



# LEGAL Decisions



## INCOME TAX

### **LD/74/114 ITAT Delhi: ITA No. 5036/DEL/2025 Gas Supply Co. Pvt. Ltd Vs. The Asst. Commissioner of Income Tax 10<sup>th</sup> April 2026**

ITAT quashed order u/s 143(3) dated 31.03.2024 by observing that AO did not issue the mandatory notice u/s 148 as required under Section 143(2); Search and seizure action took place u/s 132 in case of third party in which Assessee was also a searched party and so the Assessee's case was selected for compulsory scrutiny; As per ITAT, when a search takes place, AO must act u/s 148 (which now performed the role formerly assigned to Section 153A w.e.f. 1.4.2021) rather than continuing with a pending Section 143(3) proceeding; Once Search had taken place, no normal assessment u/s 143(3) of the Act could be framed.

### **LD/74/115 ITAT Chennai: ITA No. 2414/Chny/2025 Mangadu Natarajan Balasundharam Vs. The Income Tax Officer 09<sup>th</sup> April 2026**

ITAT deleted penalty levied u/s 271(1)(c) noting that Assessee duly disclosed concerned income in the return of income filed in response to the notice u/s 148, which the AO had accepted; On receipt of information from DDIT (Investigation) that the Assessee had not offered the income from sale of plots co-owned by him, Revenue issued notice u/s 148, in response to which Assessee filed the return of income offering sale proceeds of plots of Rs. 82.36 lakhs; Assessee had offered the gain from transactions which were not even part of the investigation report, which reflected the bonafide intention of the Assessee.

### **LD/74/116 Gujarat High Court: Special Civil Application No. 3978 of 2026 West India Infratech Private Limited Vs. The Asst. Commissioner of Income Tax 08<sup>th</sup> April 2026**

Gujarat HC quashed notice u/s 148 dated 22.03.2025 for AY 2015-16, notice being barred by limitation of more than 10 years; Fourth proviso permits assessment beyond 6 years subject to specified conditions and refers to "relevant AY" as stated in Explanation 1 in Section 153A, that defines "relevant AY"; AY relevant to the previous year of search becomes the reference year and the 10 year period is counted from the end of that AY; This includes the search assessment year within the ten-year framework; Thus, while computing 10 year period under Explanation 1 to Section 153A r.w.s 153C, the AY to the previous year of search is to be included in the reckoning.

### **LD/74/117 ITAT Hyderabad: ITA No. 1914/Hyd/2025 Tulsi Dasari Vs. The Income Tax Officer 08<sup>th</sup> April 2026**

ITAT held that notice issued by the AO u/s 148 for AY 2015-16 was barred by limitation as per first proviso to Section 149 as introduced by Finance Act, 2021; As per pre-amended section 149(1)(b), a notice u/s 148 for AY 2015-16 could be issued by the AO latest by March 31, 2022; The provisions contemplated in the "fifth proviso" of Section 149(1) of the Act (post amended), and also the extension of time limit to seven days in a case where after the exclusion of the time limit contemplated in the "fifth proviso" the period remaining is less than seven days (as per the "sixth proviso"), cannot be read into the first proviso, for the purposes of computing the period of limitation for issuance of notice under Section 148 of the Act.

### **LD/74/118 ITAT Mumbai: ITA No. 4286/MUM/2025 The Dy. Commissioner of Income Tax Vs. A P Trading Co. 07<sup>th</sup> April 2026**

ITAT deleted addition u/s 68 on account of unsecured loan noting that AO misinterpreted repayment as fresh credit and Assessee discharged its onus by proving the identity, creditworthiness, and genuineness; Repayment of an existing loan cannot be treated as unexplained cash credit u/s 68 in a subsequent AY; Lender company responded to notices issued under Sections 133(6) and 131 by furnishing relevant documents; Mere absence of the director's personal appearance or the lender companies' low income/negative networth, could not justify invoking of Section 68.

