereon, the deduction has to be allowed - Whether mere nomenclature given to a payment by the payer will be conclusive in the hands of the payee.

[2013-TIOL-262-ITAT-MUM](#)

ACIT Vs Reliance Industries Ltd (Dated: February 28, 2013)

Income Tax - Sections 80A(6), 80IA, 115JB, 143(3), 147, 148 - market value - power generating undertakings - borrowed satisfaction - Captive transfers - Fair market value - change of opinion - reassessment - Whether an assessment can be reopened on the basis when it is seen from the records that assessee has so arranged the affairs as to show extraordinary profits from generation of electricity to avail higher 80IA deduction than what is admissible - Whether when the reassessment proceedings have already been annulled, there is any need to adjudicate the issue on merits - Whether the deduction allowable u/s 80IA can be restricted to certain extent by following the orders of a Regulatory Authority - Whether price fixed by such regulatory authority can be treated as "market value" for procuring power generated by the private operators, for the purpose of computing deduction u/s 80IA.

[2013-TIOL-261-ITAT-MUM](#)

M/s Rajaram Stock Broking Co (Mumbai) Pvt Ltd Vs ITO (Dated: February 5, 2013)

Income Tax - Sections 36(2), 68 - Whether addition u/s 68 can be made on the statement when Prima facie it appears that the statement was not matching with the material on record - Whether Revenue is justified in denying deduction of the amount of bad debts on the ground that the assessee was a stock broker and hence the conditions of section 36(2) were fulfilled only to the extent of brokerage as shown as income in any previous year.

[2013-TIOL-260-ITAT-BANG](#)

M/s Raghavendra Constructions Vs ITO (Dated: December 14, 2012)

Income Tax - Section 80IB(10) - Whether delay of 678 days in filing appeal by the assessee before the Tribunal can be condoned on the ground that on the advice of the counsel who appeared on behalf of the assessee before the HC the assessee filed an application within 4 days of obtaining the professional advice and by condonation of delay there is no loss to the Revenue - Whether the Assessee is entitled to benefit of Sec 80-IB(10) when the HC has already accepted the plea of the Assessee that the balcony areas, which were added as forming part of the built area were common areas and had to be excluded while measuring the built up area.

[2013-TIOL-259-ITAT-MUM](#)

M/s Pasupati Capital Services (P) Ltd Vs ACIT (Dated: February 13, 2013)

Income Tax - Sections 40(a)(ia), 115JB, 194J - Whether transaction charges paid by the assessee to the Stock exchange for trading through BOLT system constitute fees for technical services covered u/s. 194J - Whether payment of VSAT can be said to be of the nature of fees for any technical services? Whether the provisions of Sec. 87 & 88A to 88E also apply after the total income is computed u/s. 115JB? Whether the losses booked on the close of the F.Y in respect of open positions in futures is allowable.

[2013-TIOL-258-ITAT-DEL](#)

Gala International (P) Ltd Vs DCIT (Dated: February 8, 2013)

Income Tax - Sections 14A, 37, 40a(ia), 40A(i)(iii), 41(1), 145(2), Rule 8D - Accounting Standard 11 - DEPB - administrative expenses - foreign exchange fluctuation loss - cessation of trading liability - Whether before the applicability of rule 8D, an assessing authority can adopt any basis for the purpose of making disallowance u/s 14A - Whether the disallowance u/s 14A on reasonable basis can be extended to overheads or administrative expenses even before the insertion of rule 8D - Whether the unrealized forex foreign exchange fluctuation loss can be claimed as a revenue expenditure - Whether when there is no evidence to show that nothing is payable as on 31st March of a year, the disallowance u/s 40A can be warranted outrightly - Whether difference between the DEPB accrued and DEPB offered for income can be treated as a business income, even if the sufficient details are not filed before the assessing authority - Whether the addition u/s 41(1) can be made on account of cessation of liability as the liability had not ceased but got adjusted in next year with the amount of export.

[2013-TIOL-257-ITAT-COCHIN](#)

DCIT Vs M/s Apollo Tyres (Dated: February 8, 2013)

Income Tax - Sections 10(38), 36(1)(vii), 36(2), 37(1), 70(3), 80IA, 115JB, - Depreciation - deposits - Expenditure - irrecoverable advance - deferred tax liability - scientific research expenditure - quality loss claims - lessor - lessee - claims - Whether an assessee can claim depreciation on the machineries installed at the dealer's site for the purpose of providing after sales service - Whether security amount collected from customers can be excluded from the cost of assets for the purpose of calculating depreciation - Whether advances given for the purposes of acquisition of capital assets can be claimed as 'bad debt', when these are written off - Whether losses in the running of business can be said to be of capital nature - Whether when any income is exempt u/s. 10, the same has to be mandatorily excluded from the purview of computation of total income under different sections - Whether income includes loss also - Whether in case an income or loss is exempt, the same need not to be included in the computation of income - Whether when an assessee has passed on liability of an expense to the lessor, who has also accepted the same, can it be claimed by the assessee again.

[Also see analysis of the Order](#)

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| 2013-TIOL-256-ITAT-BANG |
| M/s Kodava Samaja Vs DCIT (Dated: February 8, 2013) |
| Income Tax - Section 12AA(3) - Whether it is open to the DIT(E) to re-examine the objects of the trust in proceedings u/s 12AA(3). |
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| 2013-TIOL-255-ITAT-MUM |
| M/s Jindal Drugs Ltd Vs DCIT (Dated: February 15, 2013) |
| Income Tax - Section 80IB - ITAT Rules - Rule 29 - Whether additional evidences which go to the root of matter are required to be considered even if they are produced for the first time before the Tribunal - Whether rule 29 of the ITAT rules provides discretion to Tribunal to admit additional evidence - Whether once the additional evidences are admitted matter requires fresh consideration, even if certain observations are made by the Bench regarding the issue involved. |
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| 2013-TIOL-254-ITAT-DEL |
| M/s Integra Capital Management Ltd Vs DCIT (Dated: January 4, 2013) |
| Income Tax - Sections 37, 143(3), 263 - Whether the expenses incurred related to Insurance portal are revenue in nature. |
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| 2013-TIOL-253-ITAT-MAD |
| India Switch Company Pvt Ltd Vs ACIT (Dated: February 7, 2013) |
| Income Tax - Section 263 - Whether Commissioner cannot direct a fresh assessment, merely because the order passed u/s 263 does not specifically term the assessment as 'erroneous causing prejudice to the interests of the revenue', although it highlights several grounds not verified by the AO while completing the assessment - Whether fresh assessment is warranted u/s 263, when an assessment is completed without ascertaining the nature of the disputed income. |
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| 2013-TIOL-252-ITAT-MUM |
| Heera Panna Cooperative Housing Society Ltd Vs ITO (Dated: March 15, 2013) |

Income Tax - Sections 37, 56 - Whether amount received for rights to display advertisement on the scaffolding erected by assessee and for the services of round the clock security watch and ward, area maintenance, access charges and storage charges for storing material, accessories were income from other sources.

[2013-TIOL-251-ITAT-AHM](#)

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

Income Tax - Sections 14A, 36(1)(iii), 36(1)(vii), 36(2), 80HHC, 94(7), 143(3), 271(1)(c) - Whether when the assessee has given advances for the business purposes, the write off of the same can be disallowed as business loss - Whether the claim of the assessee regarding amounts paid to customers for shortage claim, can be allowed as a reduction from export turnover while computing deduction u/s 80HHC - Whether the receipt of 'Insurance claim' can be considered as part of turnover, while calculating the quantum of deduction u/s 80HHC - Whether the amount received as other miscellaneous income in respect of earlier year can be considered for computing current year's deduction u/s 80HHC - Whether when the balance of own funds are more than that of investments made during the year, the disallowance u/s 14A for interest amount can be made.

[2013-TIOL-250-ITAT-MUM](#)

DCIT Vs M/s Tata Petrodyne Ltd (Dated: January 11, 2013)

Income Tax - Sections 33ABA, 80IB(9) - Whether the deduction u/s 80IB(9) and for site restoration expenses can be allowed, even if the assessee was engaged in the business of oil exploration and extraction.

[2013-TIOL-249-ITAT-HYD](#)

M/s Lahari Homes Vs DCIT (Dated: January 11, 2013)

Income Tax - Sections 37(1), 132, 133A, 153C - survey - affidavit - Whether the assessing authority is justified in making disallowance when there are cheque payments made by the assessee out of the expenditure considered for disallowance - Whether when a project is not completed, the amount disallowed should be added to the income returned or it should be reduced from the closing work -in-progress.

[2013-TIOL-248-ITAT-MUM](#)

Mahindra Intertrade Ltd Vs DCIT (Dated: April 5, 2013)

Income Tax - Sections 40(a)(ia), 194C - Whether provisions of Sec 40(a)(ia) are applicable to year-end payments.

[2013-TIOL-247-ITAT-MUM](#)

M/s Mardia Tubes Ltd Vs ITO (Dated: February 13, 2013)

Income Tax - Section 271(1)(c) - Whether the penalty u/s 271(1)(c) is justified when the assessee accepted of the excess stock under KVSS before the Central Excise Authorities and the assessee's explanation of bonafide was not substantiated with any material.

[2013-TIOL-246-ITAT-MUM](#)

DCIT Vs M/s Credit Suisse First Boston (India) Securities Ltd (Dated: March 6, 2013)

Income Tax - Sections 14A, 37(1), 142(2A) - Whether the expenditure incurred by the assessee on borrowed funds for financing in respect to purchase and sell of shares on behalf of others cannot be allowed, although the income earned from brokerage has been taxed - Whether interest incurred on funds borrowed for such broking activities is prohibited u/s 37(1) of the Act - Whether when Department treats the activities of the assessee as illegal, then income earned by the assessee as well as expenditure incurred by the assessee has to be treated on the same transaction and they have to be netted against each other - Whether the authenticity of the business decision of of the assessee can be challenged, merely because no brokerage has been charged from certain parties, although when the overall brokerage income earned is in excess of the interest paid on borrowed funds - Whether the genuineness of a commercial decisions should be left as a prerogative of the business men and not to be interfered with - Whether the fact that assessee has been debarred from trading in the stock market by SEBI in previous AYs, can be the basis to arrive at a conclusion in subsequent AYs that, business conducted by the assessee is not genuine - Whether when there is a direct nexus between the trading activity and incurring expenditure either on account of interest or on account of other administrative expenses, the same can be disallowed u/s 14A, merely because the assessee earned some consequential dividend income out of such trading activity - Whether when the assessee has been constantly following the method of reflecting the brokerage in service tax return on accrual basis, but on actual basis in profit and loss account, the difference between the same need not be added to its income - Whether any claim of expenditure settled in a particular year is allowable in that year, if the same is not claimed in earlier year - Whether interest accrued on Government securities, but due only after the last day of the financial year can be included in the income of the assessee.

[Also see analysis of the Order](#)

[2013-TIOL-245-ITAT-HYD](#)

M/s Vodafone Essar South Ltd Vs DCIT (Dated: January 31, 2013)

Income Tax - Section 194H - Whether the discount offered by the assessee to the distributors on payments made by the latter for the SIM cards/recharge coupons which were eventually sold to the subscribers at the listed price was commission and subject to TDS u/s 194H - Whether the assessee can be visited with liability u/s

201(1) when the recipients have paid the tax on the amount of commission receivable by them.

[2013-TIOL-244-ITAT-DEL](#)

Vijender Kumar Jain & Sons (Huf) Vs ITO (Dated: February 8, 2013)

Income Tax - Sections 68, 131, 143(3), 148 - interest - accommodation entry - human probability - condonation of delay - NRE status - reasonable cause - KVP - books of accounts - pass book - Whether addition u/s 68 can be made, even if the assessee had not maintained any books of accounts - Whether a bank pass book can be considered as part of books of accounts, in case an assessee has not maintained any books as such - Whether a cash credit appearing in assessee's pass book relevant to a particular previous year, in a case where the assessee does not maintain books of account, attract the provisions of section 68 - Whether in order to make gift by an assessee, there must be a relationship with the receiver.

[2013-TIOL-243-ITAT-AHM](#)

M/s Synrefra Engineering & Construction Ltd Vs ACIT (Dated: December 14, 2012)

Income Tax - Sections 144A, 154, 244A(2) - Whether rectification application, demanding rectification of interest under section 244A is maintainable where part of the claim of interest is accepted - Whether orders passed by CCIT or CIT as per the provisions of sub-section 2 of section 244A are final qua AO and not against assessee - Whether interest of 244A can be denied only when there is delay on the part of assessee and not otherwise - Whether an assessee who has offered some income wrongly is not entitled for interest u/s 244A even when he has retracted from his offer immediately after the filing of return.

[2013-TIOL-242-ITAT-CUTTACK](#)

Shiva Jyoti Construction Vs ACIT (Dated: January 11, 2013)

Income Tax - Sections 40(a)(ia), 143(1), 194C - Whether when contractual payment is made to individuals less than the statutory limit, the disallowance u/s 194C can be made in such cases - Whether in case the payment is received by the assessee firm, the TDS can be held deductible in the hands of the partners.

[2013-TIOL-241-ITAT-HYD](#)

M/s Navayuga Engineering Co Ltd Vs ACIT (Dated: January 16, 2013)

Income tax - Sections 47(iv), 263 - Whether the CIT wrongly initiated proceedings u/s 263 when there is no error in the order of AO and the right to collect toll for a

period of 15 years transferred to its subsidiary company is a valid transfer and the provisions of S.47(iv) are directly applicable.

[2013-TIOL-240-ITAT-DEL](#)

Civil Services Society Vs DIT (Dated: February 8, 2013)

Income Tax - Section 12AA(3) - Whether registration u/s 12A can be denied to an educational institute merely because it has not filled the EWS quota seats with adequate numbers - Whether any fault in the activities of the assessee can be alleged where, despite the advertisement of school, appropriate number of EWS students were not admitted for reasons beyond the control of assessee - Whether Director of Exemption can deny exemption when the Directorate of education, the monitoring authority, could not find any fault with the activities of the assessee which are admittedly imparting of education.

[Also see analysis of the Order](#)

[2013-TIOL-239-ITAT-MUM](#)

ADIT Vs M/s Calyon Bank (Dated: January 18, 2013)

Income Tax - Sections 14A, 36(1)(vii)(b), 36(2), 115JB, 142(1), 143(3), 147, 148, Circular No. 359 of 1983 - Whether when the assessee has disclosed all the material facts at the time of original assessment itself and filed appropriate reasoning on subsequent queries by the Revenue officials as well, the reopening of the assessment is justified - Whether fresh application of mind by the Assessing Officer to the same set of facts, amounts to change of opinion - Whether when the re-assessment proceeding are already quashed by CIT(A), is it necessary to adjudicate on the other grounds raised by the Revenue on merits.

[2013-TIOL-238-ITAT-MUM](#)

Premier Textiles Processors Vs ACIT (Dated: February 13, 2013)

Income Tax - Sections 143(3), 147, 148, 271(1)(c) - 'rule of evidence' - Whether when the assessee has claimed expenses which have not been substantiated by any supporting document, it can be held as a genuine claim.

[2013-TIOL-237-ITAT-DEL](#)

ACIT Vs M/s Burlingtons (Dated: January 16, 2013)

Income Tax - Whether addition can be made on the ground of bogus purchases when the profit disclosed by the assessee was comparable and there was no evidence to establish the bills represented bogus bills.

[2013-TIOL-236-ITAT-DEL](#)

DCIT Vs M/s Bharti Airtel Ltd (Dated: February 1, 2013)

Income Tax – Sections 32, 35ABB, 37(1), 115JB - Interest-free loan - Depreciation - Book Profit - Loss on amalgamation - AS 15 - Whether the interest on borrowed funds is to be disallowed merely because the assessee made some interest-free advances to its Group companies - Whether the telecom license fee computed on the basis of annual revenue is to be debited to profit & loss account or required to be amortized over a period of twenty years u/s 35ABB of the Act - Whether depreciation on computer peripherals is required to be separately computed @ 25% and not 60% - Whether the loss on amalgamation is to be treated as reserves for computing book profit u/s 115JB of the Act.

[2013-TIOL-235-ITAT-MAD](#)

Areva T & D India Limited Vs DCIT (Dated: February 14, 2013)

Income Tax - Sections 32(1)(ii), 143(1), 143(3), - depreciation - goodwill - commercial right - transfer - merger - ejusdem generis - specified assets - transmission - Liquidated damages - Whether the nature of "business or commercial rights" can be restricted to only the prescribed categories of assets - Whether intangible assets owned by the assessee, used for the business purpose which enables the assessee to access the market and have an economic and money value is a "license" or "akin to a license" - Whether intangible assets acquired under slump sale are entitled for depreciation - Whether when the assessee had not followed any scientific computation method to support the claim of warranty provision, the same can be allowed.

[Also see analysis of the Order](#)

[2013-TIOL-234-ITAT-DEL](#)

ACIT Vs M/s Honda Siel Cars India Ltd (Dated: February 8, 2013)

Income Tax - Section 43B - Revenue expenditure - Capital expenditure - Whether payments made under a technological collaboration agreement for obtaining technical knowhow can be considered as capital in nature, although there is only right to use - Whether mere provision of warranty and sales services means that the liability is contingent and unascertained - Whether expenses incurred on airfare related to Purchase and Works Department can be disallowed on the ground that the same is of enduring nature - Whether software expenses incurred on website tracking and website online statistic tools for the purpose of tracking or providing security to website is a capital expenditure.

