

INCOME TAX APPELLATE TRIBUNAL ORDER

[2011-TIOL-87-ITAT-MUM](#)

Shri S Ganesh Vs ACIT, Mumbai (Dated: December 8, 2010)

Income Tax - Section 28 - Whether when assessee receives all professional fees by cheques and owns just one bank account, failure to reconcile TDS with receipts warrants any additions.

[2011-TIOL-86-ITAT-MAD](#)

ACIT, Chennai Vs M/s New Wave Computing P Ltd (Dated: October 8, 2010)

Income tax – Sections 140A, 143(1), 220(1), 221(1), 234B, 234C – Whether penalty u/s 221(1) can be levied for non payment of taxes where the assessee explained that due to the financial difficulty the payment could not be made in time and the said fact was explained before the issue of notice u/s 220(1).

[2011-TIOL-85-ITAT-DEL](#)

ITO, Meerut Vs Executive Engineer, Electricity Stores (Dated: December 10, 2010)

Income tax – Section 194C – Whether when TDS is deductible on labour charges, the costs of materials are also includible in the same.

[2011-TIOL-84-ITAT-BANG](#)

DCIT, Bangalore Vs M/s Telco Construction Equipment Co Ltd (Dated: December 15, 2010)

Income tax – Capital or Revenue Expenditure – Whether when the roof of the factory premises is damaged in hailstorm, the expenditure incurred on repair and labour charges resulting in enduring benefits to the assessee can be claimed as revenue expenditure.

[Also see analysis of the Order](#)

[2011-TIOL-83-ITAT-MUM](#)

M/s Sushmita Sen Vs ACIT, Mumbai (Dated: January 14, 2011)

Income tax – Section 28(ii), Rule 46A – Whether when assessee gets compensated for alleged breach of contract, part payment of the sum can also be claimed as capital receipt.

[2011-TIOL-82-ITAT-MAD](#)

ACIT, Salem Vs Late Shri S P Sambandam (Dated: December 15, 2010)

Income Tax - Section 2(14), 32(1)(iii), 55(2) - Capital receipt vs revenue receipt - Whether when the individual assessee's name acquires the currency of a brand name, compensation paid to the assessee by the company for using the same is to be treated as capital receipt.

[Also see analysis of the Order](#)

[2011-TIOL-81-ITAT-MUM](#)

RMC Readymix India Pvt Ltd Vs DCIT, Mumbai (Dated: January 7, 2011)

Income tax – Sections 37, 201, – Whether the amount paid towards tax withholding liability can be allowed as expenditure – Whether the payment made in violation of garnishee notices issued by the DRT for payment of overdue owed against a bank loan is allowable.

[Also see analysis of the Order](#)

[2011-TIOL-80-ITAT-LKW](#)

DCIT, Kanpur Vs M/s Nihal Enterprises (Dated: December 29, 2010)

Income Tax - Sections 36(1)(vii), 80HHC - Claim of bad and doubtful debts - Whether AO is right in disallowing claim for bad and doubtful debt merely on the ground that such a debt was an allowable deduction u/s 80HHC.

[2011-TIOL-79-ITAT-DEL](#)

Galileo India Private Limited Vs CIT, New Delhi (Dated: December 16, 2010)

Income tax - Sections 10A, 14A, 142(1), 143(3), 263, Rule 8D - Whether when assessee earns dividend income by deploying its own funds, even then disallowance of expenditure is warranted - Whether such disallowance can be only on basis of actual expenditure and not average investments.

2011-TIOL-78-ITAT-MAD
ITO, Chennai Vs M/s Shri Anupallavi Finance & Investments (Dated: December 10, 2010)
Income Tax - Sections 190, 191, 199 - Whether TDS credit as per Sec 199 can be allowed to the assessee only when the corresponding income is offered to tax.
2011-TIOL-77-ITAT-MAD
ITO, Krishnagiri Vs M/s Pari Transports (Dated: November 11, 2010)
Income Tax - Section 37 - Destruction of goods due to moisture - Whether assessee, which is a transporter of goods, can claim deduction of 'moisture cut' as business expenses, irrespective of the fact that the assessee is not directly responsible for such loss to goods.
2011-TIOL-76-ITAT-BANG
PFX Saldanha Vs ITO, Mangalore (Dated: November 19, 2010)
Income tax – Sections 133A, 148, 184 – Status – AOP or Firm – Head of Income – Whether when assessee fails to admit income from house property and declares only business income, claiming all deductions for the income received from letting out godowns and machinery, AO is right in adopting reassessment – Whether assessee which was a partnership firm is rightly assessed as firm and not as an AOP without referring to the mandatory requirements of section 184 – Whether income derived by the assessee from warehousing activity has to be assessed under the head business or house property income.
2011-TIOL-75-ITAT-MUM
DCIT, Mumbai Vs Reclamation Realty India Pvt Ltd (Dated: November 26, 2010)
Income Tax - Section 23(1)(a) - Whether annual value as determined by the Municipality will apply mutatis mutandis for the purpose of section 23(1)(a) and hence the view of the AO charging notional interest on the interest free security is not tenable.
2011-TIOL-74-ITAT-MUM