**LD/74/119 Delhi High Court: ITA 364/2024 The Prin. Commissioner of Income Tax Vs. Globe Capital Market Limited 07<sup>th</sup> April 2026**

Assessee purchased its own shares pursuant to a buy back offer and the AO made the addition in the hands of the Assessee by invoking Section 56(2)(x); HC opines that the very hypothesis that the Assessee had acquired an asset at lesser rate than the FMV has no legs to stand on and "...Buy-back of its own shares is antitheses to buying an asset"; HC stated that as per Section 68(vii) of Companies Act, the Assessee must have destroyed the shares (via capital reduction) which the AO has sought to tax and a person cannot be taxed for so-called deemed profit from the property (shares) which accrues to it consequent to destruction of the very same property.

**LD/74/120 ITAT Delhi: ITA No. 7537/Del/2025 BPTP Limited Resulting Company of Native Buildcon Pvt. Ltd. Vs. The Dy. Director of Income Tax 01<sup>st</sup> April 2026**

ITAT held that TDS credit cannot be denied merely due to timing mismatch between revenue recognition and deduction year; ITAT noted Assessee's contention that since the time for revising returns of preceding AY had expired, it claimed TDS credit in AY in which such TDS was actually deducted and deposited; ITAT remitted the matter back to AO with a direction to verify whether the revenue pertaining to TDS had been offered to tax in preceding AY and if verification was confirmed, ITAT directed the AO to allow Assessee's claim.

**LD/74/121 Gujarat High Court: R/Tax Appeal No. 1234 of 2007 The Commissioner of Income Tax Vs. Zydus Lifesciences Limited 12<sup>th</sup> March 2026**

For AY 2001-02, HC held that the consideration received on "transfer of trademark along with goodwill", was not chargeable to tax since it was not an "asset" to attract the charging provisions of Section 45(1), and its assignment/transfer thus was not subject to income tax under the head of "capital gains"; SC judgment in B.C. Srinivasa Shetty relied upon; Amendment in Section 55(2) by Finance Act, 2001 wherein the words 'or a trademark or brand name associated with a business', was a prospective one w.e.f. 01/04/2002.; AO's approach in taxing the impugned consideration as business income u/s 28(iv) or 41(1), was unjustified.

**LD/74/122 ITAT Delhi: ITA No. 5851/Del/2024 Jubilant Ingrevia Ltd Vs. The Asst. Commissioner of Income Tax 17<sup>th</sup> March 2026**

AO in both the draft assessment order as well as in final assessment order, started his computation of income from the income determined by the CPC u/s 143(1); Assessee had filed rectification applications u/s 154, both before the JAO and FAO, that were still pending for adjudication; AO ought to have taken cognizance of the grievance of the Assessee in the assessment order framed both u/s 143(3) r.w.s 144C(1) and 143(3) r.w.s. 144C(13); Intimation u/s 143(1) stood merged with the draft assessment order u/s 144C(1) and it was ought to have been adjudicated by the DRP; ITAT remanded matter back to AO to adjudicate the additions.

**LD/74/123 ITAT Delhi: ITA No. 4979/Del/2025 Neeraj Kataria Vs. The Income Tax Officer 10<sup>th</sup> March 2026**

ITAT quashed reassessment proceedings noting that the notice u/s 148 in the name of a deceased Assessee was void ab initio; Assessee expired prior to issuance of reassessment notice u/s 148; Reliance placed on Delhi HC judgment in Savita Kapila and Madras HC judgment in Alamelu; Section 292B cannot be invoked to rectify a fundamental jurisdictional error such as issuance of notice to a non-existent person; A proper course would have been to issue notice to the legal heirs in terms of Section 159, as per ITAT.

**LD/74/124 ITAT Ahmedabad: ITA No. 1371/Ahd/2025 The Dy. Commissioner of Income Tax Vs. Hemantkumar Rajendrakumar Shah 10<sup>th</sup> March 2026**

ITAT upheld CIT(A) order deleting the addition of Rs. 4.87 Cr made by estimating profit at 12% of turnover in the case of F&O transactions without any reasonable basis; Assessee's books of account were duly audited, and ITAT pointed out that the AO had not brought any material on record to justify rejection of books or to support estimation of profit at such a rate; As per ITAT, in the business of derivative trading, profit estimation based on turnover at a fixed percentage cannot be applied in an arbitrary manner.

