

INCOME TAX APPELLATE TRIBUNAL ORDER

2015-TIOL-1948-ITAT-HYD
Kobashi Machine Tools Ltd Vs DCIT (Dated: October 9, 2015)
Whether delay in filing the appeal can be condoned where the assessee was under the bonafide impression that the order under section 263 is not required to be appealed as the CIT has set aside the assessment to re-do the assessment as per the directions of the CIT and subsequently, assessee came to know through the new auditor that the order under section 263 is appealable and thereafter filed the appeal - Whether set off of loss can be permitted where there is no valid return filed by the assessee as per law and section – Whether order of AO is erroneous and prejudicial to interest of revenue where on the directions of Addl. CIT, AO accepted the additional income offered by assessee as the present management group was not having control over the books of account and bills - Whether CIT is justified in directing the A.O. to make all miscellaneous additions out of the entries in the books of accounts where the assessee's incomes were originally estimated on the turnover in the absence of books of accounts.
2015-TIOL-1947-ITAT-MUM
Inventurus Knowledge Services Pvt Ltd Vs ITO (Dated: October 21, 2015)
Whether the loss incurred by the assessee company on account of marked to market loss arising on the date of Balance Sheet on account of un-expired derivative transactions in foreign currency entered by the assessee company arising due to the adverse movement in the exchange rate prevailing as on the date of Balance Sheet as at 31st March 2009 is a notional or contingent loss - Whether the loss incurred by the assessee company on the contract for transaction in un-expired contracts as on the date of Balance Sheet in derivatives in foreign currency is exempt and is to be categorised as speculation loss - Whether stamp duties/fees paid to Ministry of Corporate Affairs towards the increase in authorized capital of the company is capital expenditure.
2015-TIOL-1946-ITAT-MAD
K R Muralidhar Vs ITO (Dated: August 28, 2015)
Whether at the time of dissolution of a partnership firm, the value of the asset has to be revalued and the fair value only, on the date of dissolution has to be taken into consideration for capital gain computation purposes - YES: ITAT
2015-TIOL-1945-ITAT-MUM
DCURT Vs J B Eng Works (Dated: October 30, 2015)
Whether land is a capital asset in terms of section 2(14) of the Act and it is to be treated as a separate asset - Whether a building which is entitled for depreciation would be the superstructure and would not include the site - Whether if the interest in

the leasehold plot was held by an assessee for more than three years, the sale proceeds of that interest would be assessable as Long Term Capital Gains while the sale proceeds of the structure would be taxable as Short Term Capital Gains if it was sold before the expiry of three years - Whether treatment of the assets in the purchaser's account, does not have any material bearing on taxability of the receipt in the hands of the assessee, since purchaser's treatment of the transaction in its accounts is not determinative of the true nature of the transaction.

[2015-TIOL-1944-ITAT-AHM](#)

ACIT Vs M/s Kiran Industries Pvt Ltd (Dated: September 4, 2015)

Whether addition on account of MODVAT and VAT can be made where the excise duty paid but not included in the purchases was shown in the balance sheet as excise duty receivable - Whether the Accounting Standards prescribed by the Institute of Chartered Accountants of India or the Accounting Standards reflected in the "guidance note" cannot be adopted as an accounting method by an Assessee where the Central Government has not notified in the Official Gazette "accounting standards" to be followed by any class of assesseees or in respect of any class of income - Whether the books of account of assessee can be discarded on the ground that the opinion of the Chartered Accountants of India was expressed in the 'guidance note", which had not attained a mandatory status.

[2015-TIOL-1943-ITAT-AHM](#)

ITO Vs M/s Kamal Process (Dated: September 30, 2015)

Whether addition on account of deemed dividend be made u/s 2(22)(e) of the Act to the extent of accumulated profits - YES: ITAT

Whether addition of certain amount made out of interest expenses u/s.36(1)(iii) of the Act be deleted when assessee proves huge interest-free funds available with it - YES : ITAT

[2015-TIOL-1942-ITAT-DEL](#)

DCIT Vs M/s Jubilant Offshore Pvt Ltd (Dated: September 30, 2015)

Whether in case of an oil extraction company, if one of the essential activities of grant of license to explore the blocks has been given and exploration of blocks has already been started without which no production can take place, commencement of business can be said to be deemed to have been started - YES: ITAT

[2015-TIOL-1941-ITAT-DEL](#)

EI Dupont Pvt Ltd Vs ACIT (Dated: November 18, 2015)

Whether reassessment is made by change of opinion when in original assessment proceedings Revenue asked for all the details, perused them and did not take any adverse cognizance in original assessment - YES : ITAT

[2015-TIOL-1940-ITAT-BANG](#)

ACIT Vs M/s Cineplex Pvt Ltd (Dated: October 30, 2015)

<p>Whether it can be said that requirements of Rule 46A of IT Rules stands satisfied, just because the AO is present at the time of proceedings before the CIT(A) - NO: ITAT</p>
<p>2015-TIOL-1939-ITAT-AHM</p>
<p>City of Ahmedabad Spg and Mfg Co Ltd Vs ITO (Dated: October 9, 2015)</p>
<p>Whether fresh investment made by assessee in shares and mutual funds out of its own funds without resorting to bank borrowings and bank overdrafts warranted any disallowance u/s 14A - NO: ITAT</p> <p>Whether in the absence of any material on record to show that expenses debited in profit and loss account were in any way attributable specifically for earning rental income, adhoc disallowance made by AO of a part of said expenses was sustainable - NO: ITAT</p>
<p>2015-TIOL-1938-ITAT-DEL</p>
<p>Himachal Futuristic Communications Ltd Vs JDIT (Dated: November 4, 2015)</p>
<p>Whether when the assessee submitted account books during assessment proceedings, but the AO did not consider this compliance on his own whims by observing that the same were not produced at the time of search during post search inquiries, the penalty for non production of books u/s 272A(1)(c) can be levied - NO: ITAT</p> <p>Whether in case the assessee is able to establish that the account books were produced during assessment proceedings with some delay due to a technical breach of the provisions of the Act, in that case penalty can be held as correct and justified - NO: ITAT</p>
<p>2015-TIOL-1937-ITAT-PANAJI</p>
<p>ACIT Vs Orchid Biomedical Systems (Dated: October 5, 2015)</p>
<p>Whether when the assessee is not able to provide break up of the various expenses incurred with regard to claim of reimbursement or on account of actual expense, the provisions of TDS can be made applicable to the assessee - YES: ITAT</p>
<p>2015-TIOL-1936-ITAT-DEL</p>
<p>ACIT Vs Raj Refillers And Fire Equipment Pvt Ltd (Dated: September 23, 2015)</p>
<p>Income Tax - Whether the CIT(A) was justified in deleting the addition on account of disallowance of increase in share capital and on account of disallowance of increase in unsecured loans when the conclusion that in 2007-08 A.Y, amounts was repaid does not elaborate what is the evidence considered for arriving at the said conclusion</p>
<p>2015-TIOL-1935-ITAT-MAD</p>
<p>Vodafone Cellular Ltd Vs DCIT (Dated: September 16, 2015)</p>
<p>Whether an assessee is liable to deduct TDS u/s 194J on the payments made to the service provider in respect of the technical services provided by them, where such</p>

technical services includes human interface - YES: ITAT
2015-TIOL-1934-ITAT-AHM
DCIT Vs Adani Townships & Real Estate Co (Dated: November 20, 2015)
Whether addition on account of sales, marketing expenses, establishment & administrative expenses can be made when there is no finding for treating the assessee to be in default by the Revenue - NO: ITAT
2015-TIOL-1933-ITAT-MUM
Export Import Bank Of India Vs ACIT (Dated: September 23, 2015)
Whether deduction for the interest cost incurred is to be taken only in relation to earmarked borrowings utilized by the assessee for the purpose of granting loans to the enterprises, interest income whereof is exempt under sec. 10(23G) for the purpose of computing net interest income eligible for deduction under sec. 10(23G) - Whether disallowance can be made where the assessee had substantial free funds coming from preceding years and assessee's own funds exceed the investment made and therefore no disallowance could have been made by the assessing officer - Whether penal interest and interest received on non performing can be included in taxable income where the income of the assessee for the period was exempt - Whether AO is justified in computing depreciation allowance by adopting WDV by reducing notional depreciation for the earlier accounting period in which neither the assessee was assessable to tax nor any depreciation was actually allowed to be assessee under the Act.
2015-TIOL-1932-ITAT-MUM
Diamonds 'R' Us Vs CIT (Dated: October 30, 2015)
Whether deduction claimed u/s 10AA of I-T Act deserves to be allowed, when it is clear that the provisions of SEZ Act provides that the same will override the provisions of any other Act - YES: ITAT
2015-TIOL-1931-ITAT-AMRITSAR
Dev Raj Hi-Tech Machines Ltd Vs DCIT (Dated: October 7, 2015)
Whether in survey proceedings, additional income surrendered by the assessee over and above normal profits of concern as business income, has to be assessed under 'business income' and not as 'deemed income' u/s 69A - YES: ITAT
Whether order passed by the AO can be said to be erroneous requiring revision u/s 263, where the AO has taken a plausible view while accepting assessee's explanation for treating additional income as business income - NO: ITAT
Also see analysis of the order
2015-TIOL-1930-ITAT-DEL
South Asia Forum For Infrastructure Vs ITO (Dated: October 7, 2015)

Whether it is open to the assessee to claim principle of mutuality, where the assessee is under no obligation to return the funds received by it from the contributors/donors - NO: ITAT

[2015-TIOL-1929-ITAT-RANCHI](#)

Shri Sunil Kumar Vs DCIT (Dated: November 4, 2015)

Whether when the reasons to reopen assessment u/s 147 are not communicated to the assessee, the reassessment orders passed without such communication are valid as per law - NO: ITAT

[2015-TIOL-1928-ITAT-MUM](#)

DCIT Vs M/s Empire Mall Pvt Ltd (Dated: October 12, 2015)

Whether the order passed under sec. 143(3) r.w.s. 153C is without jurisdiction and invalid in law when no incriminating material was found during the course of search concerning the A.YS under consideration in respect of the assessee.

[2015-TIOL-1927-ITAT-MUM](#)

Blusea Securities Broking Pvt Ltd Vs ITO (Dated: October 9, 2015)

Whether in the absence of any corroborative evidence to prove the fact that the credits appearing in books of account in relation to the concerned persons are genuine, assessee's claim of having received cash payment can be believed on mere face value.

[2015-TIOL-1926-ITAT-MUM](#)

M/s Alliance Mall Developers Co Pvt Ltd Vs ACIT (Dated: October 12, 2015)

Whether where the notice issued u/s 153C is held to be invalid, the assessment made thereon has no legs to stand - YES: ITAT

[2015-TIOL-1925-ITAT-DEL](#)

ACIT Vs Advert Communication (Dated: October 30, 2015)

Whether in exercise of power u/s 251, CIT can correct assessment not only on issues agitated by assessee but also issues adjudicated by AO while framing assessment – YES: ITAT

Whether when AO treats major part of purchases as bogus and proceeds to make addition u/s 69C without correspondingly adjusting sales figure, it can be concluded that he has impliedly rejected book results without making express observations in assessment order – YES: ITAT

Whether after rejecting assessee's books of account, AO has to make an honest estimate of income and for said purpose he must take into account past assessment records of assessee – YES: ITAT

Whether AO having rejected assessee's books of account, could make separate additions u/s 41(1) and 69C - NO: ITAT

Whether in event of rejection of assessee's books of account, CIT(A) is justified in estimating net profits of relevant year by taking higher percentage of N.P. in comparison to earlier two years - YES: ITAT

[2015-TIOL-1924-ITAT-KOL](#)

Agro Service Syndicate Vs ITO (Dated: October 7, 2015)

Whether the CIT is prohibited u/s 264(4)(c) to CIT to pass the revision order if any appeal is pending - YES: ITAT

Whether such embargo imposed u/s 264 applies similarly to a situation where the appeal is not disposed of on merits, rather than withdrawn - NO: ITAT

[2015-TIOL-1923-ITAT-AHM](#)

Akshar Associates Vs ACIT (Dated: September 15, 2015)

Whether interest income can be notionally excluded from computation of allowable deduction of remuneration paid to partners of a partnership firm u/s 40B - NO: ITAT

[2015-TIOL-1922-ITAT-BANG](#)

Sri Dinakara Suvarna Vs DCIT (Dated: August 7, 2015)

Whether there is an error apparent in the order of the Tribunal justifying rectification of the order where one of the issue raised by the assessee in his grounds of appeal was not considered by the Tribunal at all – Whether estimation of profits is justified where the estimation was made only on the basis of statement recorded at the time of survey without the books of account being rejected by the AO u/s. 145.

