

SUPREME COURT RULING (INCOME TAX)

[2015-TIOL-195-SC-IT](#)

CIT Vs Suman Dhamija (Dated: July 1, 2015)

Income tax - CBDT Instruction dated 9/2/2011 - monetary limit.

Assessee's appeal were disposed of by the High Court on the basis of the instructions issued by the Central Board of Direct Taxes dated 9.2.2011.

[2015-TIOL-181-SC-IT](#)

CIT Vs Meghalaya Steels Ltd (Dated : August 5, 2015)

Whether a judgment is fit to be recalled by the High Court when it was given without framing the substantial questions of law - YES: SC

Whether section 260A of the Income Tax Act excludes the inherent review jurisdiction of the High Court - NO: SC

[Also see analysis of the order](#)

[2015-TIOL-180-SC-IT](#)

CIT Vs M/s Bhagat Construction Co Pvt Ltd (Dated: August 6, 2015)

Whether the "Income tax Computation Form" governed by the Departmental Instructions containing an order in writing by the ITO determining the tax payable within the meaning of Section 143(3), is required to be treated as part of the assessment order for levying interest u/s 234B - YES: SC

Whether where an assessee who is liable to pay advance tax has failed to pay such tax or where the advance tax paid by such an assessee is less than 90% of the assessed tax, the assessee becomes liable to pay simple interest at the rate of one per cent for every month or part of the month - YES: SC

Whether levy of interest u/s 234B is automatic when the conditions for levy under the said provision are met - YES: SC

[Also see analysis of the order](#)

[2015-TIOL-171-SC-IT](#)

Japan Airlines Co Ltd Vs CIT (Dated: August 4, 2015)

Whether landing and parking charges paid by foreign airlines to Airport Authority of India are akin to charges towards 'use of land' - NO: SC

Whether parking and landing charges collected by the Airport Authority are in relation to services provided as per international protocol and they do not attract provisions of Sec 194I - YES: SC

[Also see analysis of the order](#)

[2015-TIOL-161-SC-IT](#)

Uoi Vs Vishnu Maruti Ghosale (Dated: July 24, 2015)

Whether when there are so many distinguishing features between the property under dispute and the sale instance property(SIP), order of purchase of such immovable property by government u/s 269UD(1) is not appropriate.

[2015-TIOL-124-SC-IT](#)

Seshasayee Paper & Boards Ltd Vs DCIT (Dated: May 15, 2015)

Whether when the assessee has the option to set off unabsorbed depreciation of earlier years and also carry-forward investment allowance, the law prescribes any order to be followed - YES: SC

Whether the assessee has the option to set off carried forward investment rebate and the current year depreciation and not to claim set off for unabsorbed depreciation - NO: SC

Whether when unabsorbed depreciation of earlier years is carried forward it loses its identity by getting merged with the current year depreciation when it comes to claiming the same - YES: SC

Whether when unabsorbed depreciation gets integrated with the current depreciation, it can be bifurcated for the purpose of claiming the same in a particular AY and also for carrying forward the same - NO: SC

[Also see analysis of the Order](#)

[2015-TIOL-123-SC-IT](#)

CIT Vs Sarkar Builders (Dated: May 15, 2015)

Whether benefit of deduction u/s 80IB can be claimed by only those undertakings which are developing and building 'housing projects' approved by a local authority - YES: SC

Whether 'housing projects' which are finished on or after 1st Apr, 2005, though sanctioned and started earlier, are also required to satisfy the stipulated condition of built-up area of commercial establishments provided under amended provision having force w.e.f 1st Apr, 2005 - NO: SC

Whether restriction on the size of residential units by the amended provision of Section 80IB, can be inferred to mean that the deduction u/s 80IB(10) is allowable to housing projects having residential units only - NO: SC

Whether restriction u/s 80IB(10) regarding the size of residential unit, can curtail the powers of local authority to approve a project with commercial user to the extent permitted under DC Rules/Regulations - NO: SC

Whether it is permissible for the Revenue to deny the benefit provided u/s 80IB, in

the garb of amendment, applying the principle of retroactivity, where the said amended provision has no retrospectivity - NO: SC

[Also see analysis of the Order](#)

[2015-TIOL-118-SC-IT](#)

DCIT Vs M/s Spacewood Furnishers Pvt Ltd (Dated: May 13, 2015)