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| 2013-TIOL-233-ITAT-MAD |
| DCIT Vs M/s Eye Photonics India Pvt Ltd (Dated: January 30, 2013) |
| Income Tax - Sections 40(a)(ia), 80IB - Whether the assessee, whose industrial undertakings were recognized as "Small Scale Industries" and located in an industrially back-ward state were eligible for deduction u/s 80IB even if they manufacture articles or things specified in the list in XI Schedule. |
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| 2013-TIOL-232-ITAT-DEL |
| DCIT Vs M/s Emerging Securities Pvt Ltd (Dated: February 15, 2013) |
| Income Tax - Section 45 - Whether the period of holding of shares and non-receipt of dividend income can be a decisive factor for treatment of particular transactions as investment or trading transaction when the assessee was maintaining separate account for investment as well as stock in trade of the shares. |
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| 2013-TIOL-231-ITAT-MAD |
| M/s Edac Engineering Ltd Vs DCIT (Dated: January 17, 2013) |
| Income Tax - Section 44AB - AS-7 - Whether "expected loss" on contracts can be allowed as expenditure - Whether disallowance could not have been made in respect of staff benefits expenses just because a breakup was not furnished. |
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| 2013-TIOL-230-ITAT-MUM |
| Dr Kapil Dev Vs ITO (Dated: February 8, 2013) |
| Income Tax - Section 271(1)(C) - Whether penalty is warranted if the assessee has failed to establish the source of cash revealed during the scrutiny of the assessment. |
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| 2013-TIOL-229-ITAT-MUM |
| M/s Viom Networks Ltd Vs DCIT (Dated: February 4, 2013) |
| Income Tax - Sections 36, 40(a)(ia) - Whether provision of expenditure can be allowed when the assessee treats the same as ascertained liability but when it comes to deduction of tax at source, assessee claims that the provision was based on |

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| estimate basis. |
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| 2013-TIOL-228-ITAT-MUM |
| DCIT Vs M/s Siemens Information Systems Ltd (Dated: December 12, 2012) |
| Income Tax - Sections 37, 80HHE - Whether the expenditure incurred by the assessee is revenue in nature when it was incurred for application software and not for system software - Whether deduction claimed by the assessee u/s 80HHE has to be worked out on the basis of adjusted book profit u/s 115JA and not on the basis of the profits computed under regular provisions of law applicable to computation of profits and gains of business. |
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| 2013-TIOL-227-ITAT-HYD |
| M/s Sainath Estates Pvt Ltd Vs DCIT (Dated: February 8, 2013) |
| Income Tax - Sections 80IB(10), 132, 143(3), 153A, 153C - CBDT Circular No.5/2005 - Whether the requirement of completion certificate can be given liberal interpretation while giving benefit u/s 80IB - Whether when the principles of law are settled, there is any scope to interpret it in a different manner - Whether the rules of interpretation would come into play only when any doubt arises with regard to the express language used in the statute - Whether the addition made in the original assessment completed u/s 143(3) can be added once again in the assessment completed u/s 153A - Whether when the assessee has not submitted any details during assessment, the Revenue officer has no option but to disallow the cocemed item. |
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| 2013-TIOL-226-ITAT-CUTTACK |
| The Branch Manager (TDS) Vs Addl.CIT (Dated: March 11, 2013) |
| Income tax - Sections 200(3), 272(2)(k) - e-filing - TDS - mens rea - Whether when assessee fails to e-file TDS return for lack of verified PAN numbers although TDS deducted was deposited in time, such delay warrants penalty u/s 272(2)(k). |
| Also see analysis of the Order |
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| 2013-TIOL-225-ITAT-CUTTACK |
| Posco India Pvt Ltd Vs DCIT (Dated: February 14, 2013) |
| Income Tax - Sections 3, 4, 22, 36(1)(iii), 56, 92CA - Transfer Pricing Officer - Foreign company - Greenfield project - captive port - captive mines - Land and |

development cost - displacement - interest - port - pre operative expenses - FDs - income from other sources - funds - capital receipt - commencement of business - amortisation.

Whether the activity which is taken up for setting up of the business and the funds which are garnered inextricably, can be said to be connected to the setting up of the plant - Whether for an income to be classified as income under the head "Profits and gains of business or profession" it is essential that such activity is in some manner or form connected with the business - Whether the interest earned on funds primarily pumped in by the non-resident parent company for infusion in the business can be classified as 'income from other sources', as the income was earned in a period prior to commencement of business, and it was in the nature of capital receipt and, was required to be set off against pre-operative expenses - Whether when the interest income from Banks, where the share capital was parked not to earn interest on capital borrowed and the assessee's own funds were being utilised for the purpose of incurring the project cost which took undue delay due to Government and other interference, the said income can be taxed as 'income from other sources' - Whether when the sum held as FDs is in relation to share capital infused by the non-resident parent for acquisition of land for setting up a steel plant by its subsidiary, such income is to be treated as income from other sources. And the verdict goes against the Revenue.

[Also see analysis of the Order](#)

[2013-TIOL-224-ITAT-MUM](#)

ACIT Vs M/s Ekta Shakti Developers (Dated: December 21, 2012)

Income tax - Sections 69, 80IB(10) - Whether the noting found as out of pocket expenses during the search alongwith other expenses incurred for getting various approvals cannot be considered as hypothetical amount and rightly considered as unexplained expenditure - Whether the assessee is entitled to deduction u/s 80IB(10) proportionately for the unit where the built up area did not exceed 1000 sq. ft. even though in some cases it is more than the same.

[2013-TIOL-223-ITAT-DEL](#)

DCIT Vs E1-EN India (P) Ltd (Dated: February 15, 2013)

Income Tax - Sections 37, 68 - Whether the disallowance of expenses by the AO without recording the factual finding is sustainable in the eyes of law - Whether addition on account of share application money is justified when the share application money was received through proper banking channel and the same was confirmed.

[2013-TIOL-222-ITAT-MUM](#)

Dushyant Development Corporation Vs DCIT (Dated: February 1, 2013)

Income Tax - Sections 80IB (10), 271(1)(c) - Whether penalty can be imposed u/s 271(1)(c) when the assessee erroneously claimed deduction u/s 80-IB(10) but later on filed a 'revised' return withdrawing its entire claim of deduction and there was no case that the assessee had furnished any information or particulars of income which were either not correct.

[2013-TIOL-221-ITAT-MUM](#)

M/s Bennett Coleman AND Co Ltd Vs ACIT (Dated: February 15, 2013)

Income Tax - Section 271(1)(c) - Whether penalty can still be imposed u/s 271(1)(c) when the assessee has disclosed all the material facts in its return along with note forming part of computation of income.

[2013-TIOL-220-ITAT-MUM](#)

M/s Bayer Material Science Pvt Ltd Vs ACIT (Dated: February 13, 2013)

Income Tax - Sections 2(14), 45, 50B, 72A, 147, Rule 9C(a) - Whether the claim for set off and carry forward of losses in case of amalgamation, can be effected because of interregnum - Whether such claim made by the assessee can be considered as a failure on the part of the assessee to fulfill the requisite conditions for claiming set off of brought forward business losses and unabsorbed depreciation - Whether an income inadvertently shown twice in the computation can actually be made exigible twice - Whether when an item is held as an investment, the gains on sale thereof can be taxed under the head 'Profits & Gains from Business & Profession' - Whether an assessee can at the same time be considered both as an agent of the buyer and also the owner of the business - Whether in case of method of valuation of stock, the decisive factor is the continuation of business by the firm itself - Whether when the business of the firm is takeover by a altogether different legal entity, the stock can be valued at book value only - Whether when there is no evidence regarding the colorable arrangement between parties regarding transfer value of inventory, the genuineness of such value can be made and an addition on account of difference in the market value can be made - Whether the gain from transfer of stock can be held as taxable, under the head 'Capital gains'.

[2013-TIOL-219-ITAT-AGRA](#)

Late Inder Chand Jain Vs ITO (Dated: February 8, 2013)

Income Tax - Sections 50C(2), 147, 148 - Stamp Valuation Authority - brokerage charges - remand report - Whether when the assessee had not filed any objections to the valuation report at the proceedings stage or in the remand proceedings before the assessing authority, the objection on the same can be filed before the Tribunal - Whether when the assessee has not produced any evidence for payment of brokerage, the deduction for the same can be allowed while computing sales consideration.

[Also see analysis of the Order](#)

[2013-TIOL-218-ITAT-KOL-TM](#)

DCIT Vs M/s Ual Industries Ltd (Dated: January 28, 2013)

Income Tax - "Air pollution control equipment", "Fly Ash Handling" System" - "generalia specialibus non derogant" - Whether even though an item belongs to the class of plant and machinery, it is possible for that item to have its special identity - Whether the special status of the "Fly Ash Handling System" installed by the assessee company gets diluted, only for the reason that it also forms part of the regular plant and machinery of the assessee - Whether the "Fly Ash Handling System", even though classified under plant and machinery as a general item, is still qualified as a different class under the heading "Air pollution control equipment" entitled for higher amount of depreciation - Whether a special provision normally excludes the operation of a general provision.

[2013-TIOL-217-ITAT-DEL](#)

ACIT Vs M/s True Zone Buildwell Pvt Ltd (Dated: January 4, 2013)

Income Tax - Sections 68, 69C, 132, 142, 143(2), 143(3), 144, 153A, Rule 46A - Whether the material found during search of a company in the premises of the Director, can be a basis for making assessment u/s 153A - Whether such assessment can be said to have been made on the basis of outside the search material and after the change of opinion - Whether after initiation of search proceedings u/s 153A, all the pending assessments have to abate mandatorily - Whether an addition can be made merely on the basis of correspondence on the presumption when addition is to be made u/s 69C while making the assessment u/s 153A - Whether addition u/s 153A can be made on presumption basis - Whether when there is no incriminating material found during search, any disallowance if any made can be said only on the basis of change in the opinion - Whether when the assessing officer has blindly applied the provisions of section 68 for making huge additions and passing an order u/s 144, the same is valid as per law.

[2013-TIOL-216-ITAT-MUM](#)

Development Credit Bank Ltd Vs DCIT (Dated: March 20, 2013)

Income Tax – Sections 14A, 139(1), 140(c), 143(3), 234A, 251, 263 – sale and lease back - lease of assets - Shared Payment Network Systems – capital expenditure – Revenue expenditure - Whether the fact that the issue impugned before Tribunal is a matter of civil dispute between the lessor and lessee, can be considered as a sufficient proof towards the genuineness of the lease transaction between the parties - Whether when the parties have presented enough proof during assessment regarding the genuineness of the transactions, it can still be said to be sham – Whether depreciation can be allowed to an assessee in case of SLB or in case the asset is actually not put to use - Whether the expense incurred for getting the SPNS facility can be considered to be of capital in nature – Whether when the assessee has itself added back an amount in the tax computation, the disallowance of the same by the AO amounts to double disallowance - Whether the expenditure incurred towards corporate membership can be considered as revenue expenditure - Whether the interest u/s 234A can be levied

in case the return is merely defective

[2013-TIOL-215-ITAT-DEL](#)

ITO Vs FIITJEE Hyderabad Classes Ltd (Dated: February 13, 2013)

Income Tax - Section 37 - Whether the claim of entire amount of royalty on the gross course fees is an allowable expenditure, when only a part of the income is accounted for during the year on the ground that the fee is related to two financial years.

[2013-TIOL-214-ITAT-AHM](#)

Amrut Stone Quarry Vs ITO (Dated: February 15, 2013)

Income Tax - Sections 44E, 68, 143(3) - Whether an assessee can raise a ground related to the observation of the assessing authority when no addition in respect of that observation is made - Whether proportionate disallowance is warranted, when the the total crushing job-work income was generated on consumption of electricity - Whether addition u/s 68 can be made in the hands of assessee firm even when the partners have filed confirmations, copy of bank accounts and copy of the returns.

[2013-TIOL-213-ITAT-KOL](#)

Kolkata Port Trust Vs DCIT (Dated: January 24, 2013)

Income Tax - Sections 32, 43(1), 43(6), 80G - Depreciation - Port Trust - Government Grant - Cash vs Accrual basis of accounting - Donation - Prior Period item - Dredging subsidy - Whether the W.D.V. of assets is required to be computed after considering notional interest of earlier years when the assessee trust was exempt from filing return of income - Whether the subsidy receivable from the Governement is to be offered to tax on cash basis - Whether the AO can adopt accrual basis of accounting in contrast to cash basis of accounting consistently followed in earlier years - Whether unclaimed deduction u/s 80G for prior period can be allowed as deduction in the year of detection of error or A.Y. pertaining to which donation was paid.

[2013-TIOL-212-ITAT-MAD](#)

Stephen Paul Vs ACIT (Dated: January 18, 2012)

Income Tax - Sections 234A, 234B & 234C - Whether the interest u/s 234A is to be computed by excluding the amount of tax actually deducted from the assessee during the relevant previous year and interest u/s 234B and 234C are to be charged by excluding the tax, which was deductible from the assessee as per provisions of Chapter XVII.

[2013-TIOL-211-ITAT-INDORE](#)

ACIT Vs M/s M P Warehousing & Logistic Corporation Ltd (Dated: May 3, 2012)

Income Tax - Sections 30(a)(i), 31(i), 36(2)(i), 143(3), 147, 148 - Whether the expenditure incurred to 'preserve and maintain' an already existing asset can constitute current repairs allowable as revenue expenditure - What is the meaning of 'current repairs' in context of the allowability in the Income Tax Act - Whether the replacement cost of the asset can be used as indicator of the true character of expenditure - Whether in order to made claim in respect of bad debts, it is essential for the assessee for the prove the irrecoverability of the debts.

[2013-TIOL-210-ITAT-HYD](#)

ACIT Vs Margadarshi Chit Fund Pvt Ltd (Dated: February 8, 2013)

Income Tax - Sections 40(a)(ia), 194A - Whether dividend paid to a subscriber of a chit fund is liable to TDS u/s 194 - Whether the assessee is required to deduct tax at source on the payments made under the composite contract.

[2013-TIOL-209-ITAT-AHM](#)

M/s Mitsu Ltd Vs ACIT (Dated: January 23, 2013)

Income Tax – Section 28(va), 43B, 80HHC - Non-compete fees - Capital vs. Revenue receipt - Whether the non-compete agreement would be legally valid only when binding on the parties to the agreement - Whether the non-compete fee was taxable as revenue receipt where the agreement was not binding on the assessee - Whether the AO was correct in disallowing delayed deposits of contributions to PF and ESIC and not applying provisions u/s 43B - Whether the AO was correct in taxing advance paid for material/services written-off due to non receipt of service - Whether the claim for deduction can be made u/s 80HHC where the same was not made before the AO - Whether interest income disallowed for computing deduction u/s 80HHC could be netted off - Whether the excise duty and sales tax were includible in total turnover for the purpose of computing deduction u/s 80HHC - Whether the expenses for gifts to employee were correctly disallowed by AO where the tax had been deducted on the same - Whether the sales promotion expenses were correctly disallowed where the relevant explanation was not submitted by the assessee - Whether part disallowance of of expenditure on account of sales promotion and foreign travel expense where the needful explanation was not provided by assessee was correct.

[2013-TIOL-208-ITAT-MUM](#)

Geonics India Pvt Ltd Vs ACWT (Dated: January 11, 2013)

Wealth Tax Act - Sections 2(ea), 14(1), 17 - Whether when the assessing authority has reopened the assessment on the basis of cogent evidences on record, no fault can be found with such reopening - Whether the assessment can be reopened merely on the basis of audit objections - Whether when a particular asset is not included in the definition of 'assets', and the rental income from letting out of the said properties has been offered by the assessee as income from house property, the same can be considered as income from business.

[Also see analysis of the Order](#)

[2013-TIOL-207-ITAT-MUM](#)

ACIT Vs Shri Mahesh N Thakkar (Dated: January 9, 2013)

Income Tax - Section 271(1)(c) - Whether penalty u/s 271(1)(c) is justified when the assessee conceded his mistake when the A.O. asked for documentary evidence.

[2013-TIOL-206-ITAT-KOL](#)

DCIT Vs Gulshan Investment Co Ltd (Dated: March 11, 2013)

Income Tax - Sections 14A, 94(7), Rule 8D - Whether the provisions of Section 14A are attracted even if the shares are held as stock in trade.

[2013-TIOL-205-ITAT-DEL](#)

Mr Sunil Sachdeva Vs ACIT (Dated: January 15, 2013)

Income Tax – Sections 45, 54EC, 54F(1), 54F(4) - Capital Gains - Special Gains account Scheme - Whether the date of receipt of deposit under Gains account scheme was the relevant date or the date of issuing instructions to bank for deposit of unutilized funds - Whether the AO was correct in denying exemption on account of non-furnishing of evidence - Whether investment u/s 54F(1) was required to be in correlation with the sale proceeds received from sale of capital assets - Whether the exemption u/s 54F(1) was correctly denied by CIT(A) where the payment for purchase of property was not directly made by the assessee.

[2013-TIOL-204-ITAT-MAD](#)

DCIT Vs M/S Mil Industries Ltd (Dated: January 7, 2013)

Income Tax - Section 50C - Whether for the purpose of provisions of Sec 50C, the valuation of the sold plot of land can be modified if it is a distress sale.

[Also see analysis of the Order](#)

[2013-TIOL-203-ITAT-BANG](#)

Shri M J Balachander Vs DCIT (Dated: December 21, 2012)

Income Tax – Section 132(4) - Search & seizure - Whether cash collected on account of extra tuition fees is required to be assessed in the hands of the employee or trust where the cash was seized from the residential premises of the employee - Whether the gross amount collected as ETF is required to be assessed to tax without granting any deduction for amount refunded back to students - Whether the exemption u/s 12 is correctly denied on account of cash seized on account of ETF collected by the employee of trust - Whether the depreciation on assets purchased out of funds applied is allowable.

[2013-TIOL-202-ITAT-HYD](#)

DCIT Vs M/s Laxmi Earth Movers (Dated: January 31, 2013)

Income Tax - Sections 132, 153A, 153C - Whether for the purpose of computing income u/s 153A/153C, the AO is required to confine himself only to the material found during the course of search operation.

[2013-TIOL-201-ITAT-HYD](#)

ACIT Vs M/s Keerthi Housing (P) Ltd (Dated: February 15, 2013)

Income Tax - Section 153C - Whether AO will be confined to the seized materials only while completing assessment u/s 153C.

[2013-TIOL-200-ITAT-BANG](#)

ITO Vs M/s Karnataka Power Transmission Corporation Ltd (Dated: October 19, 2012)

Income Tax - Sections 133A, 194C, 201(1), 201(1A) - Circular No. 275/201/95-IT(B) of 1997 - 'assessee in default' - 'contract for supply' - 'contract for work' - Whether when there is no obligation to deduct TDS, the assessee can still be held as "assessee in default" for non deposit of TDS - Whether TDS provisions can be applied to a 'contract for supply' - Whether when the tender gives the clear break up of separate agreements reflecting separate consideration, the contract can still be considered as composite contract.