[2015-TIOL-1921-ITAT-BANG](#)

M/s The Capuchin Friar Services Society Vs DCIT (Dated: October 9, 2015)

Whether only net receipts of a charitable trust are required to be taken for the purpose of computing accumulation of income of 15% u/s 11(1)(a) - NO: ITAT

[2015-TIOL-1920-ITAT-AHM](#)

M/s Cera Sanitaryware Ltd Vs DCIT (Dated: November 6, 2015)

Whether addition to the income & imposition of penalty merely on basis of differences in value of stock in bank statement vis -a-vis books of accounts, is sustainable - NO: ITAT

[2015-TIOL-1919-ITAT-HYD](#)

DCIT Vs M/s Jaycee Sponge Profiles Pvt Ltd (Dated: October 9, 2015)

Whether for the purpose of completing assessments u/s. 153A/153C, AO could take into consideration material other than what was available during the search and seizure operation - NO: ITAT

Whether when the assessee has not furnished any information in the course of assessment proceedings, without going into the merits of the additions made, such issues should be re-examined by the AO by giving proper opportunity to Assessee - YES: ITAT

[Also see analysis of the order](#)

[2015-TIOL-1918-ITAT-MUM](#)

ACIT Vs M/s Bio-Vet Industries (Dated: October 9, 2015)

Whether the CIT(A) having allowed assessee's claim of deduction u/s 80IB following the decision of ITAT for earlier A.Ys, requires any interference - NO: ITAT

[2015-TIOL-1917-ITAT-DEL](#)

M/s Continental Device India Ltd Vs Addl.CIT (Dated: October 16, 2015)

Whether Explanation 3 to section 43(1) of the Act is not an absolute rule - Whether the AO is empowered to substitute the value of the assets recorded by the assessee on transfer of a going concern with the WDV of the assets as per Explanation 3 of section 43(1) from the books of account of the seller company and ignoring the price paid by the assessee on which the assessee had claimed depreciation - Whether such substitution of value can be substituted even in the case where there is no intent to reduce the tax liability.

[2015-TIOL-1916-ITAT-BANG](#)

DCIT Vs M/s Advait Motors Pvt Ltd (Dated: October 30, 2015)

Whether when a t no place the AO expressed any dissatisfaction with regard to the correctness of the claim of the assessee with regard to expenditure incurred for earning exempt income, can the AO deny such claim later without any basis - NO: ITAT

Whether in order to apply Sec 14A(2), it is necessary for the AO to show that he is not satisfied with the correctness of the claim of the assessee with regard to the expenditure claimed to have been incurred for earning exempt income - YES: ITAT

[2015-TIOL-1915-ITAT-BANG](#)

Chitradurga City Multi Purpose Co-Op Society Vs ITO DCIT (Dated: September 4, 2015)

Whether interest earned on surplus funds invested in short-term deposits, securities and other income which was not in the nature of business income had to be brought to tax and would not be eligible for deduction u/s 80P(2)(a)(i) of the Act.

[2015-TIOL-1914-ITAT-DEL](#)

<p>DCM LTD Vs DCIT (Dated: September 1, 2015)</p> <p>Whether the expenses otherwise allowable to the assessee, cannot be denied because of the change of the method - YES: ITAT</p> <p>Whether disallowance u/s 14A cannot exceed the amount of exempt income - YES: ITAT</p>
<p>2015-TIOL-1913-ITAT-DEL</p>
<p>DCIT Vs Metro Management Service Pvt Ltd (Dated: October 14, 2015)</p> <p>Whether if assessee makes cheque payment to one 'M' who in turn pays in cash to buy land in his name, it warrants protective addition for investment in land from undisclosed income - NO: ITAT</p> <p>Whether amount received by assessee from group concern through banking channel which was duly reflected in bank accounts , could be added to assessee's taxable income - NO: ITAT</p> <p>Also see analysis of the order</p>
<p>2015-TIOL-1912-ITAT-DEL</p>
<p>ACIT Vs State Bank Of India (Dated: October 6, 2015)</p> <p>Whether Site Restoration Account is a term deposit for a fixed period - NO: ITAT</p> <p>Whether provision of section 194A are applicable to a scheduled commercial bank and such bank is liable for deducting TDS on the interest credited in SRA - NO: ITAT</p>
<p>2015-TIOL-1911-ITAT-DEL</p>
<p>Nainital Almora Kshetriya Gramin Bank Vs JCIT (Dated: November 9, 2015)</p> <p>Whether in case the assessee has not actually paid the amount claimed as leave encashment on or before the due date for filing the return of income, can it be allowed a deduction in respect of the same - NO: ITAT</p> <p>Whether amount paid to employees for leave encashment is wages due to them for the services rendered according to the terms of employment, it is also not a statutory payment but a contractual payment - YES: ITAT</p>
<p>2015-TIOL-1910-ITAT-KOL</p>
<p>DCIT Vs Infinity Infotech Parks Ltd (Dated: October 16, 2015)</p> <p>Whether disallowance of the depreciation is not justified when the assessee is following a policy of deducting the sale proceeds of the office from the building block only and has properly deducted in relevant year also as the commercial space is a lease hold property - YES: HC</p>

2015-TIOL-1909-ITAT-DEL
ADDL CIT Vs IHDP Global Pvt Ltd (Dated: October 9, 2015)
Whether the income of maintenance charges earned by a subsidiary of assessee on account of rent agreement can be added to the income of assessee, in absence of any proof showing such rent agreement as collusive agreement to divert rental income - NO: ITAT
2015-TIOL-1908-ITAT-DEL
DCIT Vs Dlf Homes Panchkula Pvt Ltd (Dated: October 14, 2015)
Whether the commencement of real estate business would normally start with the acquisition of land or immovable property and the corollary is that the business has already been set-up.
2015-TIOL-1907-ITAT-DEL
Dcm Shriram Consolidated Ltd Vs ACIT (Dated: October 14, 2015)
Whether disallowance on account of diminution in value of fertilizer bonds can be made where assessee was compelled to receive fertilizer's bonds in lieu of cash fertilizers subsidy by the Government of India and the assessee company had not bought fertilizers bonds for the purpose of making investment - Whether the loss on account of diminution in the market value of the fertilizers bonds held at the end of the year as business assets can be disallowed
2015-TIOL-1906-ITAT-HYD
Bdr Projects Pvt Ltd Vs ACIT (Dated: November 6, 2015)
Whether an issue of disallowance u/s 37 requires restoration, where the assessee has not produced requisite bills/vouchers for determining the allowability of the payments made by it, wherein such deduction u/s 37 was claimed - YES: ITAT
2015-TIOL-1905-ITAT-LKW
DCIT Vs Dinesh Oils Ltd (Dated: September 11, 2015)
Whether provisions of Explanation to section 73 can be applied to a case, where more than 50% of the gross total income of assessee consists of income chargeable under four heads excluding income from business - NO: ITAT
2015-TIOL-1904-ITAT-MUM
Infotech 2000 (India) Ltd Vs ACIT (Dated: October 7, 2015)
Whether if the assessee offer higher income and give an explanation that higher income was offered to buy peace and to avoid litigation then no penalty under sec. 271(1)(c) can be levied.

[2015-TIOL-1903-ITAT-AHM](#)

Ariel Sarees Pvt Ltd Vs ITO (Dated: October 23, 2015)

Whether penalty under sec. 271(1)(c) can be imposed when the A.O. has not analyzed the evidences and supporting documents furnished before him during the penalty proceedings.

[2015-TIOL-1902-ITAT-MAD](#)

Bharat Overseas Bank Ltd Vs ACIT (Dated: October 30, 2015)

Whether the CIT(A) order having considered the facts on merits and allowed the issue can be a ground to set aside the reassessment proceedings - Whether merely by making a provision, the assessee can be said to have made any actual contribution to the approved pension fund in question so as to attract the charging section.

[2015-TIOL-1901-ITAT-PANAJI](#)

ITO Vs Shri Mahalingeshwar Credit Souhard Sahakari Niyamit (Dated: July 27, 2015)

Whether assessee a co-operative society is entitled to claim deduction under section 80P(2)(a)(i).

[2015-TIOL-1900-ITAT-BANG](#)

M R Pattabhiram (HUF) Vs ACWT (Dated: October 16, 2015)

Whether the land sold by the assessee is an urban land within the meaning of Section 2(14) of the Wealth Tax Act and is exigible to wealth -tax where the land was not situated within the limits of a Municipality.

[2015-TIOL-1899-ITAT-BANG](#)

Smt Meenakshi Devi Avaru Vs Gift Tax Officer (Dated: September 4, 2015)

Whether the order of CGT(A) is null and void when order is beyond the period of limitation imposed u/s 16A(3) of the GT Act, 1958 - YES : ITAT

[2015-TIOL-1898-ITAT-MUM](#)

Shri Manohar H Kakwani Vs ITO (Dated: October 9, 2015)

Whether the amount received by the assessee towards compensation on sale of TDR can be subjected to LTCG when there is no cost of acquisition to the assessee for acquiring such rights.

[2015-TIOL-1897-ITAT-DEL](#)

ACIT Vs M/s Command Detective And Securities Pvt Ltd (Dated: October 9, 2015)

Whether when no defect was found by AO either in the books of account or in the detail furnished by the assessee, the provisions of sec 69C are not applicable as there was no unaccounted expenditure - Whether if no incriminating material belonging to the assessee were found during search period, the assessment made is without jurisdiction and proceedings initiated under sec. 153C is null and void - Whether in the absence of recording the satisfaction before issuance of the notice under sec. 153C of the I.T. Act, there is non-compliance with legal requirement regarding recording of the satisfaction on this issue, the assessment made under sec. 153C is rightly quashed.

[2015-TIOL-1896-ITAT-AHM](#)

ACIT Vs Creative Infocity Ltd (Dated: October 21, 2015)

Whether when the ground taken for recalling an order is that the order of Tribunal is perverse and contrary to the facts on record, it do not fall within the scope and ambit of Section 254, would tantamount to review of the order - YES: ITAT

[2015-TIOL-1895-ITAT-KOL](#)

ITO Vs Metro Diary Ltd (Dated: October 20, 2015)

Whether passing of title in the goods is important and determinative factor for the question whether franchisee was acting as agent or acting on a principal to principal basis of the Assessee - YES: ITAT

[Also see analysis of the order](#)

[2015-TIOL-1894-ITAT-DEL](#)

A2z Maintenance And Engineering Services Ltd Vs CIT (Dated: October 21, 2015)

Whether assumption of jurisdiction by CIT under sec. 263 is justified where the Assessing Officer made inquiries on the issue which were replied by the assessee by submitting its stand along with contract wise detailed working and the Assessing Officer considered the issue and applied his mind towards - Whether order passed under sec. 263 is justified where in response to the show cause notice under sec. 263, the assessee filed detailed written submissions along with a Paper Book and the CIT has only considered arguments of the counsel of the assessee in regard to assessee's letters and after reproducing the contents of these letters, the CIT jumped to record his conclusion without any deliberation on the detailed written submissions and Paper Book of the assessee - Whether order passed by CIT is sustainable in law where CIT directed the Assessing Officer to make a fresh assessment order on the aspect of deferred revenue by holding the assessment order as erroneous and prejudicial to the interest of revenue on this aspect but the CIT had not drawn any conclusion that the assessment order passed by the Assessing Officer is not in accordance with the provisions of the Act and thus, the same is unsustainable in law and CIT had not made any inquiry in regard to the allegations raised by him in the show cause notice issued by him under sec. 263.