DCIT, Mumbai Vs M/s S M Dyechem Limited (Dated: April 30, 2010)

Income Tax - Section 32 - Whether depreciation is to be allowed even when the unit is completely closed, and there is no plan of reviving the same.

[Also see analysis of the Order](#)

[2011-TIOL-73-ITAT-MUM](#)

M/s Ogilvy & Mather P Ltd Vs Addl.CIT, Mumbai (Dated: December 30, 2010)

Income Tax - Sections 36(1)(vii), 36(2), 40A(2)(a), 143(3), 145 - Whether, without proving suppression of receipts or rejecting books of account, AO can make additions by following the trade margin prevalent in the advertising industry and by alleging concealment of margins - Whether revised computation of income can be entertained by the CIT(A) without filing a revised return.

[2011-TIOL-72-ITAT-MUM](#)

Bilpower Limited Vs DCIT, Mumbai (Dated: December 31, 2010)

Income tax – Section 263 – Whether when AO fails to properly consider various expenses claimed, CIT is right in invoking powers u/s 263.

[2011-TIOL-71-ITAT-LKW](#)

M/s Harsingar Gutkha (P) Ltd Vs DCIT, Lucknow (Dated: November 1, 2010)

Income tax – Sections 143(2) & (3), 147, 148 – Whether when Sec 148 notice is not served on the Principal Officer of the assessee-company, such notice is illegal, and the assessment order passed on this basis is bad in law.

[Also see analysis of the Order](#)

[2011-TIOL-70-ITAT-MAD](#)

ITO, Chennai Vs Mrs Mariam Beevi (Dated: August 28, 2009)

Income Tax - Section 10(17A) - Whether Reward given to a Customs informer stands on equal footing to a Reward given to a Revenue officer for sincerely performing the work assigned under a special scheme - Whether such Reward is exempt u/s 10(17A).

[Also see analysis of the Order](#)

[2011-TIOL-69-ITAT-DEL](#)

The Institute Of Chartered Accountants Of India Vs DIT, Delhi (Dated: October 18, 2010)

Income Tax – Sections 2(15), 10(23C), 11, 143(3), 263 - Whether non-examination of issue by AO in the assessment order can be considered to be prejudicial to interests of Revenue warranting revision u/s 263.

[2011-TIOL-68-ITAT-BANG](#)

DCIT, Bangalore Vs M/s Emvee Solar Systems (P) Ltd (Dated: December 15, 2010)

Income tax – Sections 40(a)(ia), 80IB – Whether interest on deposits received is excludable while computing deduction u/s 80IB without deducting the interest paid on borrowed funds utilized for acquiring the deposits on which interest was received – Whether after amendment by Finance Act 2008, the TDS prior to 1st March could be deposited before the due date of filing of income tax and the provisions of section 40(a)(ia) will not attract.

[2011-TIOL-67-ITAT-AHM](#)

M/s D G Patel Construction Pvt Ltd Vs JCIT, Surat (Dated: December 16, 2010)

Income tax – Section 145 – Whether when assessee fails to submit supporting documents and vouchers, AO is justified in rejecting books of account - Whether once the books of accounts are rejected and GP rate applied, no other addition can be made.

[2011-TIOL-66-ITAT-AHM](#)

Stallion Finstock Pvt Ltd Vs ITO, Ahmedabad (Dated: December 16, 2010)

Income tax – Sections 37, 194H – Whether assessee, a sub-broker is entitled to give commission to other sub-brokers under it for introducing the clients to it – Whether section 194H is applicable for payment of commission in respect of security transactions.