Whether recording of reasons for issuing warrant of authorization for search, would by itself confer on the assessee a right of inspection of the documents or to a communication of the reasons for the belief at the stage of issuing of the authorization - NO: SC

Whether where satisfaction note of the DIT as prescribed u/s 132 is duly recorded, the accord for administrative approval granted by DGIT for authorizing the search on basis of said satisfaction, can be treated as sustainable - YES: SC

Whether 'sufficiency & adequacy' of the reasons and 'authenticity & acceptability' of the information on which satisfaction had been reached by the authorities for issuing search authorization u/s 132, is alien to the jurisdiction of High Court under Article 226 of Constitution - YES: SC

[Also see analysis of the Order](#)

[2015-TIOL-111-SC-IT](#)

CIT Vs M/s Travancore Sugars And Chemicals Ltd (Dated: May 07, 2015)

Whether the 'vend fee' levied by the State Government on a manufacturer for the purpose of conferring a special benefit of repair/replacement of its old machinery, can be claimed as an allowable deduction u/s 43B, if the same is not actually paid before the expiry of relevant previous year - NO: SC

[Also see analysis of the Order](#)

[2015-TIOL-106-SC-WT](#)

M/s Cosmopolitan Hospitals (P) Ltd Vs CWT (Dated: April 27, 2015)

Whether 'building' which is used for the purpose of hospital, can be treated as 'office', for purpose of its exclusion from the ambit of Wealth tax - NO: SC

Whether such building used for running a hospital, is liable to be subjected to Wealth tax u/s 40 - YES: SC

[Also see analysis of the Order](#)

[2015-TIOL-94-SC-IT](#)

<p>CIT Vs M/s Veena Developers (Dated: April 28, 2015)</p> <p>Whether deduction u/s 80IB(10) is allowable to housing projects approved by local authority, having residential units with commercial user to the extent permitted under DC Regulations framed by respective local authority - YES: SC</p> <p>Whether such deduction u/s 80IB(10) upto 31st March, 2005 is allowable to a housing project approved by local authority, in case the project is predominantly residential project, and the commercial activity in the residential units is carried to the permitted extent - YES: SC</p> <p>Also see analysis of the Order</p>
<p>2015-TIOL-93-SC-IT</p>
<p>M/s Chennai Properties and Investments Ltd Vs CIT (Dated: April 9, 2015)</p> <p>Whether income from letting out of properties is liable to be treated as 'business income' of assessee and not 'rental income', where the business of assessee involves acquiring and letting out of those properties - YES: SC</p> <p>Also see analysis of the Order</p>
<p>2015-TIOL-91-SC-IT</p>
<p>DCIT Vs Zuari Estate Development And Investment Co Ltd (Dated: April 17, 2015)</p> <p>Whether the intimation u/s 143(1)(a) can be considered as an assessment order and when it has been made clear that there is no assessment order passed by the AO, there is any question of "change of opinion" while issue of notice for reopening - NO: Apex Court</p>
<p>2015-TIOL-52-SC-IT</p>
<p>Jeyar Consultant And Investment Pvt Ltd Vs CIT (Dated : April 1, 2015)</p> <p>Whether if there are losses in the export business of the assessee, but the profits of indigenous business outweigh those losses and the net result is that there are profits in the business, the deduction u/s 80HHC would still be given to that assessee - NO: SC</p>
<p>2015-TIOL-51-SC-IT</p>
<p>M/s Ashish Plastic Industries Vs ACIT (Dated : March 23, 2015)</p> <p>Whether if excess stock found in the assessee's premises is later claimed as sister concern's stock which has also paid tax on the same, the assessee can still be penalised with tax liability on the same - NO: SC</p> <p>Also see analysis of the Order</p>
<p>2015-TIOL-46-SC-IT</p>

CIT Vs M/s Avani Exports (Dated : March 20, 2015)

Income tax - Section 80HHC(3)

Keywords - retrospective amendment - DEPB - Drawback scheme - duty remission scheme - ultra vires

Whether even if the amendment to Sec 80HHC(3) creates two categories of exporters on turnover basis and prescribes two conditions with retrospective effect for those whose turnover is more than Rs 10 Crore, both are to be treated similarly - YES: SC

[Also see analysis of the Order](#)

[2015-TIOL-38-SC-IT](#)

Agricultural ITO Vs Goodricke Group Ltd (Dated : March 25, 2015)

Income Tax - Section 33AB - The West Bengal Rural Employment and Production Act, 1976 - Section 7B - The West Bengal Primary Education Act, 1973 - Section 78C.