[2015-TIOL-1893-ITAT-AHM](#)

Adani Port And Special Economic Zone Ltd Vs ADDL CIT (Dated: October 29, 2015)

Whether the provision of section 263 cannot be invoked to correct each and every type of mistake or error committed by the AO, it is only when an order is erroneous that the section will be attracted - Whether, where two views are possible and ITO has taken one view with which CIT does not agree, order of the A.O cannot be considered as erroneous order prejudicial to the interest of Revenue unless the view taken by the A.O is unsustainable in law - Whether, if a query is raised during the assessment proceedings and responded to by the Assessee, the mere fact that it is not dealt with in the assessment order would not lead to conclusion that no mind has been applied to it

[2015-TIOL-1892-ITAT-AHM](#)

ITO Vs Bharat Agro Industries (Dated: September 9, 2015)

Whether addition u/s 69 can be made when the AO has duly accepted that the bank accounts are forming part of books of accounts - Whether the machinery repair and maintenance expenses incurred by the assessee at Rs.12,98,213/- are revenue in nature when the majority of the expenses which have been incurred regularly round the year are less than Rs.10,000/- and in very few cases has exceeded Rs.20,000/. - **Revenue's appeal dismissed : AHMEDABAD ITAT**

[2015-TIOL-1891-ITAT-MUM](#)

Hannover Milano Fairs India Pvt Ltd Vs DCIT (Dated: October 30, 2015)

Whether merely because some addition has been made and such addition has become final, it does not necessarily follow that penalty is leviable, as where inadmissible claim is made due to inadvertent and bonafide mistakes, penalty for concealment cannot be warranted - YES: ITAT

Whether in order to defend levy of penalty for concealment, mere claim of assessee that an issue is debatable and two views are possible in law and facts is also enough - NO: ITAT

[2015-TIOL-1890-ITAT-MUM](#)

DCIT Vs Rama Capital And Fiscal Services Ltd (Dated: October 30, 2015)

Whether reopening of assessment is done on the basis of change of opinion, when the AO has not brought a new material or any tangible material to reopen the case - YES: ITAT

Whether such reopening of assessment is bad in law -YES: ITAT

[2015-TIOL-1889-ITAT-CHD](#)

Smt Harpreet Kaur Vs CIT (Dated: June 3, 2015)

Whether the CIT cannot substitute his opinion to that of the AO for the purpose of making addition only.

Whether if the explanation of the assessee in response to the notice u/s 263 of the Act has not been considered by the CIT in proper perspective, the order of revision without considering the explanation of the assessee would not be valid - Whether the issue which is not raised in the show cause notice u/s 263 of the Act could not be subject matter of revision by the CIT.

[2015-TIOL-1888-ITAT-MUM](#)

Godavari Sugar Mills Ltd Vs Addl.CIT (Dated: October 21, 2015)

Whether stamp fee incurred by the assessee for getting a substantial benefit which was on capital account can be claimed as a deduction in computing the taxable income - Whether if the assessee is following the mercantile system of accounting, it will be entitled for the claim of expense on Revenue/trading account on crystallization

[2015-TIOL-1887-ITAT-AHM](#)

Vijaysinh Mansinh Mangrobala Vs ITO (Dated: October 16, 2015)

Whether the late filing fees u/s. 234E is leviable before 01-06-2015.

[2015-TIOL-1886-ITAT-AHM](#)

Vodafone West Ltd Vs ACIT (Dated: March 26, 2014)

Whether further extension of stay against recovery of outstanding tax demand can be allowed, when the Coordinate Benches have granted the same in the past - YES: ITAT

[2015-TIOL-1885-ITAT-MUM](#)

ACIT Vs Western Press Pvt Ltd (Dated: November 19, 2014)

Whether reopening of assessment under sec. 147/148 is justified when there is nothing on record to show that the peculiar facts, which were brought out in the reassessment proceedings, were also furnished to the AO and there is no application of mind by the AO on the impugned issues - Whether the acquisition of property/taking possession of the property will be completed unless the encumbrances attached to the property are cleared with

[2015-TIOL-1884-ITAT-DEL](#)

DCIT Vs M/s Vodafone Essar South Ltd (Dated: February 7, 2014)

Whether depreciation claimed by the assessee cannot be disallowed even though the concerned assets on which the depreciation had been claimed were never used by the assessee during the year for the purposes of its business – Whether the interest income earned by the assessee, which is from the non-business source cannot be adjusted against the liability to pay interest on funds borrowed of setting up of its business for purchase of plant and machinery etc. before the commencement of the business of the assessee

[2015-TIOL-1883-ITAT-MUM](#)

JBF Industries Ltd Vs Addl.CIT (Dated: October 16, 2015)

Whether the "electric fittings" should considered as "plant & machinery" and depreciation should be allowed @ 15% to the said plant & machinery as claimed by

the assessee - YES: ITAT

Whether when it is under doubt that the assessee used internal cash accruals for funding certain projects and the availability of its own funds could be proved to the AO by showing the balance sheet of the assessee, addition can be made without clarifying the doubt aroused - NO: ITAT

Whether when the AO has once held that the case was of finance by ignoring the lease agreement, can he be denied to refer to the very same lease agreement to decide about the ownership - NO: ITAT

[Also see analysis of the order](#)

[2015-TIOL-1882-ITAT-MUM](#)

DCIT Vs Shri Hemendra C Daftary (Dated: October 6, 2015)

Whether merely because the suppliers have not appeared before the AO or the CIT(A), it cannot be concluded that the purchases were not actually made by assessee - YES: ITAT

Whether when it is found that the assessee has furnished the relevant details, but the assessing officer has made the disallowance without finding fault with those details, can the disallowance made sustain - NO: ITAT

Whether a disallowance in respect of sundry creditors, can be made that the assessee could not furnish the confirmation letters from those creditors only for want of time - NO: ITAT

[2015-TIOL-1881-ITAT-KOL](#)

JCIT Vs M/s Jagadamba Tea Co Pvt Ltd (Dated: September 14, 2015)

Whether expenses incurred for payment of casual workers for uprooting, leveling and cutting jungle and weeding out unnecessary things are in the nature of revenue expenditure and cannot be held to be capital in nature - YES: ITAT

Whether no addition can be made by the AO on estimate basis without giving any basis or finding for the same - YES: ITAT

[2015-TIOL-1880-ITAT-JAIPUR](#)

Shri Prakash Chand Vijay Vs ACIT (Dated: September 7, 2015)

Whether when assessee claims Sec 54F benefits for three plots of land, located at different places, such a claim amounts to furnishing of inaccurate particulars, warranting penalty u/s 271(1)(c) - YES: ITAT

[Also see analysis of the order](#)

[2015-TIOL-1879-ITAT-DEL](#)

Petronet LNG Ltd Vs DCIT (Dated: September 30, 2015)

Whether the CIT(A) was justified in dismissing the appeal of the assessee by rejecting the application for condonation of delay in filing of the appeal by 47 months when the assessee could not demonstrate that, it was prevented by sufficient cause, in filing this appeal within the time stipulated under the Act.

[2015-TIOL-1878-ITAT-MUM](#)

JM Financial Consultants Pvt Ltd Vs DCIT (Dated: October 7, 2015)

Whether AO can proceed to apply Rule 8D for purpose of disallowance 14A, without satisfying mandatory requirement of Section 14 A (2) r/w Rule 8D - NO: ITAT

Whether once details of expenses are made available alongwith entire accounts of assessee, AO has to record his satisfaction with reasoning before making disallowance under Section 14A –YES: ITAT

Whether strategic investment for purpose of earning tax-free income can be considered for making disallowance u/s 14A - NO: ITAT

[2015-TIOL-1877-ITAT-MUM](#)

ACIT Vs People Interactive India Pvt Ltd (Dated: October 21, 2015)

Whether discount on issue of Employees Stock option is allowable as deduction in computing the income under the head 'Profit and gains of Business or Profession'.

[2015-TIOL-1876-ITAT-BANG](#)

DCIT Vs M/s MN Dastur & Co Pvt Ltd (Dated: October 7, 2015)

Whether Tribunal needs to maintain the rule of consistency when an identical issue has been considered and decided by the coordinate bench of the tribunal in the assessee's own case - YES: ITAT

Whether quantum of disallowance worked out as per Rule 8D can't exceed the actual expenditure debited by the assessee in the profit and loss account, which has a nexus for earning exempt income - YES: ITAT

[2015-TIOL-1875-ITAT-KOL](#)

ACIT Vs M/s Southern Avenue Inn Pvt Ltd (Dated: October 15, 2015)

Whether proviso to sec 36(1)(iii) is not applicable and the addition of interest amount treating the same as capital in nature is not justified when expenditure has been incurred for some repairs and replacement works which include replacement of flooring and lift and such replacements is for the smooth conduct of the existing business and not for the extension thereof - YES: ITAT

[2015-TIOL-1874-ITAT-LKW](#)

ACIT Vs M/s MKU Pvt Ltd (Dated: October 7, 2015)

Whether in case of assessee manufacturing 'ballestic helmets' and ' bullet proof

jackets', when only a part of manufacturing activities was got done from outside agency and that too under direct control and supervision of assessee , its claim for exemption under section 10B was allowable - YES: ITAT

Whether in order to earn dividend income, investment made by assessee in shares of domestic companies out of its own surplus funds called for any disallowance u/s 14A - NO: ITAT

Whether payment of bonus made by assessee in time was to be allowed as deduction – YES: ITAT

[2015-TIOL-1873-ITAT-HYD](#)

Rain Cements Ltd Vs DCIT (Dated: September 24, 2015)

Whether the discount of the debentures is to be spread over the period of holding of debentures or can be claimed in the year in which the expenditure was incurred in entirety - Whether revenue expenditure was deductible in the year in which the expenditure was incurred irrespective of its benefit being spread over on long period of time .

[2015-TIOL-1872-ITAT-HYD](#)

Plasticon Technologies Pvt Ltd Vs ITO (Dated: October 16, 2015)

Whether the CIT was right in directing the A.O. to re-do the assessment in case the A.O. in the original assessment, has not made any enquiries as to the genuineness of the purchase figure or to the validity of the assessee's separate debit of transport expenditure under the Head "Direct Expenses" - YES: ITAT

[2015-TIOL-1871-ITAT-HYD](#)

SRSR Advisory Services Pvt Ltd Vs ACIT (Dated: October 9, 2015)

Whether the reopening of assessment on the basis of the so called statement is warranted when there being no nexus or live-link with the reasons recorded and the 'formation of belief' to come to a conclusion that there was escapement of income and also the assessment has been reopened beyond the period of 4 years when there is no failure on the part of the assessee to fully and truly disclose all material facts in the original assessment? Whether the expenditure can be disallowed on adhoc basis.

[2015-TIOL-1870-ITAT-DEL](#)

ACIT Vs Nhpc Ltd (Dated: August 26, 2015)

Whether addition on account of assessee's claim of provision for gratuity, leave encashment, post-retirement medical benefit, LTC, Baggage allowance and Matching Contribution on Leave Encashment etc. while computing the book profit, is justified - Whether depreciation on land unclassified and leasehold land is allowable - Whether AO can invoke Rule 8D to compute disallowance without recording the reason for not being satisfied with the computation made by the assessee in respect to expenditure incurred for earning the exempt income.