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| 2013-TIOL-199-ITAT-MUM |
| ACIT Vs Mrs Rajpal Sethi (Dated: January 18, 2012) |
| Income Tax - Section 143(3) - CBDT Circular No. 4/2007 - 'Security Transaction Tax' - Whether assessee can claim capital gains on the sale of shares, in case the the delivery has been taken or given and STT has been paid on such sale - Whether when the Revenue has accepted the assessee's stand in earlier assessment years, it can still deny the same in the subsequent years, even if the facts are same. |
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| 2013-TIOL-198-ITAT-HYD |
| ITO Vs Shri Garlapati Chalapathi Reddy (Dated: November 30, 2012) |
| Income Tax - Sections 40(a)(ia), 40A(3), 194C - Whether disallowance u/s 40(a)(ia) can be made if the declarations in Form 15-I are found to be in order - Whether S.40A(3) is automatically attracted once the disallowance u/s.40(a)(ia) is deleted. |
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| 2013-TIOL-197-ITAT-DEL |
| Ganga Mercantile Pvt Ltd Vs ITO (Dated: December 21, 2012) |
| Income Tax - Sections 147, 148 - Whether the AO is justified in initiating proceedings u/s 147 r/w Section 148 when specific information was there with the investigation wing of the department regarding indulgement of the assessee in providing accommodation entries to the beneficiaries. |
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| 2013-TIOL-196-ITAT-MUM |
| M/s Forever Diamonds Pvt Ltd Vs DCIT (Dated: January 23, 2013) |
| Income Tax - Sections 14A, 115J, 115JB, Rule 8D - Schedule VI of the Companies Act - Whether the AO has power to re-cast the accounts prepared and certified by the authorities under the Companies Act - Whether when the books of accounts have been prepared in accordance with the companies Act, the assessing authority under the income tax Act has the authority to tinker with the accounts and make changes therein to compute book profits u/s 115JB - Whether the disallowance u/s 14A in relation to the exempt income can be made without any reasonable basis after introduction of rule 8D. |
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| 2013-TIOL-195-ITAT-BANG |

M/s G R Men's Vs ITO (Dated: January 4, 2013)

Income Tax - Sections 143(1) & (3), 263 - Whether the CIT (A) is justified in dismissing the appeal on technicality without considering the issue on merits when the AO had adopted different via -media to arrive at the difference in valuation of stock instead of carrying out the CIT's directions contained in the order passed u/s 263.

[2013-TIOL-194-ITAT-AHM](#)

Fairdeal Filaments Ltd Vs DCIT (Dated: February 15, 2013)

Income Tax - Section 40A(2)(b) - Whether the decline in the GP stands explained when the assessee informs the AO that the slight fall in the GP was because of hike in the rate of payment of salary and wages as also there was hike in the cost of the material - Whether the CIT(A) is justified in invoking section 40A(2)(b) in respect of lease rent when both the sides remained unsatisfied with the invocation.

[2013-TIOL-193-ITAT-DEL](#)

Buildmore India Ltd Vs ITO (Dated: January 18, 2013)

Income Tax - Sec 144 - Whether the CIT(A) is justified in dismissing the assessee's appeal when the assessee has not been able to put forth its case either before the AO, or before the CIT (A).

[2013-TIOL-192-ITAT-MAD](#)

M/s Carborundum Universal Ltd Vs ACIT (Dated: January 30, 2013)

Income Tax - Sections 14A, 43(6), 50B, 50C, 72A, 80HHC, Rule 8D - Set-off C/F of unabsorbed depreciation - Amalgamated companies - interest from debtors - Slump sale - Unamortized expenditure - capital vs revenue expenditure - Whether the unabsorbed depreciation of amalgamated company could be added to the w.d.v. of the merged assets where the c/f was legally not allowed - Whether interest collected from debtors was business income- Whether the expenses incurred for earning exempt income were required to be computed as per Rule 8D prior to A.Y.2008-09 - Whether merely because deduction was claimed u/s 35AB and not us/32, the technical know-how could not be treated as asset- Whether the unamortized portion of technical know-how was deductible while computing capital gain on slump sale- Whether purchase of update of a software was a capital or revenue expenditure.

[2013-TIOL-191-ITAT-HYD](#)

DCIT Vs M/s A S P Software Solutions Pvt Ltd (Dated: January 18, 2013)

Income tax - Sections 45, 48, 80IA, 132, 153A, 153C - Whether when no incriminating documents are seized and the AO issued notice u/s 153A, though no search was conducted on the assessee, the assessment made u/s 153C is not a valid assessment and void -ab-initio - Whether when there is no provision in the Act to change the sale value of the shares sold, CIT (A) cannot take a notional value as sale consideration for computation of capital gain tax.

[2013-TIOL-190-ITAT-MUM](#)

Anurag Toshniwal Vs DCIT (Dated: January 16, 2013)

Income tax - Section 28(va) - Whether the amount received by the assessee under non-compete agreement even though it was not carrying on the said business is taxable u/s 28(va) of the Income Tax Act as business income and cannot be treated as capital gain.

[2013-TIOL-189-ITAT-AHM](#)

Shri Areez P Khambatta Vs DCIT (Dated: January 18, 2013)

Income Tax - Section 254(2) - Powers of Tribunal - Whether non-appearance from the side of department can be a ground for recalling an order - Whether a decision of coordinate bench of the tribunal is binding on other bench - Whether the coordinate bench has power to distinguish the decision of other bench, on an issue which is missing in the other bench decision - Whether an authority is binding for an issue which has not been decided in express terms - Held - MA of assessee is dismissed.

[2013-TIOL-188-ITAT-HYD](#)

Dr Surendranath Reddy Vs DCIT (Dated: January 18, 2013)

Income Tax - Sections 19(1)(d), 156, 191, 192, 208, 210, 220(2), 234B, 234C - commission paid - staff payments - Whether when the commission earned by the assessee is in the nature of salary as per the provisions of Sec 192, the assessee is required to pay advance tax as per Sec 208 when the employer fails to deduct tax at source - Whether interest u/s 234B is leviable for non-payment of advance tax on such salary income.

[Also see analysis of the Order](#)

[2013-TIOL-187-ITAT-HYD](#)

Kakinada Sez Pvt Ltd Vs ACIT (Dated: January 18, 2013)

Income Tax - Sections 14, 57(iii), 143(1) - Whether when the income of the assessee is derived by parking the business funds temporarily, the same can be taxed as business income - Whether when the funds in the form of loans were infused for a specific purpose of acquiring land, the interest earned on funds primarily brought for infusion in the business, can be taxed as an 'income from other source' - Whether the interest payable on the loans, out of which the Fixed deposits were made, is allowable as deduction u/s 57(iii).

[2013-TIOL-186-ITAT -MAD](#)

Laser Soft Infosystems Ltd Vs ITO (Dated: January 31, 2013)

Income tax – Sec 37, Rule 5 - Revenue or Capital Expenditure – Whether when the expenditure incurred on development of computer software is a source of generating revenue to the assessee, the same cannot be considered as revenue expenditure but has to be considered as capital expenditure.

[2013-TIOL-185-ITAT -MUM](#)

JCIT Vs Reliance Capital Ltd (Dated: February 13, 2013)

Income Tax - Section 14A, Rule 8 - Whether disallowance of expenses u/s 14A is permissible where there are sufficient interest-free funds to meet investments - Whether the years in which rule 8D is not applicable requires reasonable disallowance and hence matter where disallowance is not reasonable requires fresh consideration - Whether proportionate disallowance of interest on account of diversion of funds to subsidiary is permissible where the funds are transferred on account of commercial expediency.

[2013-TIOL-184-ITAT -AHM](#)

M/s Natraj Vs DCIT (Dated: December 11, 2012)

Income Tax - Sections 48, 55(2)(a)(ii) - Whether the provision of section 48 shall be applicable and the fair value of the land in question as on 1.4.1981 along with indexed cost of acquisition has to be determined in order to arrive at the figure of "long term capital gain" when the assessee has acquired some land for NIL value prior to a year starting from 1.4.1981.

[2013-TIOL-183-ITAT -MAD](#)

M/s Mrf Ltd Vs DCIT (Dated: January 18, 2012)

Income Tax - Sections 14A, 37, 80HHC, 80IA, 143(3), 147, Rule 8D - Whether when an assessee has himself offered certain amount for disallowance u/s 14A, the

assessing authority can invoke the provisions of rule 8D and disallow further amount, even if the said proviso was not in existence at that point of time.

[2013-TIOL-182-ITAT-HYD](#)

M/s Hyderabad Bottling Co Ltd Vs DCIT (Dated: January 18, 2013)

Income Tax - Sections 2(47), 51, 143(1), 147, 148, - 'Possession Delivery receipt' - 'development of property' - 'Arms Length Transaction' - Whether when the parties are inter-related in a land transaction, the forfeited sums form a part of sale consideration for the purpose of computing capital gains - Whether the amount received towards cancellation of development agreement and towards damages is a capital receipt - Whether when the parties to a contract are interrelated, it cannot be said that the said transaction is of a commercial nature and is at Arm's Length.

[Also see analysis of the Order](#)

[2013-TIOL-181-ITAT-KOL](#)

ITO Vs Shreyans Investments Pvt Ltd (Dated: March 6, 2012)

Income tax - Sections 2(24)(vi), 2(47)(i), 28(iv), 47(vii), 143(3), 158BB - Arising from business - capital reserve - perquisite - business receipt - Income - Amalgamating company - Blending company - Adventure in the nature of trade - Whether any benefit derived by the assessee on account of amalgamation can be construed as an income taxable u/s 28(iv) - Whether the expression 'arising from the business' means that the benefit or perquisite must be in the nature of revenue receipt.

[Also see analysis of the Order](#)

[2013-TIOL-180-ITAT-DEL](#)

ACIT Vs Serco BPO Pvt Ltd (Dated: December 7, 2012)

Income Tax - Sections 194C, 194-I, 201, 201(1A) - Whether assessee is required to deduct TDS u/s 194I when all the payments in terms of the agreement were remitted to the various parties by IISPL on behalf of the assessee company on actual payment basis and the assessee deducted tax at source in terms of provisions of section 194C even on the amount of reimbursement on actual basis to IISPL.

[2013-TIOL-179-ITAT-MAD](#)

ITO Vs M/s LPL Sons Roadlines (Dated: January 10, 2013)

Income Tax - Sections 194C, 194H, 201(1), 201(1A), Rule 46A - Whether the assessee can be saddled with any tax u/s 201(1) and/or interest u/s 201(1A) for the payments not appearing in the books of the assessee, which have been directly paid.

[2013-TIOL-178-ITAT-DEL](#)

ITO Vs M/s J H Business & Products (P) Ltd (Dated: February 6, 2013)

Income Tax - Sections 35, 35D, 69C - Whether the mere fact that the assessee has issued accommodation entries, can be taken as a valid stand to consider the purchases bogus - Whether when the evidences produced by the assessee clearly show the authenticity of the purchases, the addition can be made u/s 69C.

[2013-TIOL-177-ITAT-MAD](#)

M/s Eshwarnath Constructions Vs ACIT (Dated: January 15, 2013)

Income Tax - Section 80IA(4) - Whether the assessee, a partnership firm, being a 'contractor' who carries out construction on behalf of the Railways, can be treated as a 'developer' so as to avail deduction u/s 80IA(4).

[2013-TIOL-176-ITAT-DEL](#)

M/s Chemical Construction International Pvt Ltd (Dated: February 8, 2013)

Income Tax - Section 147 - Reopening of assessment - change of opinion - capital vs revenue expenditure - Interest free loans - Whether the reopening of assessment on facts discussed and considered elaborately by AO in original assessment is a mere change of opinion - Whether the reassessment proceedings based on change of opinion by AO is valid - Whether the CIT(A) is correct in deleting addition made with respect to conference expenses being treated as capital expenditure where the AO had not substantiated the addition claim by any evidences - Whether proportionate interest was correctly disallowed where no nexus was established between borrowed funds and interest free loans to related parties.

[2013-TIOL-175-ITAT-MAD](#)

M/s Freight Systems (India) Pvt Ltd Vs DCIT (Dated: January 24, 2013)

Income Tax - Sections 14A, 36(1)(va), 37(1), 43B, 92C, 92CA(3), 133(6), 139(1), Rule 8D & 10B - TNMM - Arm Length price - Transfer pricing - Associated enterprises -

Operating Margins - BPO segment - Freight Forwarding Segment - Whether when the payments in respect of payment of employees' contribution to PF were made by the assessee after the due date under the relevant Acts, but before the due date of filing of return of income u/s 139(1), the same can be disallowed as per the provisions of section 43B of the Act - Whether the expenditure incurred in relation to legal drafting and printing of Memorandum etc. can be claimed as a revenue expenditure u/s 37(1).

[2013-TIOL-174-ITAT-DEL](#)

M/s Orient Craft Ltd Vs DCIT (Dated: February 22, 2012)

Income Tax – Sections 80HHC, 143(3), 147 - Reopening of assessment - Whether proceedings u/s 147 are valid even if there is no new material or evidence on record to prove escapement of income.

[2013-TIOL-173-ITAT-DEL](#)

ACIT Vs Osram India Pvt Ltd (Dated: December 14, 2012)

Income Tax - Sections 32, 40(a)(ia), 194C - Whether depreciation on goodwill is admissible u/s 32(1) - Whether the purchase of packing material both pre-printed and plain constitutes contract of sale and does not attract provisions of section 194C.

[2013-TIOL-172-ITAT-MUM](#)

ADIT Vs M/s Islamic Research Foundation (Dated: January 9, 2013)

Income Tax – Sections 11, 13(1)(b) - Trust - Exemption - Whether income of a Trust involved in mixed activities of religious and charitable nature warrants invocation of Sec 13(1)(b).

[Also see analysis of the Order](#)

[2013-TIOL-171-ITAT-AHM](#)

Miteshkumar Jagdishchandra Naik Vs ITO (Dated: January 31, 2013)

Income Tax - Sections 143(3), 271(1)(c) - 'agricultural income' - Whether the penalty in respect of concealment of income can be levied, even if the assessing authority has failed to bring on record the complete particulars filed by the assessee - Whether the assessment and penalty proceedings are different from each other.

[2013-TIOL-170-ITAT-MUM](#)

The Associated Cement Companies Ltd Vs Addl.CIT (Dated: January 30, 2013)

Income Tax – Sections 36(1)(iii), 115JA - Subsidy - Bad debts - MAT book profit - Whether subsidy received by assessee company from the government is capital in nature or taxable as revenue subsidy - Whether penal charges paid by assessee company for not fulfilling obligation of mining limestone is contractual violation or legal violation - Whether the claims not receivable from Insurance agency and Railways is liable to deduction as bad-debt in year of claim or on settlement of disputed claim - Whether expenditure incurred on new business venture was capital expense - Whether borrowing costs debited in books as capital expenses but claimed as expended on expansion of existing business was allowable expenditure - Whether the capital receipts such as sales tax incentive, electricity duty, road transport subsidy and profit on sale of fixed assets and investments were required to be excluded while computing book profit u/s 115JA where the same had been credited to Profit & loss account prepared by the assessee - Whether dividend distribution tax was required to be excluded while computing book profit u/s 115JA - Whether write back of provision for expenditure not allowed as deduction, could be excluded from total income - Whether expenditure incurred for building power station not owned by the assessee to ensure adequate supply of electricity was capital or revenue expenditure - Whether the VRS expenditure was allowable as revenue expense - Whether expenditure incurred on construction of temporary structure to facilitate business at clients site was capital or revenue expenditure - Whether expenditure incurred on contribution to construction of stadium on request of State government was correct disallowed as not related to assessee's business.

[2013-TIOL-169-ITAT-HYD](#)

Venkata Ramana Umareddy Vs DCIT (Dated: January 18, 2013)

Income Tax - Sections 54, 54F, 143(1), 143(2) - Whether the benefits of exemption u/s 54 and 54F are allowable on purchase of a new residential house, in case the sale proceeds are from two distinct and separate assets.

[2013-TIOL-168-ITAT-BANG](#)

ACIT Vs Shri C V Reddy (Dated: December 26, 2012)

Income Tax - Sections 2(22)(e), 147 - Deemed dividend - Whether advance received by the assessee, a Director of the Company, for purchase of agriculture land, which is not permitted by law, may fall within the ambit of section 2(22)(e).

[2013-TIOL-167-ITAT-CHD](#)

Mohan Bottling Co Pvt Ltd Vs ACIT (Dated: February 27, 2013)

Income Tax - Sections 28(iv), 32, 41, 57, 72(2), 73(3), 139, 142, 143, 147, 148, 234A, 234B - "unabsorbed depreciation", "change of opinion", "income from other sources" - Whether re-assessment proceedings can be validly initiated, if the original return of income is processed u/s 143(1) and no scrutiny assessment is undertaken - Whether wherever no opinion was formed in the original proceedings, then same would not be covered under the term 'change of opinion' - Whether reopening of assessment can be validly sustained, if the return filed has been treated as invalid u/s 139 - Whether the fact that assessee earned benefits due to waiver of loan by creditors, which was not disclosed by the assessee constitutes prima facie material for reopening the assessment - Whether full proof is not required that income has escaped assessment at the stage of the reopening - Whether prima facie material gathered in the course of subsequent assessment year can be used for reopening the assessment - Whether pendency of assessment of a return is a fetter for reopening the assessment - Whether remission of particular income u/s 41, when could not be taxed under the head "business income" due to 'Nil' income, can be read for computing the income under the head "income from other sources" - Whether computing provisions of one head of income can be used not only for the purpose of computing income under that head, but also for computing income under another head - Whether Section 41 can be applied on remission of a liability, even though when the assessee has not claimed such liability as a deduction in the previous AYs - Whether in light of the amendment brought by the Finance Act, 2001, unabsorbed depreciation for the block of Assessment year 1997-98 to 2001-02, which could not have been set off earlier, can be allowed to be set off now.