[2011-TIOL-65-ITAT-MUM](#)

Shri Vinod K Nevatia Vs ACIT, Mumbai (Dated: December 3, 2010)

Income tax – Section 40(a)(ia), 194J, CBDT Circular No 4/2007 – Whether payments made for VSAT charges, lease line and transaction charges are for technical services covered u/s 9(1)(vii) and provisions of section 194J are applicable – Whether where the assessee is maintaining two separate books of account / demat accounts and no borrowed funds were utilized for investment in shares, the short term capital gain declared by the assessee on investment shares is rightly considered as business income.

[2011-TIOL-65-ITAT-MUM](#)

Shri Vinod K Nevatia Vs ACIT, Mumbai (Dated: December 3, 2010)

Income tax – Section 40(a)(ia), 194J, CBDT Circular No 4/2007 – Whether payments made for VSAT charges, lease line and transaction charges are for technical services covered u/s 9(1)(vii) and provisions of section 194J are applicable – Whether where the assessee is maintaining two separate books of account / demat accounts and no borrowed funds were utilized for investment in shares, the short term capital gain declared by the assessee on investment shares is rightly considered as business income.

[2011-TIOL-64-ITAT-MUM](#)

Dinesh K Kargal Vs Addl.CIT, Mumbai (Dated: December 22, 2010)

Income tax – Sections 37, 54 – Whether exemption u/s 54 is available even on payments made for reservation of a flat and not booking a flat.

[Also see analysis of the Order](#)

[2011-TIOL-63-ITAT-MUM](#)

M/s Financial Technologies (I) Ltd Vs ACIT, Mumbai (Dated: January 7, 2011)

Income tax – Sections 37, 36(1) – Whether where sales return were actually in the A.Y. 2002-03 and the corresponding sales were made in A.Y. 2001-02, the sales return will be allowed in the A.Y. 2001-02 or in A.Y. 2002-03 – Whether the AMC charges recovered for a particular period will be taxed over a period of time or on the receipt of the amount in advance when the right to receive the amount accrued to the assessee – Whether the amount written off by the assessee as bad debt can be disallowed without establishing that the debts which were written off as bad had in fact become bad and irrecoverable.

2011-TIOL-62-ITAT-MUM
DCIT, Mumbai Vs M/s Housing Development Finance Corporation Ltd (Dated: October 8, 2010)
Income tax – Section 143(1), 143(2), 246 – Whether an appeal can be made u/s 246 of the Income tax Act against an intimation issued u/s 143(1) of the Act – Whether the notice issued u/s 143(1) after issue of notice u/s 143(2) is a valid notice.
2011-TIOL-61-ITAT-MUM
ACIT, Mumbai Vs M/s Sonata Information Technology Ltd (Dated: November 19, 2010)
Income tax – Sec 10A - Allocation of Expenses – Whether expenses incurred for service charges on the basis of the agreement and allocated on the basis of various factors, are allowable though the assessee company and the other company are under the same management.
2011-TIOL-60-ITAT-MUM
U H International Vs ACIT, Mumbai (Dated: January 7, 2011)
Income Tax - Section 28(iid) & (iiie), 80HHC, 143(1) - Whether when DEPB scrips are traded, assessee is entitled to claim deduction u/s 80HHC on only the profit on transfer of the scrips or entire receipts.
2011-TIOL-59-ITAT-AHM
ITO, Ahmedabad Vs Apollo Hospitals International Ltd (Dated: December 23, 2010)
Income Tax - Sections 17, 192, 194J, 201, 201(1A) - Whether when the agreement between the doctors and the hospital provides for 'fees for services' it goes to disprove the employer-employee relationship between the two - Whether when fees are paid in addition to the salary, it takes the colour of salary.
Also see analysis of the Order

[2011-TIOL-58-ITAT-AHM](#)

Gujarat Ambuja Exports Ltd Vs ITO, Ahmedabad (Dated: December 24, 2010)

Income tax – Sections 10B, 80HHC, 115JB – Whether for the purpose of section 115JB, deductions u/s 80HHC & 10B are to be computed with reference to the book profit and not with reference to the statutory profit.

[2011-TIOL-57-ITAT-MUM](#)

M/s Dartmour Holdings Pvt Ltd Vs ITO, Mumbai (Dated: October 20, 2010)

Income tax – Sections 43(5), 73 - Speculation loss – Whether the explanation to section 73 is applicable in relation to the entire activity of purchase and sale of shares irrespective of the actual delivery – Whether it is not restricted only in a case where the loss was computed in respect of speculative transaction as defined in Section 43(5) of the Income tax Act.