[2015-TIOL-1869-ITAT-HYD](#)

P Venkateswara Rao Vs ITO (Dated: May 20, 2015)

Whether merely on account of not furnishing detailed reasons for the acceptance of the claim of the assessee, the revisional authority can initiate proceedings u/s 263 by assuming that the AO has not made proper verification.

[2015-TIOL-1868-ITAT-MUM](#)

The Phoenix Mills Ltd Vs DCIT (Dated: August 19, 2015)

Whether additions and disallowance made by the Assessing Officer are sustainable where the return of income had attained finality as no notice u/s 143(2) was issued for verifying/scrutinizing the returned income and where no incriminating material was found qua the addition made by the Assessing Officer in the assessment year - Whether municipal taxes have to be reduced from annual letting value for the purpose of computing income of the assessee from house property where the municipal taxes in respect of properties let out by the assessee was borne by the tenants - Whether legal and professional expenditure is allowable where the same was incurred mainly in relation to immovable properties of the assessee which was given on rent or which was to be given on rent after completion of development and was thus incurred by the assessee in relation to earning of rental income which was chargeable to tax under the head "Income from house property" - Whether foreign travelling expense is allowable where the assessee is in the business of development of property and ancillary services and had established a huge retail mall wherein large number of foreign brand shops have been opened and for getting such kind of foreign clientele, the directors of the company have been regularly visiting foreign countries - Whether the brokerage and commission which is allocable to earning of service charges is allowable and which is allowed to rental income is to be disallowed - Whether addition on account of alleged receipts of cash in the hands of the assessee from bogus purchases can be made where there is no actual evidence to prove that assessee has received cash on account of bogus purchase transaction and no availability of cash was found during the course of search and seizure proceedings - Whether addition on account of unexplained expenditure can be made where there is evidence or material on record to prove that assessee had paid any amount in cash over and above the amount shown in the books - Whether disallowance u/s 14A is justified where nowhere the Assessing Officer has recorded his 'satisfaction' or expressed in any terms that he is not satisfied with the correctness of the claim of the assessee in respect of expenditure incurred in relation to the exempt income, having regard to the accounts of the assessee.

[2015-TIOL-1867-ITAT-MUM](#)

Sunjyot Gems Vs DCIT (Dated: September 30, 2015)

Whether on facts, when there is no evidence or statement on the record of the parties stating that the diamonds have either been purchased directly by the assessee firm/or its partners, any addition made by the AO under sec. 69 of the Act as unexplained investment can be sustained.

[2015-TIOL-1866-ITAT-MUM](#)

Golden Tobacco Ltd Vs JCIT (Dated: October 28, 2015)

Whether reopening of assessment is invalid in the absence of fresh tangible material - Whether in those cases where the first proviso to section 147 is applicable, the reopening cannot be done unless there is allegation in the reasons that there was failure on the part of the assessee in disclosure of material facts.

[2015-TIOL-1865-ITAT-KOL](#)

ACIT Vs Ici India Ltd (Dated: September 1, 2015)

Whether entitlement of MAT credit is not dependent upon any action taken by the Department and the right to set off arises as a result of the payment of tax u/s 115JA(1) although quantification of that right depends upon the ultimate determination of total income for the first A.Y?

[2015-TIOL-1864-ITAT-DEL](#)

ACIT Vs Indo Industrial Engineers (Dated: June 30, 2015)

Income Tax - Whether when there is a mixture of borrowed funds and internal accruals then the presumption will be that, the investments have been made out of internal accruals? Whether disallowance of the interest paid on unsecured loans borrowed from the relatives of the partners of the assessee on the ground that interest paid was excessive is justified when there is no basis to hold that payment of interest at 15% is excessive - Whether the assessee can purchase Keyman Insurance Policy in respect of one employee only and not more than 1 - Whether the Assessee was debarred from making payment of commission for the earlier period when the services rendered are not disputed by the AO? Whether the expenditure not resulting in creation of asset should be allowed as a revenue expenditure.

[2015-TIOL-1863-ITAT-DEL](#)

ITO Vs Jagdamba Optics Pvt Ltd (Dated: September 4, 2015)

Whether the CIT(A) was justified in deleting the addition of Rs. 13,70,000/- made u/s 68 being the unexplained cash credit when the Assessee has filed the copies of PAN cards, income tax returns, bank particulars and bank statements and the complete address of the share applicants - Whether reassessment proceedings u/s. 147 was justified when there was existence of correct information and the material in possession of the AO is a fresh material.

[2015-TIOL-1862-ITAT-AHM](#)

DCIT Vs Bharat Bobbins Ltd (Dated: August 21, 2015)

Whether the expenditure incurred on re-surfacing and carpeting of approach road would be treated as Revenue expenditure - Whether if the AO failed to record his satisfaction, while following Rule 8D, then the assessment order to that extent would be quashed.

[2015-TIOL-1861-ITAT-MUM](#)

Bristlecone India Ltd Vs ACIT (Dated: April 10, 2015)

Whether penalty u/s 271(1)(c) can be levied when the assessee has repeatedly claimed the skewed allocation of common expenses between the STP unit and the non STP unit so as to artificially inflate the claim of deduction u/s. 10A.

[2015-TIOL-1860-ITAT-HYD](#)

ACIT Vs East India Petroleum Pvt Ltd (Dated: July 29, 2015)

Whether the income, for purposes of "re-assessment" cannot be reduced beyond the income originally assessed? Whether the amount of waiver is not assessable u/s 28 (iv) and hence there is no remission of liability and the amount is not assessable u/s 41(1).

[2015-TIOL-1859-ITAT-PUNE](#)

Bhagalaxmi Steel Alloys Pvt Ltd Vs ADDL CIT (Dated: July 15, 2015)

Whether the books of accounts of the assessee can be rejected u/s. 145 of the Act without any evidence or finding as to how the provisions of Section 145(3) are satisfied - Whether, where the evidence of clandestine removal of material without payment of Excise duty has been found by the Excise Department, in respect of sale of goods for a particular quantity and for a particular period, the same could not be relied upon as evidence, while extrapolating the sales and the additional income thereon in the hands of the assessee during the Income-tax proceedings.

[2015-TIOL-1858-ITAT-KOL](#)

West Bengal Infrastructure Development Finance Corporation Vs ACIT (Dated: October 16, 2015)

Whether in the absence of a revised return of income filed by the assessee making claim for deduction on account of interest expenses the deduction can be allowed – Whether the assessee need not recognize the interest income on NPS where the assessee is a State Industrial Investment Corporation within the meaning of Explanation (f) of section 43D and due to uncertainty in collection there was no accrual of income – Whether the accrual of interest income on the deposits with the Pay & Accounts office of the Government would arise to the assessee from the year in which the quantum of interest receivable for the previous year got finalised and crystallised only upon sanction of the State – Whether deduction has to be allowed when there is a write off the interest amount in question in the debtors account – Whether the deduction in respect of provision for bad and doubtful debts is available under section 36(1)(vii)(c) to assessee which is a public sector company engaged in business of providing long term finance for industrial and agricultural development and for development of infrastructure facilities in India – Whether the charging of interest u/s.234C should be with reference to the tax on total income declared in a revised computation of income filed and not on the tax payable on the total income declared in the original return of income – Whether the disallowance under Sec.14A can be in excess of the tax free income earned by the Assessee during the previous year – Whether the disallowance of expenses u/s.35D which is to be allowed over a period of 10 years can be disallowed in the 7th year.

[2015-TIOL-1857-ITAT-MUM](#)

Great Offshore Ltd Vs DCIT (Dated: September 30, 2015)

Whether where the scheme of demerger is approved by the High Court after the close of F.Y, is it possible for the company formed as a result of such demerger to have estimated its income and pay advance tax on the same - NO: ITAT

Whether where it is not possible for the assessee to have anticipated the events during the year which took place after the close of year, no default can be attributed on the part of assessee for non-payment of advance tax and consequently no interest u/s 234B can be charged on the same - YES: ITAT

Whether rejection of the system of apportionment of common overheads expenses adopted by the assessee by invocation of Section 115JV can be sustained, where the similar system of apportionment was accepted by the AO during earlier years - NO: ITAT

[2015-TIOL-1856-ITAT-MUM](#)

DCIT Vs Lodha Crown Build Mart Pvt Ltd (Dated: October 30, 2015)

Whether when the payment of lease premium paid towards acquiring rights and use of land is not covered under definition of rent u/s 194I, assessee is not required to deduct TDS on such payment - YES: ITAT

[2015-TIOL-1855-ITAT-DEL](#)

DCIT Vs Ideal Broadcasting India Pvt Ltd (Dated: November 4, 2015)

Whether when AO made addition by passing a slip shod and cryptic order, CIT(A) granted relief to assessee without providing due opportunity to AO to comment upon, examine and verify the stand of assessee supported by various documents and evidence, in that case it is better to remand the case as the proceedings were not conducted properly neither at the assessment stage nor at first appellate stage - YES: ITAT

[2015-TIOL-1854-ITAT-AHM](#)

ACIT Vs Hari Orgochem Pvt Ltd (Dated: September 30, 2015)

Whether fees for services of the employees cannot be treated as excessive, when no material was brought on record to show that the consideration for services received by the assessee was so excessive as to warrant any disallowance out of the same - YES: ITAT

Whether if the expenditure is not related to the exempt income, the AO is not empowered to make disallowance u/s.14A by applying Rule 8D - YES: ITAT

Whether disallowance as made by the AO cannot be sustained, when such disallowance is on account of interest expenditure and administrative expenses and on both the counts, the AO has failed to record his finding - YES: ITAT

[2015-TIOL-1853-ITAT-LKW](#)

ACIT Vs M/s Upper India Paper Mills Company Pvt Ltd (Dated: June 23, 2015)

Whether, where there was a conversion of capital asset of land into stock -in-trade by the assessee for business of real estate development, capital gain arising from the transfer of land by way of such conversion was chargeable to tax only in the previous year relevant to the assessment year when the constructed portion is sold - Whether if the AO has any doubt with regard to the valuation adopted by the assessee as on 1.4.1981, he could make a reference to the DVO for the determination of the value of the land, but could not adopt the value of his own.

Year of chargeability of capital gains - Assessee entered into a project development agreement with M/s Arif Industries Ltd. to develop company's group housing -cum- shopping project on the company's land having plot area of 61299.69 sq. mtr. In the revised return filed by the assessee, long term capital loss was claimed at Rs.68,42,57,966.30. For this purpose, the land of the assessee-company was converted into stock -in-trade. The value of the land as on 1.4.2003 relevant to the financial year 2003-04, on conversion into stock -in-trade was taken at Rs.1,25,93,70,545.20. The value of the land as on 1.4.1981 was worked out at Rs.1,94,36,28,541.50 (indexed cost) on the basis of valuation reports dated 19.3.2001, 25.3.2001 and 13.6.2002 of the Government Approved Valuer, Shri. B.M. Gupta. The difference being Rs.68,42,57,966.30 was claimed as long term capital loss. The AO examined the transactions of transfer of land into stock-in-trade with reference to provisions of section 2(47) of the Act and held the same to be a transfer within the meaning of section 2(47)(v) and 2(47)(vi) of the Act. Accordingly, the AO worked out the long term capital gains at Rs.37,31,686/-. The AO, on the basis of certain advances received by the assessee from M/s Arif Industries Ltd., concluded that conversion of the company's land into stock -in-trade and agreement with the said company constituted transfer u/s 2(47) of the Act and assessed the long term capital gains as above.

[2015-TIOL-1852-ITAT-DEL](#)

DCIT Vs Winsome Finance Pvt Ltd (Dated: September 30, 2015)

Whether the CIT(A) was justified in holding that there was cash element in the transaction with Mr. Jain and the impugned amount was duly included in their surrendered income, so the additions u/s. 68 on protective basis in the hands of the respective assessee are not sustainable.