[2013-TIOL-166-ITAT-MUM](#)

Shri Raj Babbar Vs ITO (Dated: January 15, 2013)

Income Tax - Sections 45, 50C, 54F(1)(a) - Capital gain - Whether Section 54F benefits are not available against capital gains computed as per the deeming fiction u/s 50.

[Also see analysis of the Order](#)

[2013-TIOL-165-ITAT-MAD](#)

M/s Caress Beauty Care Products Pvt Ltd Vs CIT (Dated: January 15, 2013)

Income Tax - Sections 80IA, 80IB, 263 - Industries Act, 1951 - Sec 11B - Small Scale undertaking - Whether even if the investment in plant and machinery exceeds Rs one crore, the assessee can claim to be treated as SSI merely because it was treated so in the past - Whether merely because the assessee was erroneously allowed certain benefits in the past, such allowance vests any right in the assessee to claim the same in the next AY - Whether the principle of consistency fails when certain benefits, not legally available to the assessee, were allowed in the past - Whether the doctrine of res judicata is not applicable in the case of administration of tax laws.

[Also see analysis of the Order](#)

[2013-TIOL-164-ITAT-DEL](#)

DCIT Vs Tyazhprom India Pvt Ltd (Dated: February 7, 2013)

Income Tax - Sections 115JB, 143(3), 254 - Whether when the payment was made during the current year for purchase of an additional equipment, the finding of the assessing authority that the liability was not actually crystallized during the year under consideration, is tenable in law - Whether when assessee has paid certain charges as a result of revision in the business terms of previous year transactions, the same can be allowed as an expense in the current year, in which year these are actually paid - Whether when the payments were made after the end of current FY, can the same be allowed as an expense in the current year only.

[2013-TIOL-163-ITAT-MUM](#)

ITO Vs M/s Noella P Perry (Dated: February 15, 2013)

Income Tax - Sections 2(42A), 47, 48, 49, 55(2)(b)(ii), 143(3) - legatee - testator - inheritance of property - Whether for the purpose of computation of capital gains, the correct way is to compute gains on the entire property and then divide it proportionately - Whether when the benefit of cost of acquisition and holding period of the asset in the hands of the assessee, in case the asset is acquired by the previous owner, to be reckoned with reference to the holding by the previous owner, the same also holds good in the context of Indexation benefit.

[2013-TIOL-162-ITAT-BANG](#)

JCIT Vs M/s Bharat Fritz Werner Ltd (Dated: December 21, 2012)

Income Tax - Sections 14A, 43B - Disallowance - Expenses for earning exempt income - Interest free loans to sister concern - Consistency principle - Capital vs. revenue expense - Whether disallowance u/s 14A is blanket in nature or has to be relatively proved and applied - Whether the assessee is correct in applying consistent approach on tool consumption where the data for consumption was not maintained - Whether the interest free loan made to sister concern is required to be disallowed even if the interest bearing loans could not be proved to be diverted for the same - Whether the expenses incurred in respect of salary paid to employees working in R&D division is capital in nature - Whether the design charges paid by the assessee in the course of manufacturing of machine tools for customized requirement of customer is capital expense - Whether property tax which was subject matter of adjudication would be allowable as expense in the year of payment or on settlement of court decision.

[2013-TIOL-161-ITAT-BANG](#)

ACIT Vs Shri Ajit N Kulkarni (Dated: January 18, 2012)

Income Tax - Sections 44AD, 147, 148, 263 - Reopening of assessment - Correction - Revised return - Whether when corrections made with respect to contract receipts were accepted by the AO, and a revised return was also filed, reassessment can still be initiated on the same ground.

[2013-TIOL-160-ITAT-MAD](#)

M/s Apollo Sindhoori Hotels Ltd Vs ACIT (Dated: January 10, 2013)

Income Tax - Sections 32(1)(ii), 37, 263 - Whether expenditure incurred for renovation or extension of existing leased premises is covered by the provisions of Sec 37(1) or Sec 32(1)(ii)

[2013-TIOL-159-ITAT-HYD](#)

M/s Transport Corporation of India Vs Addl.CIT (Dated: January 31, 2013)

Income Tax - Sections 48, 52(2) - Amalgamation - Merger - Understatement - Declared value - Whether when commission was paid during the course of business on account of commercial expediency and for genuine reasons, the same can be disallowed - Whether for computing capital gain, the fair market value (FMV) can be taken by the Assessing Authority under the provisions of section 52(2) of the Act - Whether in case of sale of shares to employees or close relatives, the assessing authority can presume that the sale at cost price has resulted in furnishing inaccurate particulars of income and hence under-statement thereof - Whether in order to prove understatement of income, the onus to prove is on the assessee - Whether when there is no specific procedure to decide regarding a particular aspect, the option to look to other Act in which such procedure has been laid is available.

[2013-TIOL-158-ITAT-HYD](#)

Dy.CIT Vs M/s Vertex Homes, Pvt Ltd (Dated: October 12, 2012)

Income Tax - Section 80IB (10) - Whether for claiming deduction under section 80IB (10), the ownership of the land is must or even the developer can also claim deduction - Whether an assessee which is following project percentage method can claim deduction on proportionate basis de hors the selling of the new apartments in toto.

[2013-TIOL-157-ITAT-HYD](#)

M/s Madhucon Granites Ltd Vs DCIT (Dated: December 28, 2012)

Income Tax - Sections 10B, 32, 40a(ia), 44D, 80HHC, 80IA, 139(1), 194J - Depreciation - Reassessment - Search - Rejected Books of accounts - TDS - Whether the assessee is eligible for deduction on export of unprocessed rough granites u/s 80HHC/10B of the Act - Whether the assessee is eligible for deduction u/s 10B where the return was not filed before the due date - Whether the depreciation u/s 32 is allowable where income was estimated as percentage to gross receipts - Whether the income on construction contracts is correctly estimated at 12% of gross receipts - Whether the assessee is eligible for deduction u/s 80IA on building infrastructure projects for government agencies - Whether the AO is correct in disallowing expenditure after rejecting books of accounts on detection of self-made vouchers - Whether the AO is correct in disallowing the entire amount accounted as royalty without deduction of tax.

[2013-TIOL-156-ITAT-AHM](#)

DCIT Vs Eimco Elecon (India) Ltd (Dated: December 14, 2012)

Income Tax - Sections 40(a)(ia), 143(3), 194J - Whether provision for warranty is allowable expenditure - Whether provisions of Sec. 40(a)(ia) can be invoked when TDS is deducted but there was a difference of opinion between the A.O. and the assessee regarding the correct section under which tax was required to be deducted - Whether assessee is entitled to additional depreciation on the foreign exchange loss debited in A.Y. 2007-08 when the machinery has been installed in A.Y. 2006-07.

[2013-TIOL-155-ITAT-BANG](#)

M/s DHFL Vysya Housing Finance Ltd Vs ACIT (Dated: January 1, 2013)

Income Tax - Section 148 - Whether assumption of jurisdiction by issuance of a notice u/s.148 after lapse of four years is good in law when the AO has not in the reasons recorded made an allegation that income chargeable to tax has escaped assessment by reason of the assessee's failure to disclose fully and truly all material facts necessary for his assessment.

[2013-TIOL-154-ITAT-DEL](#)

Bokaro Power Supply Co (P) Ltd Vs DCIT (Dated: January 24, 2013)

Income Tax - Sections 28, 36(1)(iii), 37, 40A(7), 43B, 56, 57 - Whether the liability regarding the post retirement medical benefits, estimated on the basis of actuarial valuation, can be denied by the assessing authority treating them as an unascertained liability - Whether the contingent liabilities discounted and valued as necessary, can be taken into account as trading expenses if they are capable of valuation with substantial accuracy - Whether when the assessee receives interest on FDs, which could not be put to use for the purpose for which they were taken, then the receipt is "inextricably linked" to the setting of the project and it would be considered as a

capital receipt, not liable to tax.

[2013-TIOL-153-ITAT-DEL](#)

M/s Bharti Hexacom Ltd Vs CIT (Dated: January 4, 2013)

Income Tax - Sections 143(1) & (3), 263 - Whether disclosure of figures in balance sheet ipso facto implies application of mind of AO and formation of view - Whether assessment framed without taking any view is not erroneous and prejudicial to the interest of Revenue, particularly when disallowance has been made in subsequent year's assessment.

[2013-TIOL-152-ITAT-DEL](#)

ACIT Vs M/s Aha Air Hostess Academy (P) Ltd (Dated: January 24, 2013)

Income Tax - Sections 133A, 194A, 201(1), 201(1A), Circular No 275/201/95-IT(B) of 1997 - Whether assessee can independently reverse the entries made in the books of accounts, in respect of Tax Deducted at Source.

[2013-TIOL-151-ITAT-DEL](#)

Vasundhra Marbles Vs ACIT (Dated: December 14, 2012)

Income Tax - Section 68 - Whether addition can be made merely on the basis of confirmation being not there of the creditors when AO's case was not that, the purchases have been made from unaccounted money and fictitious creditors have been created to account for the same.

[2013-TIOL-150-ITAT-MUM](#)

Mrs Prajwal Arvind Kamath Vs ACIT (Dated: January 23, 2013)

Income Tax - 'commission' - Whether when the assessee is paying commission to its certain parties regularly, the same can be disallowed in the current year, even if it has been duly allowed by the Revenue in the subsequent assessment years.

[2013-TIOL-149-ITAT-DEL](#)

M/s General Talkies Ltd Vs ITO (Dated: December 14, 2012)

Income Tax - Sections 36, 37 - business losses - Capital gain - Whether the assessee is correct in adjusting accumulated business losses with income from sale of shares classified as investments - Whether the commission paid to director on basis of profits from investment income is allowable as deduction.

[2013-TIOL-148-ITAT-MUM](#)

Caylx Chemicals & Pharmaceuticals Ltd Vs DCIT (Dated: February 8, 2013)

Income Tax - Section 35AB, 43(1), 47(xiii) - Succession of firm - Revaluation of assets - Whether depreciation is allowable on revalued value of assets where succession of firm to company satisfied conditions stipulated u/s 47(xiii) - Whether development expenses incurred on R&D activities carried out in assessee's own R&D centre is eligible for deduction u/s 35AB.

[2013-TIOL-147-ITAT-MUM](#)

ACIT Vs Reifenhauer (India) Marketing Ltd (Dated: January 16, 2013)

Income Tax - Sections 5, 143(3) - 'non-compete fees' - Whether an income, which was once taxed on receipt basis, can again be taxed on accrual basis - Whether when the basic condition of an Agreement is settled and deemed as complied with and the maturity of the right to receive the payment on the defined date in future, it can be said to be an accrual of a fresh or a new right by itself.

[2013-TIOL-146-ITAT-MUM](#)

ITO Vs M/s Dharti Enterprises (Dated: January 18, 2012)

Income Tax - Sections 40(a)(ia), 80IB(10), 143(3), 194C, 200(1) - Whether the assessee is entitled to deduction in respect of the profits computed of the housing project u/s 80IB, even if the disallowance u/s 40(a)(ia) is attracted on the same amount.

[2013-TIOL-145-ITAT-MUM](#)

DAI-ICHI Karkaria Ltd Vs DCIT (Dated: January 11, 2013)

Income Tax - Section 271(1)(c) - Whether penalty can be imposed u/s 271(1)(c) when all the material particulars relating to the claim were fully and truly furnished by the assessee.

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| 2013-TIOL-144-ITAT-MUM |
| M/s Jet Airways (India) Ltd Vs DCIT (Dated: January 30, 2013) |
| Income Tax - Sections 115WB(1B), 115WC(1A), 115WE[3], 142, 143, - Fringe Benefit Tax - Frequent Flyer Programme - Valuation - FFP Scheme - Whether for Fringe Benefit calculations, any free or concessional coupons provided by the employer for private journeys of his employees or their family members can be equated with the tickets given to general public, although such coupons neither confer confirmed traveling rights nor provide similar privileges provided to general public - Whether such tickets cannot be valued on the lines of "Frequent Flyer Programme" method followed by the assessee, although the same has been accepted as a correct valuation method in the previous AYS - Whether fringe benefit tax can be levied, even when there is no employee-employer relationship - Whether expenditure incurred on festival celebrations in favour of travel agents/various Govt. departments are subject to FBT - Whether FBT can be levied on promotional gift items given to customers and travel agents. |
| Also see analysis of the Order |
| |
| 2013-TIOL-143-ITAT-DEL |
| International Cars & Motors Ltd Vs ITO (Dated: December 21, 2012) |
| Income Tax - Section 32(1)(ia) - Whether for claiming additional depreciation it is necessary that the plant and machinery must be acquired and installed during the prescribed period. |
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| 2013-TIOL-142-ITAT-PUNE |
| Dr D Y Patil Pratisthan Vs DCIT (Dated: December 14, 2012) |
| Income Tax – Sections 11,12A, 13 – Exemption - Trust - Whether advertisement expenses on trustee's birthday would be in violation of Trust's objectives u/s 13 - Whether the car expenses incurred by the assessee are expended for the benefit of the trustee - Whether lending of money to other trust is in violation of objects of the trust u/s 13 - Whether maintenance of flat used by trustee for living is expended for purpose of trusts objects - Whether delay in depositing employees contribution to provident fund is liable to be disallowed. |
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| 2013-TIOL-141-ITAT-DEL |
| ACIT Vs M/s Dexterity Developers (Dated: January 18, 2013) |

Income Tax - Sections 41(1), 139(1) & (5), 142(1), 143(2) - Whether in case an assessee is following cash method of accounting, every receipt can be treated as income - Whether when an income is declared as non-taxable as a result of a court's order, the revision of return already filed declaring the same as income, is valid as per the law.

[2013-TIOL-140-ITAT-MUM](#)

Vinod V Chhavia Vs ITO (Dated: November 21, 2012)

Income Tax - Section 54EC - Whether amount received by the assessee can be called "capital receipt" when the new tenant paid the consideration to the original tenant and the landlord.

[2013-TIOL-139-ITAT-MUM](#)

DCIT Vs M/s The Indian Hotel Company Ltd (Dated: November 23, 2012)

Income Tax - Sections 41(1), 80HHC, 234D - Export - Interest free advances - AS10-AS11 - Whether the proportionate interest is required to be disallowed for interest free advances given to subsidiary companies - Whether deposits in foreign subsidiary locked for 10 years should be valued at exchange rate on date of deposit or on closing date of Balance Sheet reporting date - Whether the export benefits u/s 80HHC would be available on sale of food to foreign airlines- Whether replacement cost of carpets and linens allowable business expenditure- Whether the assessee was liable to pay interest u/s 234D where original assessment was completed before 1-6-2003 - Whether the interest cost claimed as deduction in previous years, debited to cost of asset chargeable to tax.

[2013-TIOL-138-ITAT-MUM](#)

Tata Communications Ltd Vs JCIT (Dated: December 5, 2012)

Income Tax - Section 37(1) - Whether a provision which is attributable to a concrete liability is allowable de hors of the fact that the liability is to be discharged in future - Whether prior period expenses are allowable upon crystallization of liability.

[2013-TIOL-137-ITAT-MUM](#)

Syngenta India Ltd Vs ACIT (Dated: November 9, 2012)

Income Tax - Sections 2(45), 5, 35(1)(ii), 35DDA, 37(1), 40A(9), 80A, 80G, 80HHC, 80IB, 143(3), 154, 234D, 244A - Whether the deduction u/ 80IB can be restricted to the extent of income from 'profits and gains from business' - Whether a deduction

under the Act can be denied merely on the basis that it was initially claimed under a wrong section, even though it was a genuine one - Whether the loss from manufacturing of export goods, can be set off against the export incentives receivable u/s 80HHC - Whether the income from premium relating to import license can be considered as income derived from the business.

[2013-TIOL-136-ITAT-MUM](#)

M/s Smith & Sharks Projects (I) Pvt Ltd Vs ITO (Dated: December 7, 2012)

Income Tax - Sections 249, 271(1)(c) - Whether delay can be condoned on the ground of inaction of the CAs when there is no evidence to suggest that the stated negligence was attributable to the CAs only - Whether penalty can be imposed when the assessee has disclosed the relevant facts necessary for making assessment.

[2013-TIOL-135-ITAT-HYD](#)

Smt B Sarada Reddy Vs A CIT (Dated: January 9, 2013)

Income Tax - Sections 50C, 139(1) - Valuation - Whether computation of capital gains based on a delayed rectification deed of a property, resulting in lower consideration as compared to the original deed, cannot be faulted with - Whether the AO is correct in adopting cost of acquisition as per stamp duty valuation and rejecting the independent valuer report - Whether expenses claimed against payment made for breach of contract are required to be compulsorily supported by confirmation receipts - Whether the partial disallowance without citing sufficient reasons is justifiable.

[Also see analysis of the Order](#)

[2013-TIOL-134-ITAT-MUM](#)

M/s Reliance Communications Ltd Vs ACIT (Dated: February 5, 2013)

Income Tax - Sections 60, 61, 62, 63, 68, 72, 263 - Foreign Currency Convertible Bonds - Global Certificate - Mark to Market Losses - Revisionary Jurisdiction - Whether in FCCB issue, it is required to disclose the details of those subscribers other than the lead subscriber, even though they have no privity of contract under the subscription agreement - Whether in FCCB issue, disclosing identity of the person, who has the sole responsibility of subscribing the issue, is sufficient disclosure warranted u/s 68 - Whether a new or alternate ground raised by the DR, can be allowed for testing the sustainability of CIT's order passed under revisionary jurisdiction - Whether the same would amount to usurping the jurisdiction of the CIT u/s 263 - Whether when AO has chosen one out of the two legally sustainable views, the order passed can be considered as erroneous and prejudicial to the interests of the Revenue - Whether revisionary jurisdiction can be invoked, when the issue of clubbing income earned by the borrower from the interest free loan advanced by the lender in the hands of the lender, is debatable - Whether when on one hand forex loss on account of derivatives is considered as contingent and ineligible for deduction, on the other the forex gain

can be subject to taxation - Whether loss incurred under the head of "Mark to Market losses" in a derivative transaction is notional and contingent - Whether when the AO has applied his mind, which is evident from the enquiry conducted by him during the course of assessment proceedings, the assessment order can be branded as erroneous due to non-application of mind, merely because there is no mention of certain issues in the assessment order - Whether the mere fact of no enquiry on all or any of the relevant aspects of assessment is sufficient for invoking jurisdiction u/s 263 - Whether Section 263 is attracted, when AO has made enquiry on all relevant aspects of the assessment based on the required details furnished by the assessee, but failed to reach a logical conclusion - Whether Section 263 can be invoked on either of the instances, when AO did not appreciate the facts in right perspective or failed to correctly apply the relevant legal provisions to the factual position - Whether the mere fact that the AO did not make any reference to all the issues in the assessment order cannot make the assessment order erroneous, when these issues were properly looked into by the AO.