[2011-TIOL-56-ITAT-BANG](#)

Addl.CIT, Bangalore Vs M/s ABB Ltd (Dated: November 26, 2010)

Income tax – Sections 36(1), 37, 40A(2), 46(2) – Whether compensation paid for breach of commercial contract is an allowable expenditure – Whether guarantee commission paid to the sister concern for arranging a loan and becoming a guarantor is allowable expenditure - Whether such expenditure alleged to be excessive cannot be disallowed u/s 40A(2) without bringing any document in support of the same – Whether the amount, which was invested in the shares of a company but could not be recovered as the said company went into liquidation, is allowable.

[2011-TIOL-55-ITAT-DEL](#)

ACIT, Rewari Vs M/s Bharti Health Care Ltd (Dated: January 10, 2011)

Income tax – Section 37 - Whether claim made on account of provision made towards ageing of inventory of work in progress and finished is allowable – Whether the loss due to restatement / revaluation of its debtors and creditors without having their actual realisation is allowable expenditure.

[2011-TIOL-54-ITAT-KOL](#)

DCIT, Kolkata Vs M/s Ashika Stock Broking Ltd (Dated: November 19, 2010)

Income tax – Sections 2(24)(x), 36(1)(va), 43B, 139(1) – Whether assessee is entitled to deduction u/s 36(1)(va) rws 2(24)(x) on account of the employees' contribution to PF which is not paid within the 'due date' specified in the relevant Act.

[2011-TIOL-53-ITAT-DEL](#)

DCIT, New Delhi Vs M/s Maharashtra Seamless Ltd (Dated: December 16, 2010)

Income Tax - Section 14A - Whether when assessee's own funds get mixed with the interest-bearing funds, onus falls on AO to establish a nexus between the investment in tax free bonds and interest bearing funds - Whether AO is right to invoke powers u/s 14 without establishing such a nexus.

[Also see analysis of the Order](#)

[2011-TIOL-52-ITAT-BANG](#)

M/s Ranganatha Enterprises Vs ACIT, Bangalore (Dated: October 29, 2010)

Income Tax - Section 271(1)(c) - Whether the additional income offered through the revised returns would amount to concealment of income.

[2011-TIOL-51-ITAT-MAD](#)

DCIT, Chennai Vs M/s Toll (India) Logistics P Ltd (Dated: October 8, 2010)

Income Tax - Whether when assessee has made advances to its sister concern, principles of commercial expediency have to be satisfied before claiming deduction for interest paid on borrowed funds.

[2011-TIOL-50-ITAT-MUM](#)

ACIT, Mumbai Vs M/s N H Securities Ltd (Dated: December 3, 2010)

Income Tax - Section 269SS, 271D - Whether penalty u/s 271D is warranted even in the case of journal entries of loans taken by the assessee neither in cash nor through Payee Cheque.

[2011-TIOL-49-ITAT-MUM](#)

M/s Alchemy Share & Stock Brokers Pvt Ltd Vs DCIT, Mumbai (Dated: December 31, 2010)

Income Tax - Sections 194J, 40(a)(i) - Whether transaction charges paid to the stock exchange, as certain percentage of the transaction value, tantamount to fees for technical services, and thus, non-deduction of TDS on such payments warrants invocation of rigours of Sec 40(a)(i).

[2011-TIOL-48-ITAT-MUM](#)

M/s Duke Offshore Ltd Vs DCIT, Mumbai (Dated: January 5, 2011)

Income Tax - Section 115JB - Whether while computing book profits there is no distinction between capital profit or revenue profit - Whether for computing book profit, the net profit is to be further increased and decreased by the appropriations and hence the extraordinary item in the shape of reduction of outstanding liability is to be included in the book profit.

[2011-TIOL-47-ITAT-MUM](#)

M/s Tractor Engineers Ltd Vs ACIT, Mumbai (Dated: October 20, 2010)

Income Tax – Sections 14A, 80HHC – Whether Sec 80HHC benefit is available on income tax refund, interest on tax free bonds and other interest income .

[2011-TIOL-46-ITAT-DEL](#)

DCIT, New Delhi Vs M/s e-Funds International India Pvt Ltd (Dated: December 31, 2010)

Income Tax - Section 10A - Whether if assessee claims Sec 80HHE benefits in the first year, it gets barred from availing Sec 10A benefits in the subsequent years.

[2011-TIOL-45-ITAT-MUM](#)

DCIT, Mumbai Vs Salman Khan (Dated: October 13, 2010)

Income Tax - 80RR, 89RR - Whether when the assessee, a film actor, follows the cash system of accounting, he can claim Sec 80RR benefits for the payment received in advance for a stage show to be organised without furnishing any evidence of an agreement - Whether disallowance is warranted for legal expenses incurred to defend the assessee in criminal proceedings when assessee fails to prove that such expenses were in relation to his profession.