[2015-TIOL-1851-ITAT-MAD](#)

Shri T Dhevanathan Vs ACIT (Dated: August 14, 2015)

Whether the AO can go beyond the material found during the course of search operation for the purpose of computing the undisclosed income for the block period in view of the section 158BB - Whether addition can be made on the issue of unexplained investment to the extent of Rs. 1,49,50,000/- when the assessee has explained the receipt of Rs. 13,40,22,400/- which was not disputed by the AO and there was no material to indicate that the assessee has deposited the undisclosed money in the bank account - Whether when the loan was received by way of cheque and the payment of interest to the extent of Rs. 1,08,000/- was also paid by way of cheque, can it be treated as from undisclosed source of the assessee? Whether the material found during the course of survey operation can be a basis for making addition for the block period consequent to the search under sec. 132A? Whether when the assessee is maintaining internal vouchers, the expenditure can be doubted especially if it is verifiable by the AO.

[2015-TIOL-1850-ITAT-KOL](#)

KPC Medical College And Hospital Vs DCIT (Dated: June 24, 2015)

Whether when there was enough evidence to show that agricultural income was deposited in the bank account, the source can be said to be explained and being so, there cannot be any undisclosed income required to be added u/s 68 of the Act.

[2015-TIOL-1849-ITAT-MUM](#)

DCIT Vs M/s Acc Ltd (Dated: July 29, 2015)

Whether the revenue generated from trial run production, which is reduced from assets capitalised in the books of accounts by the assessee, is to be added back in computation of Book Profits under sec. 115JB of the Act - Whether if a business liability had definitely arisen in the accounting year and was capable of being estimated with reasonable certainty, the deduction should be allowed although the liability may have to be quantified and discharged at a future date - Whether the AO was to assess the correct tax liability in accordance with law and even that if there was wrong admission of income by the assessee, it would not be binding on the assessee - Whether the AO has not been given unfettered powers the under the Act to ignore the direction given by the appellate authorities while passing a consequential order - Whether if the AO is not satisfied with the order of an appellate authority, he must raise the issue in the higher forum under the provisions of the law, but he cannot refuse to/follow the directions .

[2015-TIOL-1848-ITAT-DEL](#)

ACIT Vs M/s Delhi Hospital Supply Pvt Ltd (Dated: October 1, 2015)

Whether if the additions are made, but not based on any incriminating material found during search operation, then these additions are not sustainable in the eyes of law.

[2015-TIOL-1847-ITAT-LKW](#)

DCIT Vs M/s J K Cement (Dated: October 16, 2015)

Whether while computing the tax, first credit on MAT should be given and thereafter, charge the surcharge & education cess should be levied - YES: ITAT

[2015-TIOL-1846-ITAT-MUM](#)

M/s Cascade Holdings Pvt Ltd Vs ACIT (Dated: September 30, 2015)

Whether the fact that interest liabilities constitutes ascertained liability is linked to the issue of rejection of books of accounts as the books of account is the basis for computation of book profits u/s 115JA - NO: ITAT

[2015-TIOL-1845-ITAT-DEL](#)

Beena Jain Vs CIT (Dated: September 30, 2015)

Whether order passed by CIT under sec. 263 is justified where CIT did not provided opportunity of being heard to the assessee and the show cause notice issued under sec.263 did not contain the ground relating to rejection of books of accounts and lower net profit - Whether order passed by CIT is sustainable where CIT issued notice by pointing out five issues but in in the impugned order passed under sec. 263, the CIT directed the AO to make inquiry not only on four points but also enhanced the scope of inquiry for estimation of net profit which were not mentioned in the notice

under sec. 263 - Whether provisions of section 263 can be invoked where all the details were available before the AO at the time of assessment and AO has verified the same at the time of assessment and AO has dealt with and verified all the details in respect of the issues raised in the notice issued by the CIT under sec.263 and the view taken by the AO was a possible view.

[2015-TIOL-1844-ITAT-DEL](#)

Lakshya Seth Vs ITO (Dated: October 7, 2015)

Whether assumption of jurisdiction by CIT under Section 263 is justified where the AO had inquired about the cash deposited by the assessee during the relevant financial period and the assessee submitted his reply and after considering the totality of the facts and circumstances of the case, AO proceeded to estimate the business income of the assessee and made an addition which was accepted by the assessee without any further litigation and AO had adopted one of the courses permissible and available to him under the provisions of the Act and act of the AO had not resulted in loss to the revenue.

[2015-TIOL-1843-ITAT-MUM](#)

Tata Consultancy Services Ltd Vs ACIT (Dated: September 30, 2015)

Whether consideration paid to acquire unexpired portion of service agreements which will generate revenue for the assessee, is required to be treated as revenue expenditure - YES: ITAT

Whether claim of depreciation on a leased asset can be denied, where such asset is owned by the assessee and is used for the purpose of assessee's business by way of leasing - NO: ITAT

[Also see analysis of the order](#)

[2015-TIOL-1842-ITAT-DEL](#)

ITO Vs Safeway Electricals Industries Pvt Ltd (Dated: October 14, 2015)

Whether deletion of addition made on account of unexplained cash deposit is justified where A.O. has specifically recorded the findings that cash book was not produced nor such cash book was been perused or entertained by CIT(A) in additional evidence - Whether addition on account of difference in credit balance in OD account is justified where the assessee has duly explained the amount as secured loan and got reconciled as per bank reconciliation account placed by the assessee - Whether deletion of addition made on account of unvouched expenses is justified where the deletion was made without calling for the documents as pointed out by the A.O. nor any such documents have been entertained into additional evidence nor the same have been got verified from the A.O. and CIT(A) without discussing the opinion made in the remand report by the A.O. merely proceeded on the fact that 'nothing adverse has been pointed out by the A.O.'

[2015-TIOL-1841-ITAT-DEL](#)

ACIT Vs Phonix Lamps India Ltd (Dated: October 23, 2015)

Whether when selling the product to particular parties continuously also shows that it

is a commercial production and not of a trial production, it cannot be said that it was trail run for determining the initial year for deduction under section 80IC of the Income tax Act.

[2015-TIOL-1840-ITAT-PUNE](#)

Forbes Marshall Pvt Ltd Vs ADDL CIT (Dated: October 8, 2015)

Whether if there are funds available both interest-free and interest bearing, then a presumption would arise that investment would be out of interest-free funds generated or available with the assessee in the case where interest-free funds were sufficient to meet the investments - Whether disallowance carried out under Rule 8D(2)(iii) is justified when the assessee has not given any scientific basis for arriving at its own estimation.

[2015-TIOL-1839-ITAT-MUM](#)

Chhaganlal Khimji & Co Pvt Ltd Vs ACIT (Dated: September 23, 2015)

Whether interest income of assessee has to be treated as business income where the assessee company was engaged in the business of construction as well as lending of money and both constituted its main business activity and the investment and lending activity was a separate stream of business apart from the business activity in real estate - Whether interest expenditure incurred for the purpose of business is deductible under sec. 36(1)(iii) or under sec. 57 where the interest expenditure have direct nexus with the generation of income - Whether disallowance under sec. 14A can be made where during the year under consideration the assessee company was not in receipt of any exempt income and no direct or indirect expenditure were incurred for investment in the preference shares.

[2015-TIOL-1838-ITAT-RANCHI](#)

Ajay Engicon Pvt Ltd Vs ACIT (Dated: October 27, 2015)

Whether if the explanation offered by the assessee, even though not substantiated, is found to be bonafide and all facts relating to the same and material to the computation of his total income has been disclosed by him, penalty for concealment can still be imposed - NO: ITAT

Whether in case the HC admits substantial question of law on an addition, it becomes apparent that the addition is certainly debatable, and thus penalty for concealment of income cannot be levied on the same u/s 271(1)(c) - YES: ITAT

[2015-TIOL-1837-ITAT-DEL](#)

Global Realty Heritage Venture Cochin Pvt Ltd Vs ADDL CIT (Dated: October 16, 2015)

Whether penalty under sec. 271D can be imposed when nothing has been brought on record by the Revenue to show that the assessee as a result of his business and interactions with the department in the earlier years had been made aware that accepting and repaying in cash to sister concerns in order to tide over financial emergencies were in violation of the provision of the Act.

2015-TIOL-1836-ITAT-BANG
Glen Williams Vs ACIT (Dated: August 7, 2015)
Whether when neither AO nor CIT (A) is clear as to whether the addition is being made u/s 68 or 41(1) of the Act, addition is correctly deleted – Whether when the delay in filing the appeal has occasioned due to a reasonable and sufficient cause, delay in filing the appeal on the part of the assessee should be condoned, irrespective of the length of delay.
2015-TIOL-1835-ITAT-CHD
ACIT Vs M/s Garg Sons Estate Promoters Pvt Ltd (Dated: October 7, 2015)
Whether it is correct to apply profit rate for the purpose of making addition as cost of the material sold should have been deducted from the turnover in order to arrive at the profit - YES : ITAT
2015-TIOL-1834-ITAT-PUNE
ITO Vs Shri Ghanshyam Bhagwandas (Dated: September 11, 2015)
Whether addition on account of suppressed business income is justified where the agricultural income declared by the assessee during the impugned assessment year was a very high figure when there was no addition to the land holding and there was no change in the cropping pattern - Whether disallowance u/s 40A(3) is justified where the income of the assessee had been estimated and there is no evidence brought on record by the AO that the assessee had made payment in cash at any time exceeding Rs.20,000/- per day.
2015-TIOL-1833-ITAT-AHM
DCIT Vs Gyscoal Alloys Ltd (Dated: October 21, 2015)
Whether assessee's purchase of fixed assets cannot be treated as bogus, when all necessary purchase bills of different dates mentioning descriptions, quantity, rate, sales tax details, invoices, books, sources of the suppliers company has been filed as additional evidence - YES: ITAT
Whether the CIT(A) had rightly accepted assessee's additional evidence after duly following principles of natural justice under Rule 46A - YES: ITAT
2015-TIOL-1832-ITAT-KOL
ITO Vs M/s Ashok Trading Company (Dated: October 7, 2015)
Whether the oral or unwritten contracts fall within the purview of sections 194C read with section 40(a)(ia) - Whether insertion to the second proviso to section 40(a)(ia) inserted by the Finance Act, 2012 w.e.f. 1.4.2013 is retrospective in operation w.e.f. 1st April, 2005, being the date from which sub-clause (ia) of section 40(a) was inserted by the Finance (No. 2) Act, 2004 - Whether deletion of addition is justified where no reasons were mentioned for deleting the addition.

[2015-TIOL-1831-ITAT-MUM](#)

Anurag Toshniwal Vs DCIT (Dated: September 30, 2015)

Whether the receipt of non-Compete fee by the persons connected with the transferor for not indulging in competition would fall for consideration under section 28(va) - YES: ITAT

Whether if the only point of difference between the assessee and the Revenue is the relevant head of income under which a certain receipt is liable to be taxed, in such case penalty for concealment u/s 271(1)(c) can be levied - NO: ITAT

[2015-TIOL-1830-ITAT-DEL](#)

DCIT Vs Hscc India Ltd (Dated: October 21, 2015)

Whether provisions of section 41(1) cannot be applied where assessee is simply acting on behalf of its customers and getting consultancy fee from the client on account of services rendered - YES: ITAT

[Also see analysis of the order](#)

[2015-TIOL-1829-ITAT-HYD](#)

Pvrpl-Aprcl (Jv) Vs ITO (Dated: October 9, 2015)

Whether provisions of section 40(a)(ia) can be invoked for denying the deduction of entire contract payments for delay in remitting the TDS.

[2015-TIOL-1828-ITAT-DEL](#)

DCIT Vs Amar Ujala Publications Ltd (Dated: October 9, 2015)

Whether the fact that the assessee had employed new work men during the impugned A.Y. is relevant for adjudication of the claim of deduction u/s 80JJAA in respect of employment created by the assessee during the first year - Whether disallowance made on account of sales return pon average basis is sustainable where the amount of sales return shown by the assessee is varying from place to place and assessee had duly accounted sales returns.