Keywords - decree - rural employment cess - education cess - manufacture of tea - retrospective amendment.

Whether any sum paid or collected from an owner of a tea estate as rural employment cess or as education cess, such portion of the said sum as may become payable under the provisions of the Amendment Act shall, notwithstanding any judgment, decree or order of any court, be deemed to have been validly levied, paid or collected under the Amendment Act - YES: SC

Whether an assessee engaged in the business of tea manufacturing can be assessed to tax even on 'dispatch of tea'- NO: SC

[2015-TIOL-37-SC-IT](#)

M G Pictures (Madras) Ltd Vs ACIT (Dated : March 25, 2015)

Income Tax - Sections 40A(3), 132, 158B(b)& Rule 9A.

Keywords: search - seizure - substantive amendments - retrospective

Whether when it is clearly mentioned that an amendment in the statute is substantive in nature, the assessee has the option to avail the benefits even on retrospective basis - NO: SC

[Also see analysis of the Order](#)

[2015-TIOL-36-SC-IT](#)

Uoi Vs Star Television News Ltd (Dated : March 25, 2015)

Income Tax - Sections 245HA, 245C & 246C - Constitution of India - Article 14.

Keywords: settlement commission - abatement - cut off date

Whether abatement of income tax related cases filed before the settlement Commission before June 2007 for no fault of the assessee is legally valid - NO: SC

[2015-TIOL-35-SC-IT](#)

K M Sugar Mills Ltd Vs CIT (Dated : March 25, 2015)

Income Tax - Section 32.

Keywords: depreciation - leasing business - idle - purchase - manufacturing.

Whether if the assessee has proved ownership of the asset under consideration and its use for business purpose, he can still be denied depreciation merely on the basis that he has lent out the same as it was lying idle with it - NO: SC

[2015-TIOL-28-SC-IT](#)

CIT Vs Sati Oil Udyog Ltd (Dated : March 24, 2015)

Income tax - Sections 2(24), 139 & 143(1A).

Keywords - retrospective amendment - constitutional validity - penal provision - amendment to Sec 143(1A) - clarificatory - tax evasion - total income - civil liability.

Whether insertion of Sec 143(1A) is clarificatory in nature - YES: SC

Whether the provisions of Sec 143(1A) can be invoked only where it is found that there is an attempt to evade tax - YES: SC

Whether the onus to prove such tax evasion would be on Revenue - YES: SC

[Also see analysis of the Order](#)

[2015-TIOL-26-SC-IT](#)

Asst Commissioner of Agricultural Income Tax Vs M/s Netley 'B' Estate (Dated : March 17, 2015)

Karnataka Agricultural Income tax - Section 26(4) & 27

Keywords - agricultural income - dissolution of firm - income earned prior to dissolution - receipt post-dissolution & retrospective amendment

Whether where the judicial decision in any case has been rendered ineffective by enacting a valid law on a topic within the legislative field, such retrospective amendment which fundamentally alters or changes the character of legislation can be treated as invalid - NO: SC

Whether where the legislature has rendered any decision ineffective by removing the basis on which the decision was arrived at, it can be said that the legislature has

directly over-ruled the decision of the said court - NO: SC

Whether retrospective amendment made for taxing the agricultural income earned prior to the dissolution of firm, can be said as unconstitutional, when such amendment was a mere clarification for removal of ambiguity in the disputed provision - NO: SC

[2015-TIOL-25-SC-IT](#)

Taparia Tools Ltd Vs JCIT (Dated : March 23, 2015)

Income tax - Sections 36(1)(iii) & 43(ii)

Keywords - debentures - deferred revenue expenditure - upfront payment of interest & writing off of liability

Whether the liability of assessee to pay the interest upfront to the debenture holder can be fully claimed for deduction in the first year itself, if the liability is fully discharged in such A.Y - YES: SC

Whether such liability to pay the interest upfront can only be claimed for deduction by spreading it over a period of five years, even if the same was completely discharged - NO: SC