[Also see analysis of the Order](#)

[2011-TIOL-44-ITAT-MUM](#)

DCIT, Mumbai Vs Reliance Consolidated Enterprises Pvt Ltd (Dated: November 19, 2010)

Income tax – Section 14A - Whether when there is evidence that investment to earn tax exempt income was made much prior to the borrowing of interest-bearing funds, AO is right in making ad hoc disallowance of some administrative expenditure.

[2011-TIOL-43-ITAT-DEL](#)

Basti Sugar Mills Co Ltd Vs ITO, New Delhi (Dated: November 30, 2010)

Income tax – Sections 147, 148 - Difference in stock – Whether addition can be made for the difference in the stock shown in the stock statement submitted to bank and the stock as per the books of account of the assessee.

[2011-TIOL-42-ITAT-AHM](#)

ACIT, Gandhinagar Vs Gujarat State Petronet Limited (Dated: November 30, 2010)

Income tax – Sections 35D, 37(1), 115JB – Whether adjustment to book profits on account of deferred tax liability is allowable - Whether consultancy charges incurred for acquisition of the disputed land is allowable - Whether expenses incurred for increase in share capital and not for setting up a company is eligible for deduction u/s 35D.

[2011-TIOL-41-ITAT-AHM](#)

Dy.CIT, Ahmedabad Vs Vimpsan Investment Pvt Ltd (Dated: November 19, 2010)

Income tax – Section 73(1) – Whether where the source of income and source of application of fund is in loans and advances and the interest income is taxable under Interest Tax Act, the main business will be considered as granting of loans and advances and the explanation to section 73(1) will not be applicable.

[2011-TIOL-40-ITAT-BANG](#)

DCIT, Bangalore Vs M/s Cisco Systems (I) P Ltd (Dated: September 22, 2010)

Income Tax - Section 10A - Whether for the purpose of computing deduction under section 10A it is necessary to exclude those expenses from figure of total turnover which is not includable in export turnover.

[2011-TIOL-39-ITAT-LKW](#)

DCIT, Kanpur Vs M/s Calico Trends (Dated: December 30, 2010)

Income Tax - Sections 80IB, 147 - Whether reassessment initiated based on higher court's decisions amounts to change of opinion and thus, is not sustainable.

[2011-TIOL-38-ITAT-KOL](#)

M/s Chang Hing Tannery Vs DCIT, Kolkata (Dated: December 16, 2010)

Income Tax - Sections 40(a)(ia), 194C - Whether when there is no contract between the assessee and the transporters hired by the vendors of the goods who directly made supplies to the factory, the provisions of section 194C are not applicable

[2011-TIOL-37-ITAT-HYD](#)

DCIT, Hyderabad Vs M/s HSBC Electronic Data Processing India Pvt Ltd (Dated: November 30, 2010)

Income Tax - Sections 10A, 148 - Whether project management services rendered by the assessee's UK Branch can be treated as an integral part of assessee's business and thus, its income falls under the head 'Business Income' and not 'Income from Other Sources' - Whether electricity subsidy received from the State Govt as adjustment for power and fuel expenses qualifies to be business income.

[2011-TIOL-36-ITAT-MUM](#)

Quest Screening Services P Ltd Vs Addl.CIT, Mumbai (Dated: December 22, 2010)

Income Tax - Section 37(1) - Whether when assessee consistently writes off software within two years, AO is justified in treating expenses on software and web-hosting as capital expenditure, and also disallowing depreciation in the absence of tangible assets.

[Also see analysis of the Order](#)

[2011-TIOL-35-ITAT-MUM](#)

ACIT, Mumbai Vs The Bank Of Rajasthan Ltd (Dated: December 22, 2010)

Income tax – Sections 145, 147, 148, Circular No 17 of 2008 – Whether the premium paid in excess of the face value of the investments classified under HTM category can be amortised over the maturity period and is allowable loss .

[2011-TIOL-34-ITAT-MUM](#)

M/s Multi Commodity Exchange Of (India) Limited Vs DCIT, Mumbai (Dated: December 22, 2010)

Income tax – Section 14A, Rule 8D – Whether disallowance u/s 14A is rightly made for the expenditure incurred for earning an exempted income applying rule 8D which was applicable from the A.Y. 2008-09 and not prior to that.