[Also see analysis of the Order](#)

[2013-TIOL-133-ITAT-MUM](#)

ACIT Vs Rare Enterprises (Dated: January 30, 2013)

Income Tax - Section 14A, Rule 8D - Whether when the assessing authority was ceased of the matter for computing the disallowance, as per the order of the Tribunal, the proceeding can still continue in respect of any other matter in the same case - Whether when the issue relating to the penalty quantum proceedings has been restored to the file of the assessing authority by the Tribunal in a certain case, on similar facts, the cases needs to be restored only.

[2013-TIOL-132-ITAT-MUM](#)

Orchard Advertising Pvt Ltd Vs DCIT (Dated: January 11, 2013)

Income Tax - Section 40A(2)(b) - Whether the CIT(A) is justified in following the revisional order of the CIT when the same was reversed by the Tribunal - Whether the expenses can be disallowed u/s 40A(2)(b) merely on the ground that the allocation of expenses has not been made on the basis of rigid and detailed formula.

[2013-TIOL-131-ITAT-PUNE](#)

Patangrao Kadam Pratisthan Vs DCIT (Dated: December 31, 2012)

Income Tax – Sections 11, 12, 13 - Donation - Trust exemption - Form 10 - Search - Whether for purpose of exemption u/s 11, the Form 10 is required to be filed by the assessee trust alongwith the return of income - Whether the advances made by the assessee trust to other trust are in nature of loan or deposits.

[2013-TIOL-130-ITAT-AHM](#)

M/s Oil & Natural Gas Corporation Ltd Vs ACIT (Dated: November 16, 2012)

Income Tax – Sections 9(1)(viii), 115WB, 201, 194I, 194J – FBT - TDS – Whether the assessee is required to deduct tax on uniform allowance and washing charges reimbursed to employees on which FBT was paid u/s 115WB – Whether reimbursement of conveyance expenses is required to be paid to the employees after tax deduction – Whether crane hiring charges were required to be paid after tax deduction u/s 194C or 194I- Whether car hire charges and seismic service charges have to be paid after tax deduction u/s 194I and 194J respectively.

[2013-TIOL-129-ITAT-HYD](#)

Nagarjuna Fertilizers And Chemicals Ltd Vs DCIT (Dated: November 9, 2012)

Income tax – Sections 2(24), 14A, 28(iv), 41(1) – Whether the waiver of loan which was obtained for purchase of a capital asset constitutes income within the meaning of S.2(24) and will not be taxable either under S.28(iv) or under S 41(1) – Whether when the assessing officer has not recorded any satisfaction for actual incurring of expenditure for earning the dividend income, no disallowance can be made as it is only such expenditure which the assessee must have incurred for earning dividend income, can be disallowed in terms of S.14A of the Act, and not any notional interest relating to the investments made in the shares – Whether when the assessee had not proved any commercial expediency for advance given to sister concern, interest is correctly disallowed proportionately.

[2013-TIOL-128-ITAT-MUM](#)

Arvind M Kariya Vs ACIT (Dated: January 30, 2013)

Income Tax - Sections 68, 131, 132, 133, 143, 153A - Indian Evidence Act - Section 115 - "Rule of Estoppel" - "Test of Human Probability" - "Preponderance of Probabilities" - Whether it leads to prima facie evidence against the assessee, when he has failed to provide satisfactory explanation of the source of a particular income - Whether the facts when share transfer of a listed company is concluded within merely four days, and the company directly corresponds with the shareholder, offers sufficient grounds to question the genuineness of such transaction - Whether the mere fact that shares purchased have been sent for dematerialization by the assessee, proves the genuineness of the same, even though they were transacted offline and not on the floors of a stock exchange - Whether the rule of estoppel under the Evidence Act can be invoked, when the assessee has retracted at the time of filing return, from his earlier stand taken during the search and seizure proceedings - Whether the transaction about purchases of shares in physical form of such companies, whose share prices have been rigged by some fraudulent operators can have any direct evidences - Whether in a situation, when the apparent is not the real, the test of human probability needs to be applied - Whether in income tax proceedings the degree of proof required is by preponderance of probabilities - Whether an adverse inference can be drawn by the Department, when the

circumstantial evidence and statement of assessee disclosed u/s 132 indicate that shares purchased have been backdated to give it a colour of Long term capital gain by showing the period of holding for more than 12 months - Whether in such a case, the principle of preponderance of probabilities can be safely invoked to infer that a certain percentage of the sales consideration has been paid as fees to the operators for arranging the coloured transaction.

[Also see analysis of the Order](#)

[2013-TIOL-127-ITAT-MUM](#)

ITO Vs Chhatariya Dehydrates Exports (Dated: January 2, 2013)

Income Tax - Section 10B - Whether when the assessee is engaged in trading as well as manufacturing activities but does not maintain separate books, the turnover method can be applied to work out the expenses incurred on such activities.

[2013-TIOL-126-ITAT-MUM](#)

ITO Vs Chandra Towers Pvt Ltd (Dated: January 23, 2013)

Income Tax - Sections 40(a)(ia), 40A(3), 41(1), 68, 69C, Rule 6DD, CBDT Circular No. 220 of 1977 - Whether in case there is a commercial expediency to make cash payment, the disallowance under the rule 6DD can be made - Whether when an assessee has debited less amount to the profit & loss account in comparison of what has been spent to purchase a land, difference can be treated as unexplained income - Whether a liability existing in the books can be unilaterally written off and added to the income of the assessee by the assessing authority - Whether when all the conditions to prove the genuineness of a loan transaction are fulfilled, still the addition can be made u/s 68.

[2013-TIOL-125-ITAT-MAD](#)

ACIT Vs Charon Tec Pvt Ltd (Dated: November 14, 2012)

Income Tax - Sections 10A, 10B, 80HHC, 143 - Whether the expenditure incurred in foreign currency when excluded from the export turnover, has to be reduced from the total turnover also in order to give benefit u/s 10B - Whether when two different views of different High Courts are available, the decision favourable to the assessee is to be followed.

[2013-TIOL-124-ITAT-KOL](#)

Baynee Industries Vs ACIT (Dated: November 16, 2012)

Income Tax - Section 40(a)(ia) - Whether section 40(a)(ia) can be invoked to disallow the amounts which have already been paid during the previous year, without deducting tax at source.

[2013-TIOL-123-ITAT-HYD](#)

DCIT Vs B Dhanunjaya Rao (Dated: December 14, 2012)

Income Tax - Whether the CIT(A) is justified in deleting the addition made by AO in respect of deemed dividend u/s 2(22)(e) when the assessee has not produced any documents to prove the fact that the personal properties of the assessee were actually mortgaged with the bank for the sake of availing loans by the company.

[2013-TIOL-122-ITAT-AHM](#)

Oil And Natural Gas Corporation Ltd Vs ACIT (Dated: January 11, 2013)

Income Tax – Sections 10(14), 17(2)(vi), 115WB(2), 201(1), 201(1A), Rule 3(7)(ii) - Perquisite - FBT - Whether when an employer reimburses its employees and their family members for travelling and accommodation under holiday home scheme and pays FBT on the same, any TDS obligation arises in such a case - Whether when the employer incurs expenses towards reimbursements of cost of uniform, stitching charges and washing expenses, such expenditure is covered under the provisions of FBT and hence no TDS obligation arises.

[Also see analysis of the Order](#)

[2013-TIOL-121-ITAT-MAD](#)

M/s Cairn Energy India Pvt Ltd Vs DIT (Dated: December 20, 2012)

Income Tax - Sections 80IA, 80IB, 263, 292B - Whether when the show cause notice issued u/s 263 mentions only about deduction u/s 80IB not being computed in accordance with the procedure laid down in Section 80-IA, whether the final order passed u/s 263 can deny deductions claimed u/s 80IB - Whether in such a case the notice and order passed u/s 263, can be said to be at variance and incorrect - Whether if at all there is any such variance, the same cannot be cured u/s 292B, when the final order passed was in substance and effect in conformity with the intent and purpose of the Act - Whether when AO has allowed deductions u/s 80IB, relying upon detailed computation furnished by the assessee, the same cannot be erroneous and prejudicial to the interests of Revenue, although the AO has failed to consider the basis of allocation of expenses, date of commencement of production and independent nature of the units, crucial for claiming deduction u/s 80IB - Whether there is a non-application of mind by the AO, when the assessment order simply mentions that the claim of deduction u/s 80-IB is allowed "as made by the assessee", without forming

any opinion on the allowability of such a claim - Whether there must be application of mind at least on the veracity of a claim made by the assessee, although every claim, which is allowed need not be elaborately dealt with in an assessment order - Whether there was any violation of principle of natural justice, when the revisionary order was passed after duly considering the judicial decision, which was cited by the assessee in support of its claim that no due opportunity of hearing was provided - Whether when there is a conflict of opinion on the requirement of maintaining separate accounts by eligible units for claiming deduction u/s 80-IB of the Act, the said aspect should have been verified by the AO at the time of completing the assessment.

[2013-TIOL-120-ITAT-DEL](#)

DCIT Vs M/s Bharti Cellular Ltd (Dated: January 24, 2013)

Income Tax - Sections 35, 35ABB, 35AC, 37 - Whether the pre-operative expenses incurred for expansion of business can be treated as revenue expenditure u/s 37 - Whether the license fees paid to the department of telecommunication is entitled for the deduction u/s 35ABB - Whether when the necessary details are not filled in form for tax audit for claiming deduction u/s 35AC, the same is not allowable as no supporting documents were furnished by the assessee in support of its claim.

[2013-TIOL-119-ITAT-HYD](#)

ACIT Vs Sri Madireddy Venkat Reddy (Dated: October 19, 2012)

Income Tax - Sections 269SS, 271D - Whether penalty u/s 271D can be deleted on the basis of oral explanation offered by the assessee to the CIT(A)..

[2013-TIOL-118-ITAT-MUM](#)

ACIT Vs M/s International Biotech Park Ltd (Dated: November 23, 2012)

Income Tax - Sections 28, 32(2) - Whether income derived from sublease of land can only be taxed under the head profit and gains of business or profession when the assessee company has only leased land.

[2013-TIOL-117-ITAT-DEL](#)

HB Stockholdings Ltd Vs CIT (Dated: January 4, 2013)

Income Tax - Sections 43(5), 142(1), 143(3), 263 - Whether the CIT is justified in invoking jurisdiction u/s 263 on the issue that AO has not made any inquiries when necessary queries were raised by the AO on the issues which remained the subject matter of the revisionary order.

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| 2013-TIOL-116-ITAT-AHM |
| ITO Vs Grace Castings Pvt Ltd (Dated: October 12, 2012) |
| Income Tax - Sections 37(1), 40A (2) , 133A - Whether when the assessee company claims deduction for commission payment, such expenditure is not allowable merely because the recipients of commission hold major equity share in the company - Whether the burden of proof in such cases is on assessee and such matter can't be decided by applying single criterion. |
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| 2013-TIOL-115-ITAT-DEL |
| ITO Vs Board Of School Eduction (Dated: January 4, 2013) |
| Income Tax - Sections 194C, 201(1), 201(1A) - Whether the purchase of pre -printed material from the printer amounts to contract for sale and not works contract covered under TDS provisions. |
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| 2013-TIOL-114-ITAT-HYD |
| ITO Vs Zenith Energy Services (P) Ltd (Dated: November 23, 2012) |
| Income Tax - Accounting Standard -9 - Whether the amount whose ultimate realization was uncertain in the relevant F.Y, can be brought to tax in the mercantile system of accounting. |
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| 2013-TIOL-113-ITAT-MUM |
| ACIT Vs M/s Volkart Fleming Shipping & Services Pvt Ltd (Dated: January 7, 2013) |
| Income Tax - Section 194J - Whether CIT(A) is justified in deleting the addition on the ground that payments were reimbursement when from the order of CIT(A) it was not clear as to how payments represented reimbursement of expenditure. |
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| 2013-TIOL-112-ITAT-MUM |
| M/s Angel Commodities Broking Pvt Ltd Vs ACIT (Dated: January 7, 2013) |

Income Tax - Sections 40(a)(ia), 194J - Whether TDS is required to be deducted from VSAT and Lease Line charges paid by the assessee to Stock Exchange.

[2013-TIOL-111-ITAT-MUM](#)

M/s Chirag Design Vs Addl.CIT (Dated: December 12, 2012)

Income Tax – Sections 45, 50C – Whether for the purpose of computation of capital gains u/s 50 on sale of industrial galas, the expenses like licence fees, property tax paid in advance do not form part of cost of such asset – Whether if the deposits and expenses are not treated as a part of the cost of the industrial galas, in such circumstances these deposits and expenses will have to be allowed as business loss as these deposits and expenses paid in advance are required to be allowed as revenue expenses on closure of the unit.

[Also see analysis of the Order](#)

[2013-TIOL-110-ITAT-HYD](#)

M/s SVPCL Ltd Vs ACIT (Dated: January 11, 2013)

Income tax – Sections 36(1)(vii), 36(2)(i), 40(a)(ia), 68 – Whether when the assessee could not prove that the balance due from debtors has been written off in the books of account, the AO has rightly made disallowance – Whether when the assessee proved the identity of the persons from whom the loans were taken and submitted confirmation of account, AO is required to make proper enquiries in order to make huge additions u/s 68 – Whether no disallowance can be made u/s 40(a)(ia) in respect of the amount which is already paid in the previous year as provisions of S.40(a)(ia) are applicable only where the amounts remain payable as at the end of the previous year.

[2013-TIOL-109-ITAT-BANG](#)

M/s Mind Tree Ltd Vs ACIT (Dated: January 11, 2013)

Income Tax - Sections 10A, 10AA, 10B, 32(2), 72(2), Rule 5(1) - Whether when the assessee had claimed the payment made towards computer software, relating to renewal of software license, valid for 12 months only, the Revenue is justified to disallow the expenses by holding that it was capital in nature and allowing depreciation at the rate of 60 per cent - Whether when the assessee had carried forward business loss and unabsorbed depreciation to the subsequent year and sought to set off the same against the income of the current assessment year, the Revenue is justified to deny this benefit to the assessee holding that this claim had to be given prior to allowing of section 10B deduction - Whether when the assessee had claimed under section 10B, the telecommunication charges incurred in foreign exchange, the Revenue is justified to recompute this deduction by excluding these expenses from the export turnover only.

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| 2013-TIOL-108-ITAT-HYD |
| ACIT Vs M/s NCS Sugars Ltd (Dated: January 9, 2013) |
| Income Tax - Section 37 - Whether the CIT(A) is justified in sustaining the 40% of the disallowance in respect of Temple Expenditure on the ground that even though the employees use the temple, yet it is not open only for the employees, but for others as well, therefore, all the expenditure cannot be attributable to employees' welfare. |
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| 2013-TIOL-107-ITAT-CUTTACK |
| ACIT Vs M/s Krishna Coke India Pvt Ltd (Dated: September 28, 2012) |
| Income Tax - Sections 37, 40((a)(ia) - Whether TDS obligation arises on reimbursements - Whether fees for service connection of electricity can be treated as revenue expenditure. |
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| 2013-TIOL-106-ITAT-AHM |
| ITO Vs Shri Kaushal H Patel (Dated: January 4, 2013) |
| Income Tax - Sections 56(2), 68, 143(3) - Whether the genuineness of the gift transaction can be determined without looking into the aspects of human probabilities - Whether the bogus gifts received from the NRIs, having no connection with that of the Indian assessee, can be considered as undisclosed income u/s 68 - Whether when the gift is received through proper banking channel, it can still be held exigible under the provisions of section 68 - Whether an addition as undisclosed income can be denied, even if the assessee has not proved the creditworthiness of the depositor with sufficient documentary evidences. |
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| 2013-TIOL-105-ITAT-RAJKOT |
| Kandla Port Trust Vs DCIT (Dated: September 14, 2012) |
| Income Tax - Sections 194C, 194I, 194J - Whether the annual maintenance contracts (AMC), Pilotage Contract & Taxi &Tug Hire Charges are liable to TDS u/s 194C and not 194J. |
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| 2013-TIOL-104-ITAT-MUM |

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| <p>M/s IIT Corporate Services Ltd Vs DCIT (Dated: November 7, 2012)</p> |
| <p>Income Tax - Section 271(1)(c) – Whether penalty u/s 271(1)(c) can be imposed when the assessee has not disclosed the receipt of compensation in its return of income nor in the computation of income accompanied with the return of income.</p> |
| <p>2013-TIOL-103-ITAT-AHM</p> |
| <p>DCIT Vs Gujarat Informatcis Ltd (Dated: November 9, 2012)</p> |
| <p>Income Tax - Sections 36(1)(iii), 37(1), 143(3) - Whether when the assessee receives and pays interest on investment funds sanctioned by the Govt., the same can be claimed u/s 37(1) as a business expenditure.</p> |
| <p>2013-TIOL-102-ITAT-HYD</p> |
| <p>M/s State Bank of Hyderabad Vs DCIT (Dated: September 7, 2012)</p> |
| <p>Income Tax - Sections 14A, 36(1)(viiia) , 115JB, Rule 8D - The Companies Act, 1956 - Section 211(2) - Whether the expenses attributable to earning exempt income u/s 14A are allowable as deduction - Whether allowance of deduction for provision as well as actual bad debts in respect of rural branches amounts to double deduction - Whether allowance u/s 36(1)(viiia) can exceed the provision of bad debts created in the books of account - Whether the provisions of MAT apply to the assessee who are not required to maintain their accounts as per the Company Act provisions - Whether the MAT provisions apply to a bank also - Whether in case of a bank, the deduction for broken period interest is allowable.</p> |
| <p>2013-TIOL-101-ITAT-HYD</p> |
| <p>M/s Natco Pharma Ltd Vs DCIT (Dated: October 31, 2012)</p> |
| <p>Income tax - Sections 36(1)(vii), 40A(2)(b), 68 - Whether the AO is right in making addition for notional interest on loans and advances given by the assessee to sister concern without charging any interest though the assessee had borrowed funds - Whether the amount of advances given to creditors written off is allowable as bad debts or trade debts though the assessee has not submitted any details in this regard and merely because entries have been made, in respect of bad debt or part thereof, writing it off, claiming deduction, the said entries can always be examined by the AO even after the change brought in by way of amendment w.e.f. 1st April, 1989, under s. 36(1)(vii) - Whether the assessee is entitled to deduction for non recovery of advances given by assessee to staff for salary and tour expenses - Whether the addition is correctly deleted by CIT (A) u/s 68 without remanding matter back to AO to consider the additional details submitted by the assessee during the appellate proceedings.</p> |

[2013-TIOL-100-ITAT-HYD](#)

M/s Lanco Kondapalli Power Pvt Ltd Vs DCIT (Dated: August 31, 2012)

Income Tax - Section 4 - 'sine qua non' - Accounting Standard 9 - 'Revenue Recognition' - Whether provisions of AS 9 carry any persuasive value - Whether in view of the provisions of AS 9 ultimate collection of revenue without any unreasonable delay is sine qua non for recognizing such revenue as income - Whether revenue which is disputed between the payer and recipient cannot be taxed as income of the assessee.