Whether it is open to the AO to disallow such deduction on the ground that rate of interest is unreasonably high or that assessee has himself charged a lower rate of interest, if the genuineness regarding payment of interest on the borrowing is proved - NO: SC

Whether an assessee can claim the amount of interest as deduction even if it is not actually paid but simply 'incurred', if the assessee is following mercantile system of accounting - YES: SC

Whether the benefit of entire deduction in the year in which an amount is actually paid or incurred can be denied, if the conditions stipulated u/s 36(1)(ii) r/w/s 43(ii) are duly satisfied - NO: SC

Whether a mere different treatment given in the books of accounts can be a decisive factor for depriving an assessee from claiming the entire expenditure as a deduction - NO: SC

Whether entries in the books of accounts are determinative for deciding the allowability of a claim for deduction provided in the Act - NO: SC

[Also see analysis of the Order](#)

[2015-TIOL-20-SC-IT](#)

Queen's Educational Society Vs CIT (Dated: March 16, 2015)

Income tax - Sections 10(22), 10(23C)(iiiad) 11 & Rule 2CA.

Keywords - educational purpose - exemption - surplus - profit enterprise.

Whether if surplus is generated by an educational institution it ceases to exist solely

for education purpose and becomes a profit making enterprise - NO: SC

Whether if an educational institution makes large surplus and the same is ploughed back into creating assets for the institution even then it get debarred from availing exemption - NO: SC

[Also see analysis of the Order](#)

[2015-TIOL-15-SC-IT](#)

MWP Ltd Vs CIT (Dated : January 29, 2015)

Income Tax Act, 1961 - Deduction - Excise Duty - Sales Tax.

Whether the assessee is entitled to the benefit of deduction of sales tax payable on the excise duty component of the price of goods.

[2015-TIOL-13-SC-WT](#)

M/s Kapri International Pvt Ltd Vs CWT (Dated : March 10, 2015)

Wealth Tax - Finance Act, 1983 - Section 40(3)(vi)

Keywords - business income - factory building - job work - seperate entity & total wealth

Whether valuation of any property given on rent by an assessee company to its licensee, is required to be included in the total wealth of the assessee, if such licensee and assessee, though under same management, treat each other as separate entities - YES: SC

Whether the said assessee can claim such licence fee as its business income, if it had not incurred any expenditure in its individual capacity for carrying on the business in the said property - NO: SC

Whether the said assessee can seek entitlement to exemption from wealth tax in respect of such property - NO: SC

[Also see analysis of the Order](#)

[2015-TIOL-12-SC-IT](#)

M/s Premier Breweries Ltd Vs CIT (Dated : March 10, 2015)

Income tax - Sections 37 & 256(2).

Keywords - business purposes - commission - commission agents & procurement of supply orders.

Whether mere acceptance of proof of commission payments, agreements between the parties and affidavits, by the AO, will debar him from questioning whether expenses claimed u/s 37 are still be allowable - NO: SC

Whether the question regarding allowance of such deduction depends only on the facts & circumstances of each case - YES: SC

Whether determination of entitlement to deduction u/s 37 by weighing the basis of doubts, can be faulted, when no disturbance to the primary facts as found by the Tribunal has been made by the High Court while determining such entitlement - NO: SC

[Also see analysis of the Order](#)

[2015-TIOL-11-SC-IT](#)

M/s Premier Breweries Ltd Vs CIT (Dated : February 11, 2015)

Income Tax - Sections 37 & 131.

Keywords: liaison and corporate affairs - business expenditure - affidavit - corporate management charges

Whether in case of an appeal filed before the Apex court, an issue which is outside the purview of the High Court's order is to be set aside and has to be remitted to the lower Court for a de novo consideration on merit basis.

[2015-TIOL-10-SC-IT](#)

GVK Industries Ltd Vs ITO (Dated : February 18, 2015)

Income tax - Sections 5(2), 9(1)(i) & (vii), 163(1)(b), 195, 264,

Keywords: NRC - BG - business connection - FTS - India -Switzerland DTAA - success fee - debt financing - public issue of share - Technical services - professional services - PE - source rule - situs of residence - principle of formal territoriality.

Whether success fee paid to non-resident company for preparing scheme for required finances and to tie up required loans by the Indian power generation company falls within the ambit of fees for technical services as consultancy service - Whether such remittances attract the provisions of Section 195 of the Income tax Act.

[Also see analysis of the Order](#)