[2015-TIOL-1827-ITAT-AHM](#)

DCIT Vs Abhishek Exim Pvt Ltd (Dated: September 29, 2015)

Whether delay in filing cross objection can be condoned where the appeal memo was wrongly served upon some other assessee other than and the assessee came to know about the filing of the appeal by the Revenue for the first time when the case was fixed for hearing - Whether reduction in disallowance on account of purchases is justified where the gross profit rate as well as the net profit rate in the relevant assessment year was better than the immediately preceding year - Whether disallowance u/s 40(a)(ia) is justified where the TDS was deposited before the due date for filing of the return - Whether disallowance u/s 40A(3) is justified where Assessing Officer has nowhere pointed out any specific item of payment, which was exceeding Rs.20,000/- and he merely presumed that all the cash payments would be exceeding Rs.20,000/- - Whether penalty u/s 271(1)(c) is leviable where the assessee had substantiated the purchases by producing the confirmation from all the sellers and has also produced the sales vouchers issued by them and the evidence of the

payments having been made by cheque and none of these evidences produced by the assessee were found to be incorrect, false or fabricated and the disallowance was sustained on the basis of estimate only.

[2015-TIOL-1826-ITAT-KOL](#)

DCIT Vs Concrete Developers Ltd (Dated: September 14, 2015)

Whether the rental income derived by exploiting the stock in trade or work-in progress of the assessee concern can be treated as its income from house property - YES: ITAT

Whether the amount spent on the ongoing project as interest & finance charges can be allowed as revenue expenditure on the ground that project was not a abandoned and that loan fund was also utilized in the development of project and project was not in progress - NO: ITAT

[Also see analysis of the order](#)

[2015-TIOL-1825-ITAT-HYD](#)

ACIT Vs Padmalaya Tele Films Ltd (Dated: September 2, 2015)

Whether on facts and in law, the CIT(A) erred in allowing expenditure of Redundant Animation Projects WIP and Redundants Software Projects WIP as revenue expenditure even though the Revenue has filed appeal before High Court against the order of the ITAT - Whether CIT(A) erred in allowing the claim of the assessee under the head repairs and replacements towards Redundant Animation Projects WIP and Redundant Software Project WIP without appreciating the fact that the A.O. had disallowed the same on the ground that the assessee had capitalized the expenditures and claimed depreciation - Whether CIT(A) erred in deleting the addition of non-collectables loans & advances and bad debts written off though the same was not debited to P&L A/c during the year under consideration.

[2015-TIOL-1824-ITAT-KOL](#)

Neptune Exports Ltd Vs ACIT (Dated: October 7, 2015)

Whether when the assessee who are in the business of blending and processing of tea and export thereof, in 100 per cent EOUs are manufacturer/ producer of the tea for the purpose of claiming exemption under sec. 10B? Whether the CIT(A) was justified in deleting the disallowance of commission payment when it was absolutely necessary for the assessee to make the impugned payments and, in any event, the commercial expediency of these payments has not even been called into question by the AO.

[2015-TIOL-1823-ITAT-AHM](#)

**DCIT Vs Gujarat Alkalies & Chemicals Ltd
(Dated: September 11, 2015)**

Whether the 'toners' can be considered as 'gas cylinders' - Whether additional depreciation on computers installed in the factory premises is justified when there is nothing on record to suggest that the computers were part of the plant and machinery - Whether for the purpose of application of Section 32(1)(ia) any operational connectivity to the article or thing that was already being manufactured by the assessee is required?

[2015-TIOL-1822-ITAT-MUM](#)

**Furniture Concepts (i) Ltd Vs ACIT (Dated:
September 01, 2015)**

Whether the revised computation of income can be considered by Revenue specially when time for filing revised return has elapsed - YES: ITAT

[2015-TIOL-1821-ITAT-DEL](#)

**Dif Southern Towns Pvt Ltd Vs DCIT (Dated:
September 01, 2015)**

Whether the assessee can claim the entire brokerage expenses during the year related to various projects, even if the the revenue of those projects were not fully recognized during the year under consideration and the same was recognized on the basis of Percentage of Completion Method followed by the assessee - Whether the disallowance u/s 14A can be made mechanically by following Rule 8D without pinpointing any expenditure relatable to earning of exempt income.

[2015-TIOL-1820-ITAT-DEL](#)

**ACIT Vs Dif Garden City Indore Pvt Ltd (Dated:
September 04, 2015)**

Income Tax - Whether the disallowance of professional expenses which made to the holding company by the Assessee was justified when the amount has been offered to tax by the payer as its income and has paid taxes thereon and both the companies viz. the assessee company and the payee company are assessed to tax and paying taxes on the same rate? Whether the AO was justified in disallowing the IDC cost incurred during the year for carrying out facilities like roads, sewage, lighting, park & water supply line?

[2015-TIOL-1819-ITAT-AHM](#)

Anjalee Exim Pvt Ltd Vs ACIT (Dated: September 29, 2014)

Whether computation provisions under rule 8D2 (ii) and (iii) will fail because the dividend yielding shares are held as stock in trade and not as investments, and the disallowance under rule 8D(2)(i) will be confined to only direct expenses for earning

the tax exempt income - Whether for the purpose of deciding as to whether explanation to Section 73(1) is applicable or not, business income should be worked out without invoking the provisions of Explanation to Section 73(1) and then, such business loss or income should be compared with the income under the other heads.

[2015-TIOL-1818-ITAT-MUM](#)

M/s Cougar Investment Pvt Ltd Vs CIT (Dated: September 11, 2014)

Whether share capital received by the assessee at premium should be treated as genuine, when Commissioner has not given any such finding, when the AO has conducted the enquiry and allowed the claim of the assessee on the basis of the examination of the record - YES: ITAT

Whether the CIT was not correct in invoking amended provisions u/s 263 under such circumstances - YES: ITAT

[2015-TIOL-1817-ITAT-AHM](#)

Anjalee Exim Pvt Ltd Vs ACIT (Dated: September 29, 2014)

Whether computation provisions under rule 8D2 (ii) and (iii) will fail because the dividend yielding shares are held as stock in trade and not as investments, and the disallowance under rule 8D(2)(i) will be confined to only direct expenses for earning the tax exempt income - Whether for the purpose of deciding as to whether explanation to Section 73(1) is applicable or not, business income should be worked out without invoking the provisions of Explanation to Section 73(1) and then, such business loss or income should be compared with the income under the other heads.

[2015-TIOL-1818-ITAT-MUM](#)

M/s Cougar Investment Pvt Ltd Vs CIT (Dated: September 11, 2014)

Whether share capital received by the assessee at premium should be treated as genuine, when Commissioner has not given any such finding, when the AO has conducted the enquiry and allowed the claim of the assessee on the basis of the examination of the record - YES: ITAT

Whether the CIT was not correct in invoking amended provisions u/s 263 under such circumstances - YES: ITAT

[2015-TIOL-1817-ITAT-BANG](#)

M/s Tibetan Rabgayling Primary Agricultural Credit Co-Operative Vs ITO (Dated: September 4, 2015)

Whether the money meant for lending, remaining surplus, there being no takers, if deposited in banks for earning interest, such interest income would be attributable to the business of banking carried out by the assessee Co-operative Society? Whether the Assessee was rightly denied deduction u/s.80P(2)(a)(iv), on income from operation of water treatment plant when the water was not exclusively intended for agricultural use.

[2015-TIOL-1816-ITAT-DEL](#)

ECO RRB Infra Pvt Ltd Vs DCIT (Dated: October 13, 2015)

Whether repair & maintenance expenses incurred only to preserve and maintain existing asset and is not of a nature which brought into being a new asset or created a new advantage of an enduring nature, be allowed as current expenditure - YES: ITAT

Whether water proofing work, fall in the category of current repairs and not the luxury repairs, hence, allowable as deduction u/s 30A(ii) of the Act - YES: ITAT

[2015-TIOL-1815-ITAT-DEL](#)

ACIT Vs Express Earth Movers And Equipments Pvt Ltd (Dated: September 30, 2015)

Whether addition can be sustained on the ground that banker's valuer, after two years after the date of transaction, valued the property at a particular amount when no material is found in support of the AO's conclusion that the assessee had made unaccounted investments in purchase price.

[2015-TIOL-1814-ITAT-MUM](#)

Rashmikant M Shah Vs ACIT (Dated: September 23, 2015)

Whether the assessee cannot be punished for his inability to enforce the attendance of the creditors - YES: ITAT

Whether any addition should be made on account of unproved cash credit, when assessee has filed confirmation letters contained the address of the creditors and also their respective PAN - YES: ITAT

[2015-TIOL-1813-ITAT-KOL](#)

DCIT Vs Duncans Industries Ltd (Dated: October 16, 2015)

Whether a case can be remanded when Revenue has not been given notice of hearing by CIT(A) as is required by the provision of Sec. 250(1) of the Act - YES: ITAT

[2015-TIOL-1812-ITAT-AHM](#)

DCIT Vs M/s Sapna Arts (Dated: September 16, 2015)

Whether when an issue in the present case is already decided by the SC in another case, the AO cannot merely disregard the decision because the decision is merely not acceptable - YES: ITAT

Whether if the decision was not acceptable in a particular case, the remedy is available for filing the appeal against such order, but merely in the opinion of AO that the decision is not acceptable, then such order cannot be sustained - YES: ITAT

[2015-TIOL-1811-ITAT-AHM](#)

M/s Vasupujya Arcade Pvt Ltd Vs ITO (Dated: July 9, 2015)

Whether in case, there is no finding that any details were supplied by the assessee in its return of income were found to be incorrect or erroneous or false, is there any question of invoking the penalty u/s 271(1)(c) - NO: ITAT

Whether in order to compute the income from business, AO can apply estimated rate of profits even if there are no suspicious circumstances and the industry average rate

is also very low - NO: ITAT
2015-TIOL-1810-ITAT-MUM
Seventilal N Shah & Co Vs ITO (Dated: August 5, 2015)
Whether when there is no substance in the argument of the Revenue that the delay in the refund was caused because of the conduct of the assessee, the assessee is entitled to interest on refund.
2015-TIOL-1809-ITAT-MAD
Tvs Motor Company Ltd Vs ACIT (Dated: August 28, 2015)
Whether the revisionary powers invoked by the CIT for the AO to make sufficient enquiries in the course of assessment is justified - Whether if the assessee has not used the new assets for more than 180 days, the assessee is only eligible to claim additional depreciation at 50 per cent.
2015-TIOL-1808-ITAT-MAD
Vikas Academy Vs ITO (Dated: June 12, 2015)
Whether the provision of section-45(4) of the Act mandates the assessee firm to be liable for capital gain tax arising out of the transfer of its asset to the retiring partner even in the circumstance when the partnership is reconstituted on retirement of a partner - Whether the loan taken by the assessee firm for purchase of the asset which is transferred cannot be factored because the loan does not alter the cost of the assets purchased or the value of the asset transferred to the transferee.
2015-TIOL-1807-ITAT-AMRITSAR
Suri Sons Vs ADDL CIT (Dated: August 31, 2015)
Whether as long as a policy is an insurance policy, whether it involves a capital appreciation or is under any other investment scheme, it meets the tests laid down under sec. 10(10D) - Whether the premium paid by the assessee on Keyman insurance policy is tax deductible even if it is not a pure life insurance policy on life of another person.
2015-TIOL-1806-ITAT-AHM
ACIT Vs Tudor India Ltd (Dated: August 21, 2015)
Whether disallowance of incentive to dealer is justified where the assessee changed the method of account for these expenses from cash to mercantile during the year under appeal and had claimed some of the expenses on cash basis and some of them on mercantile basis during the year itself - Whether disallowance on account of warranty expenses is justified where the assessee had followed methodical approach in calculating warranty provision and warranty provision is made based on past experiences of actual warranty costs incurred by the Assessee in proportion to actual sales made by it - Whether penalty for breach of contract is allowable where the contract included the affiliates and the payments were at Arm's Length Price and the expenditure was related to the business of the assessee.
2015-TIOL-1805-ITAT-MUM
Vidyasagar Learning Pvt Ltd Vs DCIT (Dated: August 19, 2015)

Whether merely because the assessee has received the fees in advance of classes to be conducted in different financial years, it cannot be said that the right has accrued to the assessee - Whether advance fee received by the assessee for classes to be conducted in future is to be taxed in the year of receipt.