[2011-TIOL-33-ITAT-DEL](#)

M/s Continental Carriers Pvt Ltd Vs ACIT, New Delhi (Dated: December 31, 2010)

Income Tax - Section 14A, Rule 8D - Whether AO is right in making disallowance, relying on Special Bench decision in Daga Capital Management case.

[2011-TIOL-32-ITAT-DEL](#)

M/s Sidwal Refrigeration Industries Ltd Vs Addl.CIT, New Delhi (Dated: November 12, 2010)

Income Tax - Section 80IC - Bifurcation of expenses - Whether AO is correct in assuming that the assessee has diverted the expenses of eligible unit to the non-eligible unit without any supporting material.

2011-TIOL-31-ITAT-DEL
DCIT, New Delhi Vs M/s Subros Ltd (Dated: December 10, 2010)
Income Tax - Section 37(1) - Whether expenses incurred on development of prototypes can be construed as fees for technical know-how and hence not allowable as revenue expense
2011-TIOL-30-ITAT-MAD
Dy.CIT, Chennai Vs M/s Ashok Leyland Ltd (Dated: October 5, 2010)
Income tax – Section 244A – Whether assessee is entitled to interest u/s 244A on any refund which is due to the assessee.
2011-TIOL-29-ITAT-LKW
ITO, Unnao Vs M/s Akar Construction Pvt Ltd (Dated: November 23, 2010)
Income Tax - Sections 44D, 144, 250(4), Rule 46A - Whether there is any infringement of rule 46A where the CIT(A) has accepted books of accounts of the assessee and deleted the addition, after obtaining positive comments of the AO.
2011-TIOL-28-ITAT-MUM
M/s FGP Limited Vs JCIT, Mumbai (Dated: December 15, 2010)
Income tax – Sections 27(iib), 48, 56 - Head of Income - Whether interest income and dividend income should be treated as income from other sources as against the same declared by the assessee as business income - Whether the rental income received from running of business centre by offering business centre facilities to corporate clients is taxable as business income - Whether the rates and taxes paid in respect of land is deductible as cost while computing the capital gains on it.
2011-TIOL-27-ITAT-MUM
Pfizer Pharmaceuticals (India) Private Limited Vs DCIT, Mumbai (Dated: December 15, 2010)

Income tax – Slump Sale - Sections 32, 43(6), 271(1)(c) – Whether when assessee sells a going concern it is mandatory for the assessee to claim depreciation which further enhances its losses - Whether AO is right in levying penalty on a purely legal issue where Tribunal rules against the assessee.

[2011-TIOL-26-ITAT-DEL](#)

M/s Prime Telesystems Ltd Vs ACIT, Noida (Dated: November 12, 2010)

Income tax – Sections 69, 131, 133, 144 - Share Application Money – Whether where the assessee company has proved the identity and creditworthiness of the shareholders, the assessee has discharged its onus - Whether where the direction of the ITAT to the AO while setting aside the matter was to examine the evidence produced before the CIT (A), the AO is empowered to ask for the fresh evidence.

[Also see analysis of the Order](#)

[2011-TIOL-25-ITAT-DEL](#)

DCIT, New Delhi Vs Jindal Photo Limited (Dated: December 22, 2010)

Income Tax - Sections 14, 80IB, Rule 8D - Whether the sum received from insurance for damage of goods in transit can be treated as derived from industrial undertaking and hence eligible for deduction u/s 80IB - Whether the provisions of section 14A are applicable where assessee himself disallowed substantial portion of expenses attributable to exempt income and the AO has not pointed out any defect in the method adopted by the assessee.

[2011-TIOL-24-ITAT-AHM](#)

Gujarat Power Corporation Ltd Vs ACIT, Gandhinagar (Dated: November 30, 2010)

Income tax – Sections 10(23G), 36(1)(viii), 142(1) and (2), 143, 147, 148 – Whether where the return was processed u/s 143(1), the reassessment proceedings were rightly initiated for the point specifically given in the notes to account as the same could not be examined in case of return processed u/s 142(1) and explanation 2(b) of section 147 was applicable - Whether the explanation 2 to section 10(23G) as introduced by Finance Act 1999 was retrospective in nature.

[2011-TIOL-23-ITAT-KOL](#)

I C I India Limited Vs Addl.CIT, Kolkata (Dated: November 26, 2010)

Income tax – Exemption u/s 54EC - Whether the assessee is entitled to exemption u/s 54EC when the investment was made prior to the date of sale of asset.