[2013-TIOL-99-ITAT-HYD](#)

M/s Keerthi Estates Pvt Ltd Vs DCIT (Dated: September 21, 2012)

Income Tax - Section 80IB(10) - Whether for giving benefit of deduction u/s. 80IB(10), where an assessee was following the percentage completion method it was necessary to obtain such completion certificate for each year of assessee's claim or it was sufficient that certificate was obtained on the completion of the housing project as a whole.

[2013-TIOL-98-ITAT-HYD](#)

Impact Metals Ltd Vs ITO (Dated: December 26, 2012)

Income Tax – Sections 43B, 68, 80HHC - Unexplained Cash Credit - Deduction - Unexplained investment - Adjusted Profit - Whether unexplained investment in the share capital could be assessed in the hands of the company u/s 68 of the Act - Whether the AO correctly made additions on account of job-work charges where the same were explained to be credited as transport charges - Whether refund of excise duty was includible in total turnover for computing deduction u/s 80HHC - Whether receipts on account of job-work charges were required to be excluded while computing deduction u/s 80HHC - Whether the investment unsupported by regular bank deposits and credit worthiness of investor could be assessed as unexplained investment - Whether unexplained credits on account of unsecured loans could be assessed as unexplained cash credit.

[2013-TIOL-97-ITAT-MAD](#)

M/s Madras Motor Sports Club Vs DIT (Dated: December 21, 2012)

Income Tax - Sections 2(15), 11, 12A(a) - Motor sports - Whether merely because assessee, a charitable body, receives sponsorship exceeding Rs 10 lakh on motor car races, its otherwise charitable object of general public utility becomes non-charitable and it warrants cancellation of registration u/s 12A.

[Also see analysis of the Order](#)

[2013-TIOL-96-ITAT-MUM](#)

Shri Vipul A Shah Vs ACIT (Dated: November 23, 2012)

Income tax - Capital Gain or Business Income - Whether when the shares are held as investments, the gain on the same cannot be considered as business income considering that the volume and frequency of purchase and sale was large.

[2013-TIOL-95-ITAT-DEL](#)

ACIT Vs Vector Shipping Services (P) Ltd (Dated: December 14, 2012)

Income Tax - Section 40(a)(ia), 50 - Whether the assessee is required to deduct TDS on reimbursement payment - Whether the CIT (A) is justified in its findings that the short term capital loss claimed u/s 50 was justified when the block of assets did not cease to exist as the company's business was not closed down.

[2013-TIOL-94-ITAT-DEL](#)

Religare Finvest Ltd Vs CIT (Dated: January 4, 2013)

Income Tax - Section 263 - Whether the CIT is justified in invoking jurisdiction u/s 263 when the breakup of expenses of finance charges and syndication fees was available with the AO yet the AO did not raise any question regarding the reasonability and genuineness of the expenses.

[2013-TIOL-93-ITAT-DEL](#)

Huber + Suhner Electronics Pvt Ltd Vs DCIT (Dated: January 11, 2013)

Income Tax - Sections 37, 143(1) - Liquidated Damages - Capital vs. Revenue expenditure - Whether the liquidated damages paid on supply of stores as per the agreement are in nature of capital expenditure.

[2013-TIOL-92-ITAT-MUM](#)

Shri Bhavesh Pravinchandra Sheth Vs JCIT (Dated: November 9, 2012)

Income Tax - Sections 14A, 40(a)(ia) - Whether the disallowance u/s 40(a)(ia) can be made merely for want of not deducting TDS when the payment was made by the assessee before the end of the Financial Year - Whether the CIT (A) erred in confirming disallowance u/s 14A when nexus of expenses that may have been incurred towards earning of tax free income was not established.

[2013-TIOL-91-ITAT-AHM](#)

Sugam Construction Vs ITO (Dated: December 21, 2012)

Income Tax - Sections 40(a)(ia), 41(1), 68, 80IA, 148, Rule 46A - Unexplained Cash Credit - Depreciation - Deduction 80IA - Whether the credits, claimed as expenses by assessee were in nature of unexplained cash credit u/s 68 or bogus liability u/s 41- Whether the CIT(A) had breached the Rule 46A of the Act by admitting fresh evidence - Whether the money paid in advance for out of court settlement is taxable - Whether the company can claim depreciation where the car was owned in the name of directors.

[2013-TIOL-90-ITAT-HYD](#)

M/s Ninestar Enterprises (P) Ltd Vs ACIT (Dated: December 31, 2012)

Income Tax - Sections 10(34), 10(38), 263 - Long Term Capital Gain on Shares - Revisionary assessment - Whether the CIT can exercise revisionary powers where the AO had neither made sufficient enquiry and nor formed an opinion - Whether the long term capital gain on sale of shares held to be undisclosed investment is eligible for exemption u/s 10(38).

[2013-TIOL-89-ITAT-PUNE](#)

Malpani Tea Corporation Vs DCIT (Dated: December 31, 2012)

Income Tax - Sections 40a(ia), 80IA(4), 145(2) - Deduction - Whether the AO is correct in adjusting notional losses and depreciation for computing deduction u/s 80IA(4) - Whether the disallowance u/s 40a(ia) can be made only on payments made/due at end of the accounting year - Whether additions u/s 145A can be made where no instances of unrecorded purchases were noted.

[2013-TIOL-88-ITAT-BANG](#)

M/s Emdee Apparels Vs ACIT (Dated: September 21, 2012)

Income Tax - Sections 10(10D), 40a(ia), 194H - Keyman insurance policy - TDS - Capital expense - Whether setting up a new showroom would amount to starting a new business or it would be only an expansion of the existing business - Whether the expenditure on civil and electrical works incurred on leasehold premises is capital expense - Whether the disallowance u/s 40a(ia) can be done on expenditure incurred at the end of the previous year - Whether the expenses incurred on insurance policy of partners are allowable business expense u/s 10(10D).

[2013-TIOL-87-ITAT-MUM](#)

M/s Rallis India Ltd Vs Addl.CIT (Dated: September 14, 2012)

Income Tax - Sections 50C, 145A - Whether as per provisions of section 145A, the value of purchase tax has to be taken into account while valuing the closing stock - Whether similar adjustment has to be made to the opening stock, purchases, sale and closing stock also when the assessee has been consistently following exclusive method - Whether there can be any variation for limited purposes of computing the consideration received u/s. 50C if the value adopted by the stamp valuation authority was accepted by the purchaser/seller.

[2013-TIOL-86-ITAT-MUM](#)

ITO Vs M/s Evergreen Shipping Agency (India) Pvt Ltd (Dated: December 14, 2012)

Income Tax – Sections 143(3), 154, 172(3), (4) & (7) - Whether once the AO had accepted the voyage return filed by the assessee under the provisions of section 172(3) and 172(4), and completed the final assessment under section 143(3), the assessee could file for rectification under section 154 to revise the freight amounts shown in the voyage return - Whether when the assessee had filed its export vessel tax return under section 172(3) and subsequently filed for rectification of return under section 154, after completion of assessment under section 143(3), the Revenue was justified to reject the rectification application - Whether section 172(7) created in substance, a legal fiction by which payments could be treated as advance tax and all the provisions in the Act in respect of the payment of advance tax would apply - Whether when the assessee had filed its export vessel tax return under section 172(3) and its assessment was completed, it could subsequently file for rectification of return under section 154, on the ground that it was an hoc assessment made under section 172(4), which was suspended and hence not enforceable - Whether section 172(7), gave the assessee a right to opt for a regular assessment, although a "summary or ad hoc assessment" had already been made under section 172(4).

[2013-TIOL-85-ITAT-MUM](#)

DCIT Vs Genesys International Corpn Ltd (Dated: January 9, 2013)

Income Tax - Sections 10A, 80HHE, 139, 271(1)(c), 288 - Whether the penalty for concealment can be imposed, even if the assessee has himself declared complete particulars of income before assessing officer at the time of original assessment.

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| 2013-TIOL-84-ITAT-DEL |
| ITO Vs Natural Fragrances (Dated: October 12, 2012) |
| Income tax – Section 80IC – Whether the assessee is entitled to deduction u/s 80IC in respect of a product manufactured which is different from its original product and assessee has demonstrated that it is engaged in the manufacturing of article and things. |
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| 2013-TIOL-83-ITAT-DEL |
| Ukt Software Technologies Pvt Ltd Vs ITO (Dated: January 16, 2013) |
| Income Tax - Sections 143(2), 147, 148 - Whether issuance of notice u/s 143(2) is mandatory in the case of reassessment u/s 147 r/w Section 148. |
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| 2013-TIOL-82-ITAT-PUNE |
| ITO Vs Kalbhor Gawade Builders (Dated: October 30, 2012) |
| Income Tax - Sections 40(a)(ia), 80IB(10) - Whether the amount disallowed by the AO under section 40(a)(ia) can be considered as part of profits derived from the eligible housing projects entitled for deduction u/s 80IB. |
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| 2013-TIOL-81-ITAT-HYD |
| Shri P Mohan Reddy Vs DCIT (Dated: November 30, 2012) |
| Income tax – Section 263, 37(1), 43B – Whether when CIT has directed u/s 263 to AO to pass order as per the directions given in order u/s 263, CIT (A) correctly could not pass order on merits against the order passed by AO u/s 143(3) r.w.s.263 – Whether when the assessee could not prove that it was in the business of full time hiring of tractors, depreciation is correctly not allowed at higher rate of depreciation – Whether when the assessee claimed sales tax liability for preceding years also which was adjusted by the department from the refund due to assessee, no disallowance can be made in view of section 43B – Whether when the assessee has proved that total project consideration is accounted in the books of account and the retention amount was less due to additional work allotted, no addition can be made treating the amount for less retention as unaccounted consideration. |
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[2013-TIOL-80-ITAT-DEL](#)

ITO Vs Smt Ritu Dimri (Dated: November 23, 2012)

Income Tax - Sections 133A, 143(3) - 'suppressed turnover' - Whether the excess stock found at the time of survey at the assessee's premises, can be presumed to be owned by the assessee only - Whether an assessing authority is allowed to made addition in the form of turnover as undisclosed income of the assessee, on account of stock found during survey operations.

[2013-TIOL-79-ITAT-DEL](#)

ITO Vs Sab Miller India Ltd (Dated: December 7, 2012)

Income Tax - Sections 115JB - Whether the addition is warranted on account of discrepancy in the TDS certificate and amount recorded in the books of account when the issuer of the certificate had certified that the mistake had crept in and certified that no other charges other than what was reflected in the books of account of the assessee had been paid to the assessee - Whether credit can be allowed to the deductee in respect of TDS made on higher amount of reimbursement than was actually offered to tax.

[2013-TIOL-78-ITAT-HYD](#)

M/s Gati Ltd Vs ACIT (Dated: January 4, 2013)

Income Tax – Sections 43B, 115VA, 143(3), 263 - Revisionary assessment - Exchange Rate Fluctuation - Tonnage Tax scheme - Gratuity - Whether the assessment u/s 263 can be revised where the AO failed to make proper enquiry of facts - Whether gain on currency received from service providers for plying of ships is income incidental to tonnage income - Whether the payment to gratuity fund as per the actuarial valuation are allowable as deduction u/s 43B - Whether expenses on issue of Bonds optionally convertible into equity shares are revenue expenses.

[Also see analysis of the Order](#)

[2013-TIOL-77-ITAT-DEL](#)

DCIT Vs M/s Tratec Engineers Pvt Ltd (Dated: August 27, 2012)

Income Tax - Sections 32, 37 - Whether merely because certain expenses can be of personal use, disallowance is warranted without any facts on record - Whether while granting depreciation the amount of subsidy received has to be reduced from the value of asset.

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| 2013-TIOL-76-ITAT-DEL |
| Steel Authority of India Ltd Vs ACIT (Dated: October 26, 2012) |
| Income Tax - Sections 14A, 32(1), 43, 43B - Revaluation - Depreciation - Block of Assets - Royalty - Whether the AO is correct in treating the waive off loan liability as subsidy and proportionately reducing the value of fixed assets - Whether royalty paid to government under mining Act can be termed as a statutory payment u/s 43B of the Act - Whether depreciation on water severage plant used for staff residential purpose was rightly disallowed - Whether the optic fibre, UPS inverter formed part of Computers for the purpose of claiming depreciation - Whether the assessee may claim depreciation on non-active asset forming part of block of assets - Whether the interest on borrowed capital could be disallowed u/s 14A against dividend earned from investments in shares - Whether provision for Long term service reward and LTC allowable as business expenditure. |
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| 2013-TIOL-75-ITAT-MUM |
| Venus Records & Tapes Pvt Ltd Vs ACIT (Dated: October 19, 2012) |
| Income Tax - Sections 36(1)(iii), 40A(2), Rule 9B - Disallowance - Interest free loans - amortization of rights - Whether the interest expenses can be disallowed where the assessee has made interest free advances out of free reserves - Whether the assessee is correct in claiming entire expenditure of film production against partial sale of rights. |
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| 2013-TIOL-74-ITAT-AHM |
| Udaykumar Chhabildas Patel Vs JCIT & ACIT (Dated: September 28, 2012) |
| Income tax - Sections 37(1), 145A - Whether the assessee is required to add modvat credit receivable, vat receivable and service tax receivable in the closing stock value in view of section 145A - Whether when the assessee has discharged his onus for the commission expenditure by proving the service rendered, no disallowance can be made, treating it and ingenuine - Whether disallowance can be made u/s 40(a)(ia) for non-deduction of TDS when individual is not liable for deduction of tax. |
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| 2013-TIOL-73-ITAT-AHM |
| Shree Yamuna Pulses Vs ACIT (Dated: August 7, 2012) |
| Income tax - Section 40A(2)(b), 36(1), 153A, 40(a)(ia) - Whether the interest paid to sister concern at the rate equivalent to the rate as is given to outsider cannot be considered as excessive - Whether when the assessee has written off the bad debts in |

its books of account, the claim cannot be disallowed - Whether the assessee can make a claim in the return filed u/s 153A which was not made in the original return filed - Whether when the assessing officer did not find any difference in quantity of stock on the date of search, no adhoc addition can be made on surmises.

[2013-TIOL-72-ITAT-AHM](#)

ITO Vs Santosh Starch Ltd (Dated: November 2, 2012)

Income Tax - Sections 36(1)(iii), 37 - Whether any disallowance of notional interest is permissible on the ground that the assets were not put to use, where assessee had sufficient interest free funds with him and there was no specific loan for acquiring machines or other assets - Whether depreciation on car is allowable to a Company where the vehicles are registered in the name of directors.

[2013-TIOL-71-ITAT-AHM](#)

ACIT Vs Harishbhai Raoj Ibhai Patel (Dated: August 31, 2012)

Income Tax - Sections 40(A)(3), 68, 131 - Whether non filing of ITR can debar a person from giving unsecured debts - Whether creditworthiness of all those persons who don't file any ITR, as there was no taxable income, can be doubted particularly when the other ingredients namely genuineness and identity are not in dispute.

[2013-TIOL-70-ITAT-AHM](#)

Baba Rayon Fabrics Pvt Ltd Vs ITO (Dated: December 28, 2012)

Income Tax - Sections 40A(2)(b), 143(3) - Whether the payment of commission shown as business expenditure satisfies the test of commercial expediency when nothing has been brought on record to prove the compliance of the conditions as stipulated.

[2013-TIOL-69-ITAT-HYD](#)

M Sreedevi Reddy Vs ITO (Dated: November 16, 2012)

Income Tax - Sections 54F, 143(3) - Long Term Capital Gain - Disallowance - Residential house - Whether the purchase of textile mill and treating the same as residential property is eligible for exemption u/s 54F - Whether when assessee claims Sec 54F benefits, the settlement cost paid towards purchase of property from official liquidator of the High Court is allowable deduction.

[Also see analysis of the Order](#)

[2013-TIOL-68-ITAT-AHM](#)

Vodafone West Ltd Vs ACIT (Dated: January 11, 2013)

Income Tax - Section 254(2A) - Whether stay can be granted on the basis that an interim order has been passed by the Apex Court on a similar issue - Whether the third proviso to Sec 254(2A) empowers the Tribunal to extend the stay beyond the period of 365 days even if the delay is not attributable to the assessee.

[2013-TIOL-67-ITAT-DEL](#)

ITO Vs Usha Rani (Dated: November 23, 2012)

Income Tax - Sections 54F, 68, 142(1)(iii) – Whether the powers of CIT(A) are co-terminous with that of the AO and he can do what the ITO/AO can do - Whether the AO is justified in asking the assessee to produce the accounts pertaining to the expenditure made by the assessee related to a period more than three years prior to the previous year - Whether the CIT(A) is right in deleting the addition of Rs.12,53,500/- made on account of capital gain particularly when the issue of deduction for residential house constructed on plot has not been examined by the AO and the CIT(A).