[2015-TIOL-1804-ITAT-MAD](#)

ITO Vs V Mohene (Dated: August 28, 2015)

Whether the AO cannot substitute his own view to the results show in the books of accounts - Whether when the material brought on record suggests the correct state of affairs of the assessee, it is not appropriate to estimate the income of the assessee on the basis of irrelevant consideration.

[2015-TIOL-1803-ITAT-MAD](#)

DCIT Vs V V D Murali (Dated: May 22, 2015)

Whether the provisions of section 40(a)(ia) are applicable only to the expenses that are "payable" and outstanding at the end of the close of the year relevant to the assessment year and not to the amount already paid - Whether as long as all the transactions of the assets and liabilities are explained, no adverse inference can be drawn, on account of consolidation of the assets or balance sheets and no addition can be made u/s 68 and 69 of the Act.

[2015-TIOL-1802-ITAT-DEL](#)

DCIT Vs Ssipl Retail Ltd (Dated: June 30, 2015)

Whether 'Royalty', paid by the assessee to Nike to use the brand name is a Revenue Expenditure? Whether in order to make a disallowance under sec. 40A(2)(b) it is necessary that the AO should establish that the benefits given to the related parties are more than the fair market value - Whether the advertisement expenses for promoting the Brand of the Licensor can be disallowed when it was a commercially accepted practice and incurred on grounds of commercial expediency? Whether the AO was justified in making adhoc disallowance in respect of Foreign Travel Expenses when the assessee has submitted the list of employees and the purpose of visit was clearly mentioned in it.

[2015-TIOL-1801-ITAT-KOL](#)

Rajsadan Overseas Sales Pvt Ltd Vs DCIT (Dated: September 17, 2015)

Whether the CIT(A) was justified in confirming the addition made by the AO on account of unsecured loans as unexplained cash credit u/s. 68 when the sources of income of these loan creditors do not justify their creditworthiness.

[2015-TIOL-1800-ITAT-DEL](#)

ACIT Vs Ravi Organics Ltd (Dated: September 16, 2015)

Whether addition u/s 68 is justified where all the investment made in the shares of the company was found to be genuine and in the remand proceedings, Assessing Officer himself had accepted genuineness of the investors after summoning and examining their source of investment, Bank transactions etc. and the transactions have been carried out through bank and no infirmity has been found and the the

assessee company has satisfied all the conditions required for proving the genuineness of cash credits.

[2015-TIOL-1799-ITAT-JAIPUR](#)

ITO Vs S S Timber Plywood (Dated: September 7, 2015)

Whether the CIT (A) was justified in allowing the appeal on the basis of genuineness of the transaction and identity of the persons only without taking into the consideration that the creditworthiness of the creditors has to be established? Whether the CIT (A) was justified in deleting the trading addition of Rs. 11,24,838/- when the finding given on GP by the CIT (A) is against its own finding.

[2015-TIOL-1798-ITAT-MAD](#)

Rabbit Builders Vs ACIT (Dated: July 9, 2015)

Whether there is bar on reopening all the assessments which was completed under sec. 153A/153C r.w.s. 143(3), if there is reason to believe that income escaped from the assessment - Whether the omission of the assessee to bring it to the AO notice those particulars of seized material, will amount to omission to disclose fully and truly all materials facts necessary for its assessment? Whether it is appropriate to consider the entire unaccounted gross receipts as income of the assessee.

[2015-TIOL-1797-ITAT-DEL](#)

Rajesh Aggarwal Vs ACIT (Dated: August 19, 2015)

Whether the Officer who recorded the reasons is alone allowed to issue notice u/s 148.

[2015-TIOL-1796-ITAT-MUM](#)

Motilal R Todi Vs ACIT (Dated: September 22, 2015)

Whether reopening of assessment in the absence of new tangible material coming into the possession of the AO at the time of recording of the 'Reasons' is justified.

[2015-TIOL-1795-ITAT-HYD](#)

Musaddilal Projects Ltd Vs DCIT (Dated: September 4, 2015)

Whether when the payments of Rs. 33,50,000 were admittedly made after the end of relevant FY, can they be considered as unexplained investment of assessee for the impugned AY.

[2015-TIOL-1794-ITAT-LKW](#)

Parasnath Tech Garments Pvt Ltd Vs ACIT (Dated: September 24, 2015)

Whether when the CIT (A) has found that almost all the investment was made on the strength of credit receipt in assessee's Bank account from packing credit / post shipment credit, any disallowance can be made under section 14A.

[2015-TIOL-1793-ITAT-KOL](#)

<p>DCIT Vs Meghalaya Sova Ispat Alloys Pvt Ltd (Dated: September 17, 2015)</p> <p>Whether insurance and transport subsidy, had to be treated as deductible in terms of the provisions of section 80-IB or section 80- IC - YES: ITAT</p>
<p>2015-TIOL-1792-ITAT-BANG</p>
<p>Shri H P Basavaraju Vs ITO (Dated: October 9, 2015)</p> <p>Whether once the AO came to the conclusion, that the income, with respect to which he had entertained "reason to believe" to have escaped assessment, was found to have been explained, his jurisdiction came to a stop at that, and he did not continue to possess jurisdiction, to put to tax, any other income, which subsequently came to his notice, in the course of reassessment proceedings</p>
<p>2015-TIOL-1791-ITAT-KOL</p>
<p>ACIT Vs Smt Premlata Shroff (Dated: September 30, 2015)</p> <p>Whether uncleared cheque received from debtor at end of earlier year and returned at very opening day of year without any transmission of value on either side could have resulted in addition to assessee's income on ground that balance shown in bank ledger account in assessee's books of account did not correspond to balance found in bank statement received from concerned bank - NO: ITAT</p> <p>Whether in case of gift, copy of passport showing donor to be brother of assessee's husband constituted sufficient evidence that donor was covered by definition of relative u/s 56 (2)(v) - YES: ITAT</p> <p>Whether notarized declaration of gift from donor, copy of his bank accounts & inwards remittance in assessee's bank account proved genuineness of gift beyond doubt and thus no addition could be made u/s 68 in respect of amount so gifted - YES: ITAT</p> <p>Whether payment of advance made to share broker by cheque which was duly reflected in balance sheet and thereby in books of accounts could be considered as undisclosed investment of assessee - NO: ITAT</p>
<p>2015-TIOL-1790-ITAT-DEL</p>
<p>ITO Vs Shri Rajeev Bhatnagar (HUF) (Dated: September 11, 2015)</p> <p>Whether case be remanded to calculate acceptable level of profit when profit of assessee is restricted by the AO @ 50% of such profit as claimed by assessee for claiming deduction u/s 80IC of Act - YES: ITAT</p> <p>Whether CIT (A) is justified in allowing the disallowance of deduction u/s 80IC, which was disallowed by the AO on the basis of decision of AO passed u/s 143(3) Act, for A.Y. 2006-07, in the assessee's own case as said order has not attained finality yet - YES: ITAT</p>
<p>2015-TIOL-1789-ITAT-KOL</p>
<p>DCIT Vs Orient Copper Industries Ltd (Dated: September 16, 2015)</p>

Whether the change in the method of stock valuation can be denied to the assessee merely on the basis that it had resulted into losses for the assessee company in the year of such change in method of stock valuation - NO: ITAT

[Also see analysis of the order](#)

[2015-TIOL-1788-ITAT-KOL](#)

DCIT Vs V N Enterprises Ltd (Dated: August 14, 2015)

Whether the assessee is entitled for exemption under Section 10B of the Act on account of blending of tea.

[2015-TIOL-1787-ITAT-KOL](#)

ITO Vs T C J Mercantile Pvt Ltd (Dated: October 7, 2015)

Whether in case it is found that the assessee has duly accounted for the receipt in its profit and loss account in consonance with the mercantile system of accounting regularly employed by it, disallowance on that account can still be made - NO: ITAT

Whether if the suppliers have been produced before the AO under summons proceedings u/s 131, only because the suppliers had not brought their books of accounts during the course of summons proceeding, can it be held that the assessee had defaulted - NO: ITAT

[2015-TIOL-1786-ITAT-MUM](#)

Shivalik Venture Pvt Ltd Vs DCIT (Dated: August 19, 2015)

Whether the profit arising on transfer of capital asset to its wholly owned Indian subsidiary company is liable to be excluded from the Net profit - Whether Net profit disclosed in the Profit and Loss account reduced by the amount of profit arising on transfer of capital asset to wholly owned subsidiary company shall be taken as "Net profit as shown in the profit and loss account" for the purpose of computation of book profit under Explanation 1 to sec. 115JB - Whether the profits and gains arising on transfer of capital would fall within the purview of the definition of income given u/s 2(24) where the same does not fall under the definition of "transfer" and hence under the definition of Capital gains chargeable u/s 45.

[2015-TIOL-1785-ITAT-MUM](#)

Sejal Exports (India) Vs ACIT (Dated: September 23, 2015)

Whether penalty u/s 271(1)(c) can be imposed when the AO has imposed penalty without establishing that there was concealment of income.

[2015-TIOL-1784-ITAT-AHM](#)

DCIT Vs Smruti Shreyans Shah (Dated: September 30, 2015)

Whether in case the Tribunal has found during earlier year that assessee was not engaged in organized activity of share trading, in the absence of change in circumstances during relevant year, income from sale of shares was to be taxed as capital gain - YES: ITAT

Whether expenditure not being in the nature of capital expenditure incurred for earning interest income is allowable as deduction u/s 57 - YES: ITAT

Whether in case the assessee took loan from bank against FDs kept and loan taken as overdraft is again put as FD, there being direct nexus between interest earned on FD and interest paid on OD account, assessee's claim for netting off interest income u/s 57 was to be allowed - YES: ITAT

[2015-TIOL-1783-ITAT-AHM](#)

Controlled Acoustic Inds Pvt Ltd Vs DCIT (Dated: September 11, 2015)

Whether an assessee is required to prove that there was only trial run of machinery in earlier years and no commercial production took place using said machinery, for claiming deduction u/s 80-HH and 80-HI on establishment of new industrial undertaking, in case assessee has already claimed depreciation on new plant and machinery in earlier years - YES: ITAT

[2015-TIOL-1782-ITAT-DEL](#)

Tf Marketing Consultants Pvt Ltd Vs ADDL CIT (Dated: October 9, 2015)

Whether one more opportunity should be granted to the assessee, when the CIT(A) has passed an ex-parte and a non-speaking order - YES: ITAT

[2015-TIOL-1781-ITAT-DEL](#)

Sunaina Tower Pvt Ltd Vs ACIT (Dated: September 14, 2015)

Whether disallowance of expenditure is justified where the expenditure was not claimed as an expense by the assessee and had not been routed through its P&L A/c – Whether Section 40A(3) can be invoked where no expenses relatable to the addition had been claimed and the assessee had successfully demonstrated that the payments were re-imbursed made. -

[2015-TIOL-1780-ITAT-DEL](#)

DCIT Vs M/s Mahagun Technologies Pvt Ltd (Dated: June 22, 2015)

Whether the provisions of Section 269SS were not applicable and no penalty u/s 271D can be levied, when account of the associate concern M/s Mahagun Developers Ltd. was credited by the assessee by passing a journal entry and it did not involve acceptance of any loan or deposit or money - YES: ITAT

[2015-TIOL-1779-ITAT-MUM](#)

