# LEGAL Decisions

## INCOME TAX

**LD/74/103 ITAT Mumbai: ITA Nos. 2408/Mum/2025 Bhagawati M Jain Vs. Income Tax Officer *10th March 2026***

ITAT deleted addition noting that opportunity to cross examine the witness on whose statement reliance was placed, was not given by AO; AO had not confronted the Assessee with any material found during the course of search; There was no specific mention of the Assessee in the statement recorded during the course of the search which formed the sole basis for AO to make addition; AO failed to bring any evidence on record to prove the payment of 'on money'; SC decision in Andaman Timber Industries relied upon.

**LD/74/104 ITAT Mumbai: ITA No. 8536/Mum/2025 Surendra Himmatlal Shah Vs. Deputy Commissioner of Income Tax *09th March 2026***

ITAT set aside intimation order u/s 143(1) noting that AO/CPC did not give prior intimation of adjustment to the assessee first; ITAT rejected Revenue's contention that requirement of giving intimation to an Assessee under the first proviso to Section 143(1) can be disregarded when the facts are apparent; Filing of Form 3CFA was required to avail a concessional 10% tax rate under Section 115BBF of the Act which was not done within prescribed time by the assessee; Assessee contended that absence of intimation as u/s 143(1)(a) prevented assessee from filing the form in prescribed time; ITAT noted that Revenue also provided no reasons for adjustment u/s 143(1).

**LD/74/105 ITAT Delhi: ITA No. 3656/Del/2017 Asst. Commissioner of Income Tax Vs. Odean Shrine Multiplex P. Ltd *09th March 2026***

ITAT deleted disallowance of disputed contractual service tax liability (between assessee and its landlord) on renting of commercial properties relating to prior years which was settled in the present year; Said liability was settled for payment in the present year and a 50% of the said amount was paid/ settled in the same year; No provision was made in prior years since matter was sub-judice before the High Court; Disputed contractual liability held to be admissible as expense in the year in which it was settled with the parties; Separately, ITAT deleted disallowance of entertainment tax subsidy by accepting Assessee's treatment of the same as capital receipt.

**LD/74/106 Bombay High Court: ITA No. 1593 of 2019 Commissioner of Income Tax Vs. Shri Dipendu Bapalal Shah *05th March 2026***

Bombay High Court affirmed appellate orders deleting addition on account of undisclosed foreign bank balance; Assessee being an NRI having made money in a foreign country cannot be called upon to pay income tax on that money in India unless it satisfied the test of taxability; Based on information received from French Government regarding deposits made by the Assessee in its account with HSBC, Geneva, Revenue reopened Assessee's case and made addition of Rs.6.13 Cr being rupee equivalent of peak credit of USD 13,62,441 in that account; Bank account was opened in 1997 and the Assessee was non-resident since 1979 till date.

**LD/74/107 ITAT Mumbai: ITA No. 4004/Mum/2025 The Dy. Commissioner of Income Tax Vs. Jorss Bullion Pvt Ltd *04th March 2026***

Addition on account of bogus purchases u/s 69C deleted by ITAT, holding that the transactions were duly recorded in the books of accounts, stock register and declared in VAT returns along with payment through banking channels; Assessee on the basis of Investigation Wing report was subjected to reassessment alleging bogus purchases of Rs. 39.36 Cr through shell companies; General investigation reports or suspicions cannot override direct documentary evidence; ITAT held that rejection of books u/s 145(3) requires specific defects demonstrating that true profits cannot be deduced, which were absent in the present case.

**LD/74/108 Gujarat High Court: Civil Application no. 21373/2022 Asha Vishnukumar Patel Vs. The Asst. Commissioner of Income Tax *03rd March 2026***

High Court set aside reassessment proceedings including notice u/s 148 and order i/s 148A(d) as time barred relying on Ashish Agarwal and Rajeev Bansal; Impugned order dated July 30, 2022 issued u/s 148A(d) would be invalid notice as the said notice was issued after June 16, 2022 (i.e. beyond the 'surviving time') in light of SC judgment in Ashish Agarwal; Order u/s 148A(d) was issued on July 30, 2022, however, considering the period of limitation from the date of issuance of notice u/s 148 read with TOLA upto June 30, 2021, the limitation for issuance of notice u/s 148 applying the SC judgment in Ashish Agarwal as well as Rajeev Bansal, would be June 16, 2022; Therefore impugned order and notice dated 30.07.2022 were quashed.

**LD/74/109 Madras High Court: T.C.A. No. 104 of 2015 Wheels India Limited Vs. The Asst. Commissioner of Income Tax *02nd March 2026***

Madras HC held that assessee was entitled to balance 50% of additional depreciation in the current AY 2007-08 in respect of the assets acquired in previous year and which were put to use for less than 180 days; As per HC, since additional depreciation is given to encourage purchase of new plant and machinery, as found in the Memorandum, the advantage of granting additional depreciation should be extended without any discrimination; If an assessee is entitled to additional depreciation, such benefit cannot be deprived partially on the ground that the machine was not put to use for more than 180 days in a particular year.

**LD/74/110 ITAT Bangalore: ITA No. 1143/Bang/2025 Pioneer Independent Trust Vs. The Prin. Commissioner of Income Tax *02nd March 2026***

ITAT set aside revision order u/s 263 observing that the AO had conducted a detailed enquiry and also verified the documents w.r.t. LTCG on the redemption of the units of equity oriented mutual funds; when the order is not an erroneous one, it cannot be concluded that the same is prejudicial to the interest of the revenue; In response to the notice issued of PCIT, assessee had furnished its reply along with various statements and justified the AO's order, but the PCIT had failed to mention anything about the annexures filed by the Assessee; There was no infirmity in the order passed by the AO u/s 143(3).