[2011-TIOL-22-ITAT-MUM](#)

M/s Rochem India Pvt Ltd Vs ACIT, Mumbai (Dated: April 30, 2010)

Income Tax - Sections 131, 153A - Where the assessee himself has admitted by way of confession that he is habitual of debiting bogus purchases the burden is on assessee to prove actual quantification of bogus purchase in each year and segregation of genuine purchases from bogus, particularly when the AO has fairly allowed the genuine purchases to some extent.

[2011-TIOL-21-ITAT-KOL](#)

ITO, Kolkata Vs M/s Great Media Technologies (Dated: December 14, 2010)

Income tax – Section 10A – Whether, for availing Sec 10A benefits, it is necessary for exports to be made on a physical information storage device - Whether export of data by uploading the same on the internet-based server of the importer does not qualify to be export of computer software or ITes.

[Also see analysis of the Order](#)

[2011-TIOL-20-ITAT-AHM](#)

Swiss Glass Coat Equipment Ltd Vs ACIT, Baroda (Dated: November 4, 2010)

Income tax – Sections 80IB, 132, 153A – Whether deduction u/s 80IB is allowable in respect of insurance claim, excess provision of income tax, interest on FDR, sales tax refund, inspection charges, packing charges and scrap.

[2011-TIOL-19-ITAT-DEL](#)

ITO, New Delhi Vs M/s Magic Software Pvt Ltd (Dated: December 6, 2010)

Income tax – Penalty u/s 271(1)(c) – Whether, where the addition was made for the expenditure partly pertaining to the next year, the penalty u/s 271(1)(c) is correctly levied when the assessee was following the same method of accounting continuously, the expenditure was not claimed in the next year and no incorrect particulars were furnished.

2011-TIOL-18-ITAT-DEL
Superintendent (DDO), Hisar Vs ITO, Hisar (Dated: August 3, 2010)
Income Tax - Sections 154, 201(1), 201(1A) - Whether when the licence fee is recovered from the employees, AO is right in including the value of perquisite on account of residential accommodation provided to them.
2011-TIOL-17-ITAT-MUM
DCIT, Mumbai Vs M/s Goodlas Nerolac Paints Ltd (Dated: December 22, 2010)
Income tax – Whether the expenses incurred in respect of one of the units of the assessee company which was closed down are not allowable particularly when there was no inter dependence between the various units.
2011-TIOL-16-ITAT-MUM
M/s Procter & Gamble Home Products Ltd Vs JCIT, Mumbai (Dated: December 15, 2010)
Income tax – Sections 35AB, 37, 40(a)(i), Circular 23/69 – Whether deduction u/s 35AB is available for the technical knowhow even if the assessee is not engaged in the manufacturing activity - Whether TDS is not required to be deducted in respect of the payment of advertisement fees to foreign telecasting companies - Whether expenditure incurred on production of TV film for advertisement purposes is revenue in nature - Whether the amount paid for termination of an agreement which resulted into restructuring and reorganization of the profit earning apparatus of the assessee group is capital in nature - Whether the expenditure which was incurred for ward off competition is allowable as revenue expenditure or can be amortised over a period of time for which the agreement is effective.
Also see analysis of the Order
2011-TIOL-15-ITAT-MUM
Shri Ejaz Ahmed Mehmood Muqri Vs ITO (Dated: November 15, 2010)
Income tax – Sections 40A(2)(b), 44AB, 56(2)(v), 143(3), 263 - Whether when assessee passes assessment order after due diligence, invocation of powers u/s 263 is warranted merely because AO fails to make a reference to the enquiry conducted.

[2011-TIOL-14-ITAT-MUM](#)

Bunge Agribusiness India Pvt Ltd Vs ACIT, Mumbai (Dated: November 24, 2010)

Income Tax - Section 143, 145, 147, 148 - Whether AO was justified in disallowing loss claimed by the assessee on account of closing stock valuation at the prevailing net realizable rate on the ground of undervaluation of stock - Whether assessee was entitled to claim the loss accrued as a result of valuation of closing stock at market value which was lower than the cost.

[2011-TIOL-13-ITAT-BANG](#)

DCIT, Bangalore Vs M/s Arcus Technology Ltd (Dated: September 17, 2010)

Income Tax - Sections 10B, 148 - Whether when assessee fails to make a declaration u/s 10B(8) in relation to the year in which it did not claim deduction, AO is right in disallowing the exemption available for 10 years.