DCIT Vs M/s Mody Industries (FC) Pvt Ltd (Dated: September 30, 2015)

Whether addition on account of bogus purchases be made when assessee submitted ledger account, copies of bills, delivery challans, etc to prove the claim, which is not rebutted by Revenue - NO: ITAT

Whether addition of commission paid to management of the assessee company be made when such commission payment to directors is continuing for past several years and is paid as per the provisions of Companies Act on which TDS is also deducted - NO : ITAT

[2015-TIOL-1778-ITAT-MUM](#)

<p>DCIT Vs Viraj Profiles Ltd (Dated: October 21, 2015)</p> <p>Whether for computing book profit u/s 115JB(2) of the Act, the expenditure incurred in relation to exempt income is to be disallowed by invoking the provisions of Section 14A of the Act read with Rule 8D of Income Tax Rules, 1962.</p> <p>Also see analysis of the order</p> <p>2015-TIOL-1777-ITAT-MUM</p>
<p>DCIT Vs Nagpur Power & Industries Ltd (Dated: October 9, 2015)</p> <p>Whether in case the assessee has produced sufficient material on record to show that commission payment is in terms with the terms of appointment and towards services rendered by the Director, the amount paid can still be considered as dividend - NO: ITAT</p> <p>Whether the allegation made by the AO that an expenditure incurred by assessee is not recurring in nature is without any basis, in case the CIT(A) has recorded a finding of fact that the assessee had been incurring such expenditure from earlier assessment years and the AO has allowed such expenditure fully - YES: ITAT</p> <p>2015-TIOL-1776-ITAT-DEL</p>
<p>Kangra Co-Operative Bank Ltd Vs JCIT (Dated: October 16, 2015)</p> <p>Whether if a claim though available in law is not made either inadvertently or on account of erroneous belief of complex legal position, such claim cannot be shut out for all times to come, merely because it is raised for the first time before the appellate authority without resorting to revising the return before the assessing officer - Whether once the bad debt is actually written off as irrecoverable and the requirements of the provisions of Section 36(2) of the Act are satisfied then it will not be permissible to deny such deduction on the apprehension of the double deduction under the provisions of Section 36(1)(vii) and the proviso to section 36(1)(vii) of the Act.</p> <p>2015-TIOL-1775-ITAT-MUM</p>
<p>ACIT Vs Uma Polymers Ltd (Dated: September 30, 2015)</p> <p>Whether disallowance u/s 14A r.w. rule 8D(2)(ii) is justified where the assessee has sufficient own funds to make investment and the assessee has also proved by cogent evidences that no interest bearing funds were utilized for making investments - Whether disallowance of administrative and indirect expenditure in earning exempt income is justified where the assessee company had claimed that no expenditure was incurred.</p> <p>2015-TIOL-1774-ITAT-MUM</p>
<p>ACIT Vs Venus Jewel (Dated: July 31, 2015)</p> <p>Keywords - forward contracts - foreign exchange fluctuations - notional loss</p> <p>Whether Tribunal had rightly followed the order of the SC, when the issue in the present case as well as in the said decision is on similar facts - YES: ITAT</p> <p>2015-TIOL-1773-ITAT-DEL</p>
<p>Steel Authority Of India Ltd Vs ACIT (Dated: October 7, 2015)</p>

Whether disallowance of pro-rata depreciation is justified on account of downward revaluation of assets (by reduction), due to receipt of grant or waiver of loan - YES: ITAT

Whether deleting the addition of prior period expenses is justified when doing so is a regular feature, in past many years - YES: ITAT

[2015-TIOL-1772-ITAT-AHM](#)

Govind G Sarawagi Huf Vs ACIT (Date: September 30, 2015)

Whether assessment order under Section 153A can be passed where the name of the HUF, who is separate taxable entity is nowhere available in the Panchnama and the search was conducted on the partners, in their individual cases and even all the members of the HUF were not covered under the search action – Whether assessee's claim of long term capital gains can be disallowed on the ground that the payment for purchase of shares was made later than the date of purchase where the party through whom the assessee purchased shares had trust in the assessee of payment and AO failed to point out any defect in the confirmation of that party or any documents furnished to him in response to his query under section 133(6)

[2015-TIOL-1771-ITAT-KOL](#)

Quadra Medical Services Pvt Ltd Vs ITO (Dated: October 10, 2015)

Whether when there is no computation under the head capital gains while determining the taxable income, the resultant capital loss cannot be set off against the business income - YES: ITAT

Whether notice issued u/s 154 cannot be considered vague, when the AO had clearly mentioned the mistake sought to be rectified in the said notice - YES: ITAT

[2015-TIOL-1770-ITAT-HYD](#)

ACIT Vs Suguna Metals Pvt Ltd (Dated: October 9, 2015)

Whether the capital receipts of premium can be considered as income.

[2015-TIOL-1769-ITAT-DEL](#)

DCIT Vs Dixon Technologies (India) Ltd (Dated: August 7, 2015)

Whether re-opening of Assessment u/s 147/148 after 4 years is justified when there was no failure on the part of assessee to disclose fully and truly material facts relevant to the issue.

[2015-TIOL-1768-ITAT-MAD](#)

M/s Essar Ve Enterprises Vs ACIT (Dated: July 17, 2015)

Whether the AO needs to examine if storage and parking charges were made or not and after examining that the payments were already made, the AO should allow the claim of the assessee - YES: ITAT

2015-TIOL-1767-ITAT-MUM
Sanjay Brothers Vs ACIT (Dated: January 9, 2015)
Whether assessment is valid when no notice under sec. 143(2) was issued/served upon the assessee, after filing of return? Whether consequently, the defect is curable under sec. 292BB.
2015-TIOL-1766-ITAT-LKW
DCIT Vs Ram Agarwal (Dated: January 8, 2015)
Whether notice issued u/s 148 by the AO having no jurisdiction over the assessee is a valid notice and the assessment framed consequent thereto is sustainable in the eyes of law.
2015-TIOL-1765-ITAT-AHM
Patel Jashwantlal A And Patel Punamchand N Vs ITO (Dated: January 2, 2015)
Whether the claim of deduction under sec. 80IB(10) of the Act as claimed by the assessee can be disallowed on the basis of a condition created by a provision which came into force subsequent to the allotment of the residential unit.
2015-TIOL-1764-ITAT-MUM
Paramount Enterprises Vs JCIT (Dated: March 20, 2015)
Whether no disallowance u/s 14A can be made on account of the expenditure incurred for trading in shares & securities merely because the assessee earned the incidental dividend income.
2015-TIOL-1763-ITAT-DEL
Transtron Electricals Pvt Ltd Vs CIT (Dated: October 5, 2015)
Whether exercise of its jurisdiction u/s 263 of the Act by CIT is justified on the issue of trade creditors and share application money when necessary details and evidences are provided to and accepted by AO - NO : ITAT
Whether order of the AO is not erroneous or prejudicial to the interests of the Revenue, when details of all the expenses over Rs.1 lakh has been provided by assessee - YES: ITAT - Assessee's appeal allowed : DELHI ITAT
2015-TIOL-1762-ITAT-DEL
ITO Vs Tubecon India Pvt Ltd (Dated: October 8, 2015)
Whether addition on account of unexplained share application money be made being involved in providing accommodation entries when Revenue has not brought on record any adverse material to disprove the claim of the assessee - NO : ITAT

2015-TIOL-1761-ITAT-MUM
ACIT Vs Four Dimensions Securities (India) Ltd (Dated: September 16, 2015)
Whether reopening of Assessment u/s 147/148 can be held to be justified when the view taken by the AO while framing original Assessment was one of the possible views and such a treatment was given by the AO in the case of assessee in earlier assessment years also - Whether reopening of Assessment u/s 147/148 on the reasons that the provisions of section 94(7) were applicable was justified when the provisions of section 94(7) were not attracted for the year under consideration
2015-TIOL-1760-ITAT-BANG
Elsamex TwS Snc (Joint Venture) Vs CIT (Dated: October 9, 2015)
Whether merely asking the details of loan and advance without questioning the claim of the interest would raise a presumption that the issue of allowability of claim of interest was in the view of the AO? Whether if there was no liability to pay tax, the TDS paid is liable to be refunded
2015-TIOL-1759-ITAT-DEL
Mehta Construction Co Vs ITO (Dated: October 16, 2015)
Whether AO was not justified in rejecting the book results without pointing any specific defects in the books of account - Whether the interest received by the assessee on account of delay in the payment of money due to it cannot be taxed separately but only as an income from business.
2015-TIOL-1758-ITAT-PUNE
Kerusso Vs CIT (Dated: August 31, 2015)
Whether a trust with composite objects cannot be denied registration u/s 12A of the Act only on the ground that some of the objects are religious.
2015-TIOL-1757-ITAT-KOL
Sree Sree Ramkrishna Samity Vs DCIT (Dated: October 9, 2015)
Whether the amendment in section 12A is brought in the statute to confer benefit of exemption u/s 11 on the genuine trusts which had not changed its objectives and had carried on the same charitable objects in the past as well as in the current year based on which the registration u/s 12AA is granted by the DIT(Exemptions)
2015-TIOL-1756-ITAT-MUM
ITO Vs Neural Technologies & Software Pvt Ltd (Dated: October 19, 2015)
Whether when the assessee did not have approval of prescribed authority as required by CBDT as a software technology park scheme, merely a concession provided by the Government to the units set up on STP Zones to avail certain facilities on priority basis have any bearing with the allowance and/or disallowance of deduction u/s 10B - NO: ITAT
2015-TIOL-1755-ITAT-AHM

ITO Vs Balaji Corporation (Dated: October 9, 2015)

Whether the assessee being a contractor is eligible for deduction u/s. 80IB(10) of the Act when entire land cost is debited to its Profit and Loss account, the entire risk and control over the residential unit of the two schemes being developed is on the Assessee - YES: ITAT

[2015-TIOL-1754-ITAT-AHM](#)

Lantech Technologies Vs ITO (Dated: September 2, 2015)

Whether in law and on facts, the AO was justified in disallowing the claim of deduction u/s 80IB of the Act by holding that the deduction was claimed without manufacturing by the assessee's industrial undertaking.

[2015-TIOL-1753-ITAT-MAD](#)

Sethu Valliammal Educaional Trust Vs DCIT (Dated: September 29, 2015)

Whether trust is *void ab initio* if one of the trustees appointed is not competent to contract but other trustees are competent and on them the property in the trust can be legally vested - NO: ITAT

[2015-TIOL-1752-ITAT-MAD](#)

DCIT Vs M/s Sicgil India Ltd (Dated: September 29, 2015)

Whether when one wing of the Central Government considers the transport charges on transport of CO2 Gas as a part of sale consideration and levies excise duty on the same, is it possible for the other wing of Central Government to refuse to treat the same as sale consideration for the purpose of granting benefit U/s.80-IB, when the Act does not specifically prohibit from granting such benefits - NO: ITAT

Whether if the expenditure incurred towards transport charges for procuring raw materials is treated to have direct nexus with the assessee's industrial undertaking and allowed as deduction, the delivery

[2015-TIOL-1751-ITAT-DEL](#)

Simran Singh Gambhir Vs DDIT (Dated: July 21, 2015)

Whether penalty u/s 271(1)(c) can be levied when there is a case of a bona fide mistake on part of the assessee and the Assessee has disclosed all the information in the income tax return.

[2015-TIOL-1750-ITAT-KOL](#)

M/s Zenith Exports Ltd Vs ACIT (Dated: September 22, 2015)

Whether if any deduction for any relevant assessment years ending before 01.04.2001 has been given full effect then the same neutralizes the provision of section 32(2) - YES: ITAT

Whether there is no claim made for deduction u/s. 10B in AY 1997-98, the unabsorbed depreciation relatable to assessee is not hit by the provision of section 10B(6) and the assessee's claim of unabsorbed depreciation relatable to AY 1997-98 is to be allowed - YES: ITAT