**LD/74/111 ITAT Mumbai: ITA No. 4850/Mum/2025 Abdul Wajid Abdul Rehman Sheikh Vs. The Dy. Commissioner of Income Tax *27th February 2026***

Addition u/s 68 held to be unsustainable where no credit entry is established in Assessee's books and addition is based solely on uncorroborated third-party information; Neither the AO nor CIT(A) identified any specific entry in books of accounts evidencing credit of unexplained income; Initial burden to prove the existence of a credit entry lies with the AO, and unless this foundational fact is established, the Assessee cannot be compelled to explain the nature and source of a non-existent credit; Suspicion, however strong, cannot take the place of proof, remarked ITAT.

**LD/74/112 ITAT Mumbai: ITA No. 3485/Mum/2025 The Income Tax Officer Vs.Ashok Amritlal Nayak *27th February 2026***

ITAT deleted addition sustained by CIT(A) to the extent of 2.73% of the alleged bogus sales transaction holding the same as unjustified; Once the sales were accepted as part of turnover and the assessee had already offered profit thereon, there was no legal basis to estimate further profit unless the books were rejected and suppression of income was demonstrated; Once the credit was disclosed as sales and duly reflected in the books, the same cannot again be treated as unexplained cash credit, particularly when the books of account were not rejected and no specific defects in trading results were pointed out.

**LD/74/113 ITAT Hyderabad: ITA No. 996/Hyd/2025 The Dy. Commissioner of Income Tax Vs. Corteva Agriscience Services India Private Limited *30th January 2026***

ITAT upheld disallowance u/s 43B on employee liabilities such as bonus, leave encashment, etc transferred in slump sale without actual payment before due date u/s 139(1); ITAT rejected assessee's argument that transferring liabilities to transferee entity in a slump sale amounted to payment of liability noting that the statute does not recognize any concept of "deemed payment" for the purpose of claiming deduction u/s 43B; Crucial test u/s 43B is whether the Assessee itself made the payment within the prescribed time and in the present case, the Assessee failed to establish that the liabilities were actually paid.

# DISCIPLINARY CASE

***Failure to Communicate with Previous Auditor – Held, Respondent is GUILTY of professional misconduct falling within the meaning Clause (8) of Part I of First Schedule to the Chartered Accountants Act, 1949.***

**Held:**

The charge against the Respondent is that he did not communicate with the Complainant before accepting the Statutory and Tax Audit of the Company for the financial year 2014-15. The Respondent had accepted the statutory and tax audit for the financial year 2014–15 whereas the Complainant had been the auditor up to 2013–14. It was alleged that the Respondent failed to comply with the mandatory requirement of prior communication as envisaged under Clause (8) of Part I of the First Schedule to the Chartered Accountants Act, 1949. In defence, the Respondent contended that communication had been made through electronic means and relied on the validity of modern communication methods. However, the Board observed that the crucial factor was not the mode but the timing of communication. It was noted that the Respondent accepted the audit on 03.10.2014, whereas the first recorded communication with the previous auditor was made only on 14.09.2015, i.e., after acceptance of the assignment. The Board further clarified that presumed knowledge of the previous auditor or communication by the company does not discharge the professional obligation of the incoming auditor. It was also admitted that no communication was made regarding the tax audit. Accordingly, the Board held the Respondent guilty of professional misconduct, reiterating that prior communication is a mandatory and indispensable requirement before accepting any audit engagement.

**[PR/271/15-DD/241/2015-BOD/269/2017]**

***Non-compliance with Accounting Standards–Respondent failed to qualify financial statements and report material transactions–Held, Respondent guilty of professional misconduct under Clauses (7) and (9) of Part I of Second Schedule to the Chartered Accountants Act, 1949.***

**Held:**

The Respondent was the statutory auditor of a Cricket Association for the financial years 2008-09 to 2011-12. It was alleged that the Respondent failed to disclose significant professional charges paid to auditors over and above audit fees in the financial statements as required under Schedule VI read with Section 211 of the Companies Act, 1956; failed to comply with Accounting Standards AS-5, AS-15, AS-18, AS-19 and AS-22; did not qualify mandatory requirements in financial statements; failed to report material transactions such as advances to employees. The Respondent contended that Cricket Association being a not-for-profit entity registered under Section 25 of the Companies Act, 1956 and Section 12AA of the Income Tax Act, 1961, was exempted from compliance with Accounting Standards. The Committee observed that Accounting Standards apply to all enterprises engaged in commercial, industrial, or business activities irrespective of their charitable or not-for-profit status. As Cricket Association's financial statements included commercial income such as sales of liquor, soft drinks, and cigarettes, the standards were applicable. After examining the audited financial statements and submissions of the Respondent, the Committee concluded that the Respondent failed to exercise due professional care and diligence, did not ensure compliance with statutory and accounting requirements and failed to make proper disclosures. The Committee also noted that certain payments to auditors and expenses exceeding 1% of total expenditure were not disclosed separately as required under Schedule VI, Part II of the Companies Act, 1956. Further, the Respondent did not clarify material financial transactions which should have been reported in the audit report. Accordingly, the Committee held the Respondent GUILTY of professional misconduct falling within the meaning of Clauses (7) and (9) of Part I of Second Schedule to the Chartered Accountants Act, 1949.

**[PR/227/2014/DD1230/2014/DC/959/2018]**

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