## DISCIPLINARY CASE

***Engagement in coaching activities and involvement in business while in full-time practice – Conducting CA coaching classes without permission and holding the position of Director in private company – Held, the Respondent is guilty of Professional misconduct under Item (11) of Part I of the First Schedule and Item (1) of Part II of the Second Schedule to the Chartered Accountants Act, 1949.***

### **Held:**

In this case, the Respondent, while being in full-time practice and holding Certificate of Practice was alleged to be conducting coaching classes in a coaching institute and simultaneously acting as director in Private Limited Company. The Committee noted that Regulation 190A of the Chartered Accountants Regulations, 1988 prohibits a Chartered Accountant in practice from engaging in any business or occupation other than the profession of accountancy without prior permission of the Council. The Committee further observed that Appendix (9) to the Regulations permits teaching or coaching activities only subject to prescribed conditions and approval of ICAI. Though the Respondent contended that he had not undertaken any attest functions and that ICAI advisory did not specifically prohibit practicing members from conducting coaching classes, he failed to furnish any documentary evidence showing compliance with the prescribed requirements or obtaining specific permission from ICAI. The Committee also noted that despite opportunities granted, the Respondent neither submitted requisite documents nor appeared before the Committee to defend himself. With respect to the second charge, the Committee observed that though holding the position of director simplicitor is permissible for a practicing Chartered Accountant, the Respondent's role in the company reflected active business involvement. The Committee noted that the Respondent was a director in the company during the relevant period and held more than 99% shareholding therein as per MCA records. It was further observed that after receipt of the complaint, the Respondent appointed his wife as director and subsequently resigned from the company, though the relevant e-forms were filed belatedly with MCA. In view of the Respondent's substantial ownership and involvement in the company, the Committee rejected his contention that he was merely a director simplicitor. Accordingly, in absence of any substantive defence and considering the documents available on record, the Committee held the Respondent guilty of professional misconduct falling within the meaning of Item (11) of Part I of the First Schedule and Item (1) of Part II of the Second Schedule to the Chartered Accountants Act, 1949.

**[PR/89/2018-DD/103/2018-DC/1323/2020]**

***Failure to exercise due diligence in certification of LLP records and audit reporting – Respondent certified Form 8 without proper verification, failed to qualify audit report for non-payment of statutory dues and omitted related party disclosure – Respondent held guilty under Clause (7) of Part I of the Second Schedule to the Chartered Accountants Act, 1949; exonerated from allegations relating to forgery and money laundering.***

### **Held:**

In this case, the Respondent, statutory auditor of LLP for FYs 2013-14 and 2014-15, was alleged to have improperly certified LLP records, failed to report statutory non-compliances and participated in forged documentation and money laundering activities. The Committee noted that though the deed of reconstitution reflected retirement of the Complainant from the LLP and admission of a new partner, Form 8 filed with ROC was digitally signed by the Complainant as partner and verified by the Respondent without raising any objection. The Respondent contended that the ROC records had not been updated and therefore Form 8 could not be uploaded without the Complainant's signature. However, the Committee observed that the Respondent was aware of the changes in the LLP and failed to verify relevant records and forms, including Form 4 under the LLP Act, before certifying Form 8. Though no evidence was found to establish that the Respondent had illegally expelled the Complainant from the LLP, the Committee held that he failed to exercise due diligence while certifying Form 8. With respect to the allegation relating to forged documents used for opening a bank account, the Committee observed that the Respondent had merely signed the deed of reconstitution as a witness and no material was brought on record to establish that the document was forged. The Committee also noted the police closure report and dismissal of the writ petition relating to the allegation of forgery. Accordingly, the Respondent was exonerated from the said charge. The Committee further noted that despite substantial non-payment of service tax by LLP, the Respondent failed to qualify for his audit reports for the relevant financial years. Though the Respondent later sought clarification from the partners regarding service tax dues, such clarification was obtained after completion of audit, and no qualification was made in the audit report. The Committee also observed that payments made by the LLP to the Respondent's wife regarding professional fees were not disclosed in the audit report and no documentary evidence was produced to substantiate rendering of such services. However, no evidence was found to establish involvement of the Respondent in money laundering or illegal gratification. Accordingly, considering the material available on record, the Committee held the Respondent guilty of professional misconduct falling within the meaning of Clause (7) of Part I of the Second Schedule to the Chartered Accountants Act, 1949.

**[PR/112/16/DD/152/2016/DC/1312/2020]**

*The section on Legal Updates has been contributed by CA. Sahil Garud and Disciplinary Directorate.*