[2011-TIOL-12-ITAT-MUM](#)

ACIT, Mumbai Vs M/s Birla Global Finance Co Ltd (Dated: December 22, 2010)

Income tax – Section 32(1)(ii) – Whether assessee is entitled to depreciation on payment made for ‘Business and Commercial Branch equity’ treating it as intangible asset – whether the amount received towards business and commercial branch equity can be argued as payment for goodwill in appellate proceedings when at the assessment stage it was already accepted that the payment was not made for goodwill.

[2011-TIOL-11-ITAT-DEL](#)

Espire Infrastructure Corporation Ltd Vs DCIT, New Delhi (Dated: November 26, 2010)

Income tax – Section 14A, Rule 8D – Whether rule 8D can be applied to the cases relating to assessment years prior to A.Y. 2008-09.

[2011-TIOL-10-ITAT-MUM](#)

Ashok Kumar Damani Vs Addl.CIT, Mumbai (Dated: December 3, 2010)

Income tax – Dividend Stripping – Sections 14A, 40(ia), 94(7), 194J, Rule 8D – Whether disallowance u/s 94(7) is warranted in the year in which all the three

conditions i.e. the date of purchase of securities, record date and the date of sale of securities are fulfilled – Whether the loss booked by the assessee by valuing the securities at net realizable value before the sale of securities can be disallowed u/s 94(7).

[2011-TIOL-09-ITAT-BANG](#)

ACIT, Bangalore Vs M/s G R Developers (Dated: September 30, 2010)

Income tax – Sections 80IB(10), 133A – Whether Sec 80IB(10) benefits are available even to a residential cum commercial project.

[2011-TIOL-08-ITAT-DEL](#)

ACIT, Noida Vs Manisha Sharma (Dated: December 3, 2010)

Income Tax - Section 194C - Whether prior to amendment in section 194C, individuals making payments to contractors were not required to deduct TDS on payments made to contractors.

[2011-TIOL-07-ITAT-KOL](#)

Chandra Mohan Brothers Vs ITO, Kolkata (Dated: November 3, 2010)

Income Tax - Sections 37, 143(3) - Whether Assessee is entitled for the deduction of commission expenses when the payee categorically denied of rendering any services to the assessee - Whether assessee's unwillingness to cross-examine the agent further confirms the Revenue's charges of accommodation entry.

[2011-TIOL-06-ITAT-KOL](#)

ITO, Kolkata Vs Nisha Saraf (Dated: December 10, 2010)

Income Tax - Section 194C(2) - Whether deduction of tax at source at higher rate than the one prescribed as per the provisions will suffice short deduction of tax at source - Whether payment-wise reconciliation of TDS is necessary for proving that the provisions of TDS has been properly complied with.

[2011-TIOL-05-ITAT-KOL](#)

M/s Inland Road Transport Pvt Ltd Vs ACIT, Kolkata (Dated: November 15, 2010)

Income Tax - Section 40(a)(ia) - Whether disallowance of payments for the want of TDS on rent is justifiable in the absence of the supporting agreement.

[2011-TIOL-04-ITAT-MUM](#)

Ion Exchange (India) Ltd Vs ITO, Mumbai (Dated: October 13, 2010)

Income Tax – Sec 28(va) - Whether compensation received upon the termination of Joint Venture Company is a capital or a revenue receipt .

[Also see analysis of the Order](#)

[2011-TIOL-03-ITAT-DEL](#)

AKM Systems Pvt Ltd Vs Addl.CIT, New Delhi (Dated: November 29, 2010)

Income tax - Sec 14A, Rule 8D - Whether Rule 8D is applicable prior to AY 2008-09 - Whether disallowance voluntarily made by the assessee in its return should be accepted without examining the same in relation to the exempted income.

[2011-TIOL-02-ITAT-MUM](#)

Bombay Baroda Roadways (I) Ltd Vs ACIT, Mumbai (Dated: November 19, 2010)

Income Tax – Sections 40A(2)(b), 40A(3), 142, 143(2), 292BB - Service of notice - Whether assessment order finalised after scrutiny would become bad in law if assessee denied effective service of initial notice by supporting the assertion with an affidavit and the Revenue, under the burden of proof, could not prove the effective service of notice within the stipulated time of one year from the date of filing the return.

[2011-TIOL-01-ITAT-MUM](#)

M/s Classic Shares & Stock Broking Services Ltd Vs ACIT, Mumbai (Dated: November 19, 2010)

Income Tax – Section 28, 73 - Whether interest income is to be treated as business income when the same has accrued on FDRs made for the securing bank guarantee to run the business smoothly.