[2013-TIOL-66-ITAT-BANG](#)

M/s Sterling Urban Infra Projects Pvt Ltd Vs ITO (Dated: October 19, 2012)

Income Tax - Sections 194A, 201(1), 201(1A) - Whether the claim of the assessee that it was liable to deduct tax at source at the rate of 10% and not 20%, which was the rate in force on the date of credit to the account of the payee is justified when the parties to the agreement modified interest clause in the deposit agreement and the interest payment arises on 31/3/2010.

[2013-TIOL-65-ITAT-COCHIN](#)

AI Hind Tours & Travels Pvt Ltd Vs DCIT (Dated: December 14, 2012)

Income tax – Sections 194H, 201(1), 201(1A) – Whether the discounts paid by the assessee as agent to travelers as group discount is liable for TDS as commission – Whether when the tickets are issued to small agents on principle to principle basis at a discounted rate, the discounted amount is to be considered as commission and assessee is liable for deduction of tax at source u/s 194H.

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| 2013-TIOL-64-ITAT -HYD |
| DCIT Vs M/s Deccan Chronicle Holdings Ltd (Dated: November 2, 2012) |
| Income Tax - Sections 194I, 201(1), 201(1A) - Whether the CIT (A) is justified in presuming the payments to be in the nature of work contract falling u/s 194C, when she herself has observed that the claim of the assessee cannot be accepted since the payment could not have been just on the basis of debit note. |
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| 2013-TIOL-63-ITAT -MUM |
| ACIT Vs M/s Polychem Ltd (Dated: December 14, 2012) |
| Income Tax - Section 45 - Whether when the assessee is given the option to convert the land into industrial unit after approval, which was obtained after a long gap, the profits from sale of such converted land, treated as stock-in-trade is to be treated as capital gains - Whether such land is to be treated as agricultural prior to its conversion into industrial unit. |
| Also see analysis of the Order |
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| 2013-TIOL-62-ITAT -MUM |
| Novartis India Ltd Vs JCIT (Dated: October 31, 2012) |
| Income Tax – Sections 32, 37(1), 80HHC - Whether once the asset enters the relevant block, it loses its separate existence for the purpose of depreciation and what is to be seen for the purpose of allowing depreciation is the use of the relevant block as a whole and not the use of individual asset - Whether the sales-tax amount is to be excluded from the figure of total turnover for computing deduction u/s 80HHC. |
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| 2013-TIOL-61-ITAT -KOL |
| Nakamichi Securities Ltd Vs CIT (Dated: June 28, 2012) |
| Income Tax - Sections 5, 87, 88E, 115JB, 115WE(3), 143(3), 263 - Whether an assessee is entitled to claim rebate u/s 88E while computing book profits u/s 115JB - Whether when an appellate authority has not given valid reasons for reopening case u/s 263 , it can still be regarded as a valid assessment. |
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[2013-TIOL-60-ITAT-DEL](#)

Valentinus Garments Vs ACIT (Dated: December 7, 2012)

Income Tax – Sections 14A, 32, 68 - Loss on sale of Car - Interest - Whether loss on sale of imported car is a capital loss.

[2013-TIOL-59-ITAT-MAD](#)

M/s Southern Offshore Solutions Pvt Ltd Vs ACIT (Dated: October 05, 2012)

Income Tax – Sections 10A, 10B, 70, 71, 72, 80I, 80IA, 143(3) - Whether an EOU is eligible to set off its losses with other sources income as per the normal set off provisions u/s 71 - Whether the benefit given u/s 10A is a 'provision for exemption' or a 'provision for deduction' – Whether the provisions of section 72 comes into operation only when the provisions of Sections 70 and 71 are exhausted – Whether there is a prohibition in the provisions of section 10B to set off a loss sustained from business against income from any other source under the same head – Whether when the legislature itself had not introduced a statutory prohibition, the assessee can be deprived of the normal entitlement which would flow out of the provisions of the Act.

[2013-TIOL-58-ITAT-AGRA](#)

M/s Rastogi Ice & Cold Storage Vs DCIT (Dated: September 14, 2012)

Income Tax - Sections 40a(ia), 194C - Whether the CIT(A) is justified in confirming the order of the A.O. disallowing amount u/s 40a(ia) as the assessee has failed to deduct tax at source u/s 194C when no evidence is on record in respect of payment made directly to the labourer.

[2013-TIOL-57-ITAT-MAD](#)

ACIT Vs M/s Qmax Test Equipments Pvt Ltd (Dated: December 7, 2012)

Income Tax - Appeals - rectification of mistake: Section 10B - the assessee was entitled for benefit upto assessment year 2003-04. The Tribunal inadvertently calculated the period of 10 years starting from assessment year 1995-96 and ending with assessment year 2004-05. While passing the order, the Tribunal observed, " We are of the considered opinion that the order has been passed by the CIT(A) in a non-judicious and arbitrary manner. The order of the CIT(A) is not only against the law laid down by the Hon'ble High Court but smacks malafide on the part of the CIT(A). It is evident that the CIT(A) has committed "intellectual dishonesty" extending it to the limit of perversity. The impugned order has burdened the assessee with the avoidable cost of litigation before the Tribunal and harassment. We feel that the instant case is one of the rare and fit case where the Revenue should compensate the assessee for causing unnecessary mental and financial harassment. The valuable time of the Tribunal has also been lost in adjudicating the issue which is squarely covered by the

judgement of the Hon'ble High Court. Therefore, the appeal of the assessee is allowed with costs of Rs.25,000/- . The cost shall be paid to the assessee in accordance with Rule 32A(2) of the Appellate Tribunal Rules, 1963 ."

Now, the Tribunal realises the mistake and recalls the impugned order.

[2013-TIOL-56-ITAT-MUM](#)

Tessitura Monti India (P) Ltd Vs ITO (Dated: January 11, 2013)

Income Tax - Sections 10B, 80I, 80IA, 80HH - 'business of the undertaking', 'profit of the undertaking', 'derived' - Whether the words 'business of the undertaking' are wider in ambit than the words 'profit of the undertaking' used in Section 10B - Whether determination of quantum of profits derived by 100% E.O.U. from the relevant exports, has to pass through multiple steps as prescribed u/s 10B, for being eligible for deduction - Whether the word 'derived' in section 10B would continue to control or guide the word 'profits' in the deduction provision - Whether when receipt is intimately and inextricably connected with the 'business of the undertaking', it can be excluded in reckoning the eligible profits u/s. 10B(1) - Whether the word 'of' in the expression of 'profits of the business of the undertaking' signifies a relationship of first degree, i.e., flows from the economic activity comprising the same - Whether decisions rendered in the context of pre-amended Section 10B, other than sub-section 4 of Section 10B, cannot hold good, although the section has been cast in almost the same terms vide Finance Act, 2000 - Whether interest on monies held in fixed deposit with bank for availing credit facilities cannot be allowed as an eligible profit u/s 10B, although deposits are not serving merely as a collateral, but extended as a part of a normative business arrangement - Whether interest earned on fixed deposits with banks, although kept as surplus funds, is also eligible for deduction u/s 10B - Whether sales tax refund and excise duty drawback is a receipt, the immediate source of which is not the economic activity itself, but a fiscal incentive - Whether every credit or receipt of the export business must arise directly from the export itself, for it to qualify for inclusion as eligible profit for deduction - Whether it would suffice that the same arises in the course of the assessee's business - Whether scrap, which arises out of the manufacturing operations, and only goes to reduce the cost of production, can form part of the receipt of the export business - Whether miscellaneous income like 'canteen recovery' or 'fine from the workers' could be considered as forming an integral part of eligible profits, when they only represents recovery out of expenses, which stand already debited and reduced in arriving at the eligible profits.

[Also see analysis of the Order](#)

[2013-TIOL-55-ITAT-AGRA](#)

ACIT Vs M/s Global Estate (Dated: November 30, 2012)

Income Tax – Sections 153A, 153B, 153C - Search & Seizure - Whether action can be initiated against partners u/s 153C even if no material is found during search proceedings on the assessee firm - Whether the notice u/s 153A(1)(a) served upon the assessee is valid or notice u/s 143(2) is mandatorily required - Whether the AO is correct in making additions on account of introduction of capital by partners of assessee firm.

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| 2013-TIOL-54-ITAT-HYD |
| ACIT Vs Magadarshi Chit Fund (P) Ltd (Dated: December 7, 2012) |
| Income Tax – Sections 194A, 194C - TDS - Whether in a chit fund business the assessee is required to withhold taxes on dividend distributed to non-prized chit subscribers – Whether the payment against purchase of stationery products is subject to withholding of taxes u/s 194C. |
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| 2013-TIOL-53-ITAT-COCHIN |
| K P Ummer Vs DCIT (Dated: November 30, 2012) |
| Income Tax – Sections 44AE, 68, 132(4), 143(2), 153A – Whether the assessment of a particular AY shall be deemed to have been concluded, if the notice required to be issued u/s 143(2) of the Act was not issued for that year and the time limit prescribed for issuing the same had also expired as on the date of initiation of search – Whether the sworn statement of the managing director of the assessee company cannot be relied upon for the purpose of making addition on account of suppressed sales if the same is not corroborated with any other material – Whether the assessment order/appellate order, should speak about the details of examination carried out by the tax authorities, viz., the details of documents filed by the assessee, defects noticed in the said documents and whether the assessee can be said to have discharged the burden of proof placed on him u/s. 68 of the Act or not vis -a-vis the documents filed. |
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| 2013-TIOL-52-ITAT-COCHIN |
| Peekey Steel Casting Pvt Ltd Vs ACIT (Dated: December 21, 2012) |
| Income Tax - Sections 145(2), 263 - Whether the lack of enquiry would render the assessment order an erroneous and prejudicial to the interests of the revenue. |
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| 2013-TIOL-51-ITAT-COCHIN |
| South Malabar Steels & Alloys Pvt Ltd Vs DCIT (Dated: November 30, 2012) |
| Income Tax – Sections 68, 133A, 153C – Whether initiation of proceedings u/s 153C of the Act is valid based only on the statement given by the Managing director of the assessee company, u/s 132(4) of the Act during the course of search, wherein he had stated about the suppression of sales – Whether a single amount can be assessed in the hands of two different assesseees. |

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| 2013-TIOL-50-ITAT-MUM |
| ACIT Vs Pratibha Industries Ltd (Dated: December 19, 2012) |
| Income Tax – Sections 80IA, 153A - Search - Deduction - Whether assessment u/s 153A is valid where no findings of undisclosed income were recorded in search proceedings - Whether the assessment u/s 153A can reassess the finalized assessment of previous years - Whether to avail deduction u/s 80IA(4) the assessee was required to operate and maintain the infrastructure facility developed. |
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| 2013-TIOL-49-ITAT-MUM |
| Leela Lace Software Solution (P) Ltd Vs ACIT (Dated: December 5, 2012) |
| Income Tax - Section 271(1)(c) - Whether the assessee can be allowed the benefit of doubt, in view of the provisions of sections 10(A)(4) & 10(B)(4) for the purpose of penalty u/s 271(1)(c) when the assessee has accepted its assessment disallowing deductions u/s 10A & 10B on the interest income. |
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| 2013-TIOL-48-ITAT-MUM |
| ACIT Vs Jaslok Hospital & Research Centre (Dated: November 7, 2012) |
| Income Tax - Sections 201(10), 201(1A), 271C - Whether penalty u/s 271C can be imposed for non-deduction of TDS from equipment hire charges paid to the doctors when the assessee collected the charges from the patients and has paid the same amount to the doctors. |
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| 2013-TIOL-47-ITAT-MUM |
| DCIT Vs Bisleri Sales Ltd (Dated: November 30, 2012) |
| Income Tax – Sections 2(47), 28(v), 32(2), 54EA, 55(2)(a), 115JA - Book Profit - Goodwill - Use of technical knowhow - MAT - Whether receipt for non-performance of business is taxable as capital gain prior to inclusion of section 28(v)(a) in A.Y. 2003-04 - Whether the AO is justified in questioning correctness of P&L account prepared by assessee in accordance with Schedule VI of Companies Act - Whether the unabsorbed depreciation prior to A.Y. 1997-98 could be adjusted against profit under any head of income. |
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[2013-TIOL-46-ITAT -MUM](#)

Shavo Norgren (P) Ltd Vs DCIT (Dated: December 14, 2012)

Income Tax – Sections 45, 50C – leasehold rights - development rights - Whether the transfer of leasehold rights attracts application of provisions of section 50C.

[Also see analysis of the Order](#)

[2013-TIOL-45-ITAT -HYD](#)

M/s Dr Reddy's Laboratories Ltd Vs Addl.CIT (Dated: October 31, 2012)

Income Tax - Section 73 - Whether expression "principal business" as used in explanation of section 73 contemplates that there can be only one principal business or there can be more than one - Whether an assessee who is running more than one business can claim exemption from the rigors of explanation by saying that its principal business is that which falls under exception of explanation- Held -Appeal of the assessee is dismissed.

[2013-TIOL-44-ITAT -HYD](#)

ITO Vs M/s Goodwill Homes (P) Ltd (Dated: September 7, 2012)

Income Tax - Section 37(1) - Whether the expenditure committed to be incurred in terms of sale agreement besides the regulations prescribed by the local authorities are liability in praesenti or a contingent liability.

[2013-TIOL-43-ITAT -HYD](#)

RV Nirman Pvt Ltd Vs ACIT (Dated: October 30, 2012)

Income Tax - Section 80IB - Whether in the absence of any completion certification showing completion of the project before 31/03/2009 by the local authority, the assessee can still claim deduction u/s 80IB(10).

[2013-TIOL-42-ITAT -AHM](#)

M/s General Motors India Pvt Ltd Vs CIT (Dated: November 2, 2012)

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| Income Tax - Section 263 - Whether the CIT is justified in invoking jurisdiction u/s 263 when the addition made in the original order by A.O. had been disputed by the assessee before the CIT(A). |
| 2013-TIOL-41-ITAT-AHM |
| DCIT Vs M/s Tyco Valves & Control India (Dated: November 2, 2012) |
| Income Tax - Section 10B - Whether deduction under section 10B can be disallowed in subsequent year without disturbing the relief granted in earlier year - Whether expression "newly established undertaking" means that Revenue can examine the establishment conditions in initial year only. |
| 2013-TIOL-40-ITAT-DEL |
| JCIT Vs M/s Sumitomo Corporation India Pvt Ltd (Dated: November 5, 2012) |
| Income Tax - Sections 40A(7), 143(3), 147, 148 - Whether when the assessee has furnished all details of contribution of ESI, PF and gratuity expenses within the due date and actual date of payment in response to questionnaire provided by the AO in the original assessment, whether proceedings u/s 148 can still be initiated on the grounds of excess allowance of gratuity - Whether initiation of reassessment proceedings u/s 147 is legal, although the AO has completely overlooked the record of the assessment before initiating the proceedings, which reflected the deduction claimed towards gratuity and payment of liability towards bonus before the due date of filing of the return of income. |
| 2013-TIOL-39-ITAT-MAD |
| Shri C Basker Vs ACIT (Dated: October 12, 2012) |
| Income Tax – Sections 50C, 271(1)(c) - Long Term Capital Gain - Penalty - Whether penalty proceedings can be initiated where the returned income was increased by invoking provisions u/s 50C(2) of the Act – Whether computation of capital gain on the basis of actual consideration received amounted to understatement of income by assessee. |
| 2013-TIOL-38-ITAT-BANG |
| State Bank of Mysore Vs CIT (Dated: September 14, 2012) |
| Income tax – Whether the broken period interest paid to the sellers of securities is an allowable deduction from the business income – Whether the broken period interest payment made in the earlier year account cannot form part of the disallowance for the |

current assessment year since the same was not debited to the P&L account and hence, no disallowance is called for.

[2013-TIOL-37-ITAT-AHM](#)

M/s J B & Brothers Vs JCIT (Dated: October 26, 2012)

Income Tax - Section 37(1) - Whether foreign travelling expenses on which FBT was paid, can be disallowed if they fail to qualify the purpose test - Whether foreign travelling expenses incurred on the tours of relatives of the partners who are neither employees nor partner are allowable, merely because the same were allowed in the previous year.

[2013-TIOL-36-ITAT-AHM](#)

DCIT Vs Jay Chemical Industries Ltd (Dated: October 05, 2012)

Income tax – Sections 36(1)(iii), 80IA, 145A – Whether no disallowance can be made u/s 36(1)(iii) when there is sufficient funds available with the assessee and there is no direct nexus between the investment in shares and interest bearing funds – Whether deduction claimed u/s 80IA for power plant unit cannot be disallowed when the unit is a separate unit, there is no requirement for power plant to be approved by any government authority and assessee filed separate profit and loss account for the unit as there is no separate requirement that assessee has to prepare separate books of account – Whether the excise duty is required to be added in the closing stock of finished goods u/s 145A.

[2013-TIOL-35-ITAT-BANG](#)

Smt Kalavathi Vs ITO (Dated: September 21, 2012)

Income Tax - Sections 54, 139, 142(1), 143(1), 147 - Whether in cases where return is merely processed under section 143(1), it can be said that any opinion was formed by the AO - Whether jurisdiction of section 147 can be assumed on the basis of return itself.

[2013-TIOL-34-ITAT-BANG](#)

DCIT Vs M/s Indus Fila Ltd (Dated: July 31, 2012)

Income Tax - Section 72A - Whether in view of the sanction of the scheme of amalgamation by the HC, the claim made by the assessee for set off of losses has to be allowed as per the provisions of section 72A.

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| 2013-TIOL-33-ITAT-MUM |
| Ingram Micro (India) Exports Pvt Ltd Vs DDIT (Dated: December 21, 2012) |
| Income Tax - Sections 132(1), 143(3), 144C, 153A, 153C, 158BC, 158BD - India - Singapore DTAA - Article 7 - Whether when original note recording satisfaction u/s 153C, could not be produced, inspite of several adjournments sought by the Revenue, in such a case an adverse opinion can be inferred that no satisfaction was recorded by the AO - Whether the consequential assessments passed u/s 153C are annulled on account of the invalidity of the notices issued u/s 153C . |
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| 2013-TIOL-32-ITAT-BANG |
| Karle International Pvt Ltd Vs ACIT (Dated: October 12, 2012) |
| Income tax – Sections 2(45), 10B, 66 – Whether while computing the exemption u/s 10B, the loss arising from non-eligible unit can be adjusted against the profit arising on eligible unit. |
| Also see analysis of the Order |
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| 2013-TIOL-31-ITAT-DEL |
| Smt Chand Prabha Jain Vs ACIT (Dated: April 13, 2012) |
| Income tax – Section 2(14)(iii)(b) – Whether when at the time of sale the distance of land from municipal limits was beyond 8 kms which was reduced later on, the land cannot be considered as capital asset u/s 2(14)(iii) provided other conditions are also satisfied – Whether the character of the land that it is agricultural has to be decided as per the provisions of Income tax Act and the reference to other acts which consider the land as non –agricultural will be wholly irrelevant. |
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| 2013-TIOL-30-ITAT-DEL |
| Metso Minerals (I) Pvt Ltd Vs DCIT (Dated: November 23, 2012) |
| Income Tax - Sections 115WE, 115WJ, 143(3), 199, 206C, 244A(2), 254 - Whether when it is clear that the delay in assessment proceedings was not on the part of the assessee, the period of such delay can be excluded for the calculation of interest on refund.. |
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[2013-TIOL-29-ITAT-AHM](#)

ACIT Vs Gujarat Industrial Investment Corporation Ltd (Dated: October 12, 2012)

Income tax – Sections 10(38), 14A, 47(v), 80M – Whether when the assessee had sufficient funds to make investment in shares on which dividend income is earned, no disallowance can be made u/s 14A – Whether when the law provides that the shares can be sold without STT and exemption will not be available for capital gain on such shares u/s 10(38), AO can still disallow the loss claimed on shares sold off market without paying STT and claiming exemption u/s 10(38).

[2013-TIOL-28-ITAT-KOL](#)

Sarat Chatterjee & Co (VSP) Pvt Ltd Vs ACIT (Dated: May 31, 2012)

Income tax – Capital or Revenue – Whether the expenditure incurred for changing the term loan on machinery from one bank to another and for prepayment of penalty charges, cannot be treated as capital expenditure as assessee had not acquired any further additional asset of enduring nature and the expenditure was to reduce the interest cost – Whether the expenditure incurred for floors of godown, which is necessary for normal wear and tear, can be considered as capital expenditure.

[2013-TIOL-27-ITAT-MUM](#)

Steel Fab Engineering Corporation India Vs ACIT (Dated: April 13, 2012)

Income tax – Section 80IB – Whether when the assessee is statutorily entitled to deduction u/s 80IB, the deduction cannot be denied merely on the basis that it was withdrawn by the assessee by filing a revised return and it is a duty cast upon the AO or to the appellate court to see that if a deduction or a claim for exemption is statutorily allowable, then the same has to be allowed, if the assessee fulfills the prescribed conditions required under the statute.

[2013-TIOL-26-ITAT-MUM](#)

M/s ICICI Home Finance Co Ltd Vs ACIT (Dated : November 30, 2012)

Income Tax - Sections 36(1)(viii), 263 - Whether the assessee is eligible for deduction u/s 36(1)(viii) when all the facts and figures of the assessee's case were sufficient to show that it was very much carrying on the business of providing long term finance for development of housing in India - Whether the order of the AO was erroneous and prejudicial to the interest of the Revenue in respect of quantum of deduction when there was no discussion in the assessment order passed by the AO u/s 143(3) on this aspect or even any other material brought on record to show that this aspect was examined by the AO.

[2013-TIOL-25-ITAT-MUM](#)

Aventis Pharma Ltd Vs DCIT (Dated : December 12, 2012)

Income Tax – Sections 80HHC(4C), 143(3), 251 - Whether under the provisions of sec 80HHC(3), there is no scope for categorization of indirect costs incurred for local sale and export sales separately but the entire indirect cost shall be allocated in the ratio of export turnover of trading goods to total turnover – Whether the AO cannot exercise its jurisdiction in the remand proceedings to go into the issue other than those directed to be re-examined - Whether when the AO's jurisdiction is limited in the remand proceedings to consider and decide a particular issue and aspect as per the directions of the CIT(A), then in the appeal proceedings against the giving effect order, the jurisdiction of the CIT(A) cannot be enlarged to that of the AO.

[2013-TIOL-24-ITAT-MUM](#)

Shri Ashwin M Savani Vs ACIT (Dated : October 05, 2012)

Income tax – Sections 37, 221 - Whether the AO wrongly made a proportionate disallowance of interest for the loans given interest free without proving the nexus of the interest bearing borrowed funds with non-interest bearing funds – Whether the education expenses of assessee's son were correctly disallowed as non-business expenses as no other person was sponsored for education and income earned by the son during the education period is not offered as income of the assessee – Whether AO has wrongly levied penalty u/s 221 since the penalty was prematurely levied when the demand has not yet been crystallized.

[2013-TIOL-23-ITAT-DEL](#)

Business Park Construction Co Pvt Ltd Vs DCIT (Dated : October 31, 2012)

Income Tax - Section 271(1)(c) - Whether penalty u/s 271(1)(c) can be levied when assessee has surrendered but the AO had detected unrecorded expenditure and as the evidence remained uncontroverted and as the assessee failed to explain the seized documents.

[2013-TIOL-22-ITAT-DEL](#)

Liberty Footwear Company Vs ACIT (Dated : October 31, 2012)

Income tax – Sec 263 - Business Income or Income from Other Sources – Whether the income received by the assessee as royalty for the brand license is to be considered as business income or income from other sources when the assessee has transferred its whole business to licensee – Whether the expenses claimed by the

assessee were correctly disallowed by the AO stating that there is no business activity by the assessee as whole assets and liabilities were transferred to the licensee.

[2013-TIOL-21-ITAT-DEL](#)

NJP Hospitality Pvt Ltd Vs ITO (Dated : September 19, 2012)

Income tax – Sections 269T, 271E, 273B – Whether no penalty u/s 271E is warranted when the assessee reimburses money in cash to its Director who has issued cheque from his account to pay rental for the company's premises - Whether deposit of cash in Director's account to save cheque from being dishonoured as it would have hurt assessee's goodwill constitutes 'reasonable cause' u/s 273B not to invite imposition of penalty.

[Also see analysis of the Order](#)

[2013-TIOL-20-ITAT-AHM](#)

Ethio Plastics Pvt Ltd Vs DCIT (Dated : December 10, 2012)

Income tax – Sections 14A, 115-O, Rule 8D – Whether when the intention of the assessee is not to earn dividend income and this income being incidental to business of sale of shares, no notional expenditure can be disallowed by invoking the provisions of Section 14A of the Act.

[2013-TIOL-19-ITAT-DEL](#)

ACIT Vs VLCC (India) Pvt Ltd (Dated : November 23, 2012)

Income Tax - Sections 143(2), Rule 46A - Whether the CIT(A) has erred in entertaining additional evidence under Rule 46A when AO did not examine and verify the additional evidence as required by Rule 46A(3) - Whether the amount of cash withdrawals during the F.Y can be considered as assessee's unexplained expenditure which was not recorded in the books of accounts when a major amount of cash withdrawals has been found as cash balance at the end of the year.

[2013-TIOL-18-ITAT-BANG](#)

DCIT Vs Shri B B Shankar (Dated : October 19, 2012)

Income Tax - Section 54F - Whether the assessee is entitled to exemption u/s 54F when the assessee has invested major portion of the sale proceeds before the date of filing of return

[2013-TIOL-17-ITAT-DEL](#)

Nortel Networks India Pvt Ltd Vs Addl.CIT (Dated : March 2, 2012)

Income Tax Act - Sections 40a((ia), 80HH, 80I, 92C, 92CA,92CA(3), 139(1), 142(1), 143(2), 144C(5),195, 271(1)(c) Income Tax Rules - Rule 8,10B – Whether expenses pertaining to an earlier assessment year, which were erroneously not accounted for, on which TDS had been deducted and deposited, could be claimed by the assessee in a subsequent year as prior period expenses? Whether AO was justified to disallow assessee's claim on revenue from post contract customer support AMC, by including it in computation of assessee's total income. Whether assessee's provision for warranty at the rate of 3.5 per cent of the value of imported equipment, could be an item of deduction under section 37 having been incurred at the point of sales or disallowed as a contingent liability. Whether when assessee had not discharged its primary onus to prove the necessity for consideration of multiple year data, Rule 10B(4) made it mandatory to use the current year data of uncontrolled transaction for the purpose of comparability?

[2013-TIOL-16-ITAT-COCHIN](#)

DCIT Vs South India Corporation Ltd (Dated : September 14, 2012)

Income tax – Sections 47(iii), 50C, 115VP – Whether to ascertain the main object of the assessee, engaged in operation of ships, it is right to consider subsequent year data as data for the pertinent year is not available - Whether the AO has correctly invoked section 50C when the stamp duty valuation of property was more than the consideration as per agreement and the difference can be treated as gift to buyer and exempt from capital gain u/s 47(iii).

[2013-TIOL-15-ITAT-DEL](#)

ITO Vs M/s Fortune Oceanic Products Ltd (Dated : October 31, 2012)

Income tax - Sections 28(iv), 41(1) - Whether when the loan advanced by the JV partner for purchase of capital assets is converted into share premium of the loss-making assessee company, the same can be treated as trading receipt - Whether conversion of sundry creditors liability into shares amounts to cessation of liability and such sum can be added to taxable income u/s 41(1).

[Also see analysis of the Order](#)

[2013-TIOL-14-ITAT-MUM](#)

Jindal Iron & Steel Company Ltd Vs DCIT (Dated : October 31, 2012)

Income tax – Sections 14A, 36(1)(vii), 37, 145A – Whether the expenditure incurred for club membership of director with an intention to promote business is allowable as business expenditure – Whether the assessee is required to add the MODVAT credit available in the closing stock even if it is following net method of accounting and the AO has to consider also the same in the purchases and sale of goods - Whether if the assessee has own funds and non-interest bearing funds, the presumption can be drawn that investments have been made from these funds while computing the amount disallowable u/s 14A – Whether Rule 8D cannot be applied for the assessment year prior to AY 2008-09 - Whether the interest income earlier offered as business income written off during the year is to be correctly written off as bad debts and cannot be disallowed merely stating that the principal amount is still shown as recoverable – Whether the interest expenses written off in the books of account based on the resolution passed subsequent to the end of the financial year is allowable as it will relate back to that previous year in which it is being treated as irrecoverable and written off in the accounts of the assessee and there is no such condition in the said clause i.e., clause (vii) of sub-section (1) of section 36 that the decision for treating debt as bad or irrecoverable should be taken in the previous year itself – Whether the interest expenditure incurred on acquisition of capital asset is allowable as provisions of proviso to section 36(1)(iii) will not be applicable as the said proviso came into force w.e.f. A.Y. 2004–05.

[2013-TIOL-13-ITAT-MUM](#)

Johnson & Johnson Ltd Vs ACIT (Dated : September 28, 2012)

Income Tax – Sections 147, 148 – Whether the duty of the assessee extends to informing the AO as to what decision he should take as to the applicability of the relevant provisions of the statute on the basis of the material facts submitted before him – Whether inferences of fact and law from the disclosed facts and the applicability of the relevant provisions of the statute is the domain of the AO – Whether reassessment can be opened when the reasons disclosed by the AO do not set out as to what facts the assessee had failed to disclose fully and truly - Whether re-assessment order passed without supply of reasons, is invalid and cannot be sustained.

[2013-TIOL-12-ITAT-MUM](#)

DCIT Vs M/s Rank Shipping Agency Pvt Ltd (Dated : November 21, 2012)

Income tax – Sections 36(1)(iii), 40(a)(ia), 68, 133A – Whether when the assessee has paid the amount on behalf of the clients and not claimed the amount as expenditure, any disallowance can be made u/s 40(a)(ia) for non deduction of tax at source – Whether when the assessee has written off the small balances due from debtors, no disallowance can be made u/s 36(1)(iii) – Whether when the assessee has submitted all the documents such as share allotment letter, board resolutions, bank statements, income tax return, balance sheet and profit and loss account and proved the identity and genuineness of share premium received, no addition can be made u/s 68 merely on the statement recorded at the time of survey which was retracted later on.

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| 2013-TIOL-11-ITAT-MUM |
| M/s Croda Chemicals (India) Pvt Ltd Vs DCIT (Dated : November 7, 2012) |
| Income Tax - Rule 46A - Whether the travelling expenditure can be considered as business expenditure when the assessee fails to discharge the onus that the claim was wholly and exclusively for the business purposes of the assessee - Whether there was any justification in making any disallowances on account of 'remuneration and benefit' when they were needed for running of the business and conducting of business of earning commission income. |
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| 2013-TIOL-10-ITAT-MUM |
| Century Textiles And Industries Ltd Vs DCIT (Dated : October 31, 2012) |
| Income tax – Sections 10B, 14A, 37, 43B, 115JB – Whether the income which is not derived from export oriented undertaking, shown as other income is also eligible for exemption u/s 10B – Whether while computing book profit u/s 115JB, the provisions for doubtful debts and advances are required to be added – Whether deduction u/s 80HHC in the case of MAT assessment, is to be worked out on the basis of adjusted book profit and not on the basis of profit computed under the regular provisions of law – Whether the expenditure incurred on foreign travel of the wife of chairman of company is allowable u/s 37. |
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| 2013-TIOL-09-ITAT-BANG |
| DCIT Vs M/s Mukund Ltd (Dated : December 18, 2012) |
| Income Tax – Sections 133A, 194J, 201(1), Circular No 715 - TDS - Reimbursements - Whether when the assessee reimburse the costs to a third party for manufacturing steel in a pre-determined ratio, such payments are to be treated as FTS, liable to withholding tax - Whether the costs reimbursements made by the assessee has an element of income. |
| Also see analysis of the Order |
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| 2013-TIOL-08-ITAT-DEL |
| DCIT Vs M/s Maruti Udyog Ltd (Dated : November 7, 2012) |
| Income tax – Sections 10(10C), 35DDA, 37, 40(a)(ia), 43B, 195, Rule 2BA – Whether the assessee is entitled to deduction u/s 43B for PLA balances - Whether no disallowance can be made u/s 35DDA for not following guidelines as per Rule 2BA as |

the rule contains guidelines for the purposes of Section 10(10C) and the same are not relevant while processing the claim for deduction u/s 35DDA of the Act – Whether when the commission has been paid to the agents for the sale of vehicles and reimbursement of advertisement expenses incurred outside India, these are not taxable in India and therefore, the provisions of section 195 will not be attracted – Whether club expenses incurred for membership of the directors to various clubs is allowable as business expenditure – Whether the assessee can claim for the first time an additional ground for the subsidy received offered as revenue income though it was capital receipt.

[2013-TIOL-07-ITAT-DEL](#)

DCIT Vs Cargo Motors Pvt Ltd (Dated : November 2, 2012)

Income Tax - Sections 143(1), 147, 148 - Whether the AO was justified in initiating action u/s 147 when it cannot be said that there was any tangible material in the possession of the AO for forming opinion that the expenditure/loss under consideration could be capital loss and not business loss.

[2013-TIOL-06-ITAT-DEL](#)

Cadtrium Engineering Solutions (P) Ltd Vs ITO (Dated : September 14, 2012)

Income Tax - Sections 10A(2)(ii) & (iii), 40(a)(ia) - Whether the conversion of DTA unit into STPI unit violates the conditions of Section 10A(2)(ii)&(iii) - Whether disallowance u/s 40(a)(ia) can be made when it is not disputed that the payments were made during the year and no amount was payable at the end of the financial year.

[2013-TIOL-05-ITAT-AHM](#)

DCIT Vs Alfa Ica (India) Ltd (Dated : October 12, 2012)

Income tax – Sections 32(2)(iii)(b), 40(a)(ia), 145A, 148 – Whether when the assessing officer has examined the claim as made by the assessee then a presumption can be made that such an order has been passed only on due application of mind and when no fresh fact comes to knowledge, reopening of assessment tantamounts to change of opinion – Whether the unabsorbed depreciation for the assessment year 1996-97 which remained to be claimed should be treated as part of the current depreciation and to be set off in subsequent year even beyond 8 years – Whether no TDS is required to be deducted on reimbursement of expenses – Whether when no excise duty is debited to profit and loss account, it cannot be added in the closing stock.

[2013-TIOL-04-ITAT-JAIPUR](#)

Shri Prakash Chand Jain Vs DCIT (Dated : October 18, 2012)

Income tax – Section 43(5) – Whether when the assessee entered into transactions through MCX which is an organized stock exchange as jobbing, the loss if any arising on such transactions will be allowed as loss on regular course of business u/s 43(5)(c) – Whether clause (d) of Sec. 43(5) introduced by Finance Act, 2005 w.e.f. 1.4.2006 is clarificatory and therefore, retrospective in nature.

[2013-TIOL-03-ITAT-BANG](#)

State Bank Of Mysore Vs CIT (Dated : September 14, 2012)

Income tax – Whether the broken period interest paid to the sellers of securities is an allowable deduction from the business income – Whether the broken period interest payment made in the earlier year account cannot form part of the disallowance for the current assessment year since the same was not debited to the P&L account and hence, no disallowance is called for.

[2013-TIOL-02-ITAT-BANG](#)

S S Warad Vs ACIT (Dated : August 3, 2012)

Income Tax - Section 40(a)(ia) - Whether the provisions of section 40(a)(ia) has application to only amounts which remain payable as on the last day of the previous year.

[2013-TIOL-01-ITAT-BANG](#)

M/s Symphony Services Corporation (I) Pvt Ltd Vs DCIT (Dated : September 28, 2012)

Income Tax - Sections 2(45), 10A, 10B, 32(2), 72(2), 143(1) - Whether while computing deduction u/s 10A, brought forward losses of previous years are required to be ignored - Whether profits eligible for deduction under chapter III form part of Total Income and hence the same are out of the net of Gross total income computed under the other heads - Whether for the purpose of computing deduction u/s 10A, the expenses incurred on foreign travels etc are deductible from the export as well as the total turnover.