LEGAL Decisions

DIRECT TAXES INCOME TAX

LD/74/93 ITAT Delhi: (M.A. 382/Del/2025) ITA Nos. 7968 & 7969/Del/2018 Tigre SAS liquors India Pvt. Ltd. Vs. The Dy. Commissioner of Income Tax *18th February 2026*

ITAT allowed assessee's MA observing that non-consideration of binding judicial precedents constitutes as a mistake apparent on record rectifiable u/s 254(2); Therefore, ITAT recalled its original order for fresh adjudication in light of the judicial precedents; Reliance placed on Supreme Court ruling in Saurashtra Kutch Stock Exchange Ltd., wherein the SC categorically held that non-consideration of a binding decision of a jurisdictional HC or SC by the ITAT constitutes a "mistake apparent on record" and such error is rectifiable u/s 254(2).

LD/74/94 ITAT Delhi: ITA Nos. 6048/Del/2024 The Income Tax Officer Vs. The Silk Factory *18th February 2026*

ITAT upheld CIT(A) order restricting the addition made by the AO on account of unexplained expenditure under Section 69C to 5%; Assessee declared sales against the purchases made from 3 entities, which were claimed by the Revenue as non-existing entities; When the sales declared in the P & L account of the Assessee were accepted by the AO, thus said purchases cannot be in toto held to be bogus; Reliance placed on assessee's own case noting that if sales are accepted by Revenue then goods purchased qua sales made are also bound to be accepted and Section 69C cannot be invoked for deeming income.

LD/74/95 Delhi High Court: W P No. 959/2024 Real Time Data Services Private Limited Vs. The Prin. Commissioner of Income Tax *13th February 2026*

HC held that delay in filing Form No. 67 u/r 128 cannot defeat substantive claim of Foreign Tax Credit (FTC); HC held that it would amount to withholding of a substantial amount of an assessee without there being any authority of law which would amount to unjust enrichment in turn; As per HC, in the instant case, it was the default of the Assessee and the same could have been, rather should have been condoned by the PCIT under Section 264; HC directed AO to allow the FTC claim once the Assessee furnished Form No. 67 and pass a speaking order within two months.

LD/74/96 ITAT Delhi: ITA No. 2793/Del/2025 M/s Fairdeal Information Technology Private Limited Vs. The Income Tax Officer *13th February 2026*

ITAT deleted addition u/s 68 since assessee was able to establish the genuineness of transaction and creditworthiness of the buyers; ITAT accepted assessee's contention that the amount was received on sale of shares of an entity owned by the Assessee company; Assessee had duly disclosed the transaction of sale of shares in its return of income and paid taxes thereon; Section 68 mandates that the nature and the source of credits should be explained to the satisfaction of AO however, in the instant case the credits alleged as unexplained were not the liability but was an income already offered to tax.

LD/74/97 ITAT Kolkata: ITA No. 2796/Kol/2025 Jalpaiguri Zilla Regulated Market Committee Vs. The Income Tax Officer *10th February 2026*

ITAT remanded the matter to the CIT(A) giving an opportunity to the Assessee to present its case regarding the reasonable cause that prevented it from getting an audit as per the statutory provision; Despite the income being exempt, the audit report u/s 44AB on Form-3CD was required to be filed as the turnover had exceeded the specified the amount; Emphasizing Assessee's submissions that it had reasonable cause for not getting the audit carried out, Tribunal remarked that no such reasonable cause was mentioned before it except for the fact that its income was exempt.

LD/74/98 ITAT Mumbai: ITA No. 6526/Mum/2025 Dhiraj Solanki Vs. The Dy. Commissioner of Income Tax *10th February 2026*

ITAT allowed holding that protective addition u/s 69 cannot survive where substantive addition on identical facts has been deleted on merit; ITAT observed that except for the excel sheet (incriminating material) found in a third party's premises, no independent corroborative evidence was brought on record to establish that the Assessee had actually paid cash for purchase of property; Mere reliance on third-party statements, without independent corroboration, was insufficient when the Assessee categorically denied payment; Substantive addition made in Assessee's brother case had already been deleted on merits by the CIT(A), therefore, protective addition cannot be made in Assessee's hands.

LD/74/99 Gujarat High Court: Special Civil Application No. 4453 of 2020 Zydus Infrastructure Private Limited Vs. The Dy. Commissioner of Income Tax *02nd February 2026*

HC quashed demand notice u/s 156 of Rs. 5.02 Crores since the said notice was issued after four years after the assessment order was passed determining NIL tax liability; As per HC, if the Revenue had to issue any demand notice then there had to be a recourse of reopening of assessment or change of the original assessment order which may have been available as per the provisions of the Act; When there were no arrears as per the assessment order, the question of notice of demand u/s 156 did not arise; HC thus held that the contents of demand notice were in total contravention of the provisions of the Act.

LD/74/100 ITAT Bangalore: ITA No. 1083/Bang/2025 Karnataka Telecom Department Employees Cooperative Society Ltd. Vs. The Dy. Commissioner of Income Tax *30th January 2026*

ITAT observed that deduction u/s 80P is to be allowed from the Gross Total Income and the same cannot be restricted to income computed under the head 'Profits & Gains of Business or Profession'; AO had held that interest from banks and interest on income tax refund cannot be considered as business income and they had to be made taxable as income from other sources without 80P deduction; As per ITAT, section 80P does not mandate head-wise limitation and once eligible profits are computed, the deduction must be set off against the Gross Total Income, subject to statutory ceiling under Section 80A(2).

LD/74/101 ITAT Kolkata: ITA No. 2129/Kol/2025 Saroj Goenka Vs. The Income Tax Officer *12th January 2026*

ITAT held the assessee to be entitled to exemption u/s 54F on account of investment of capital gains from sale of shares in the construction of new residential property which was being jointly constructed with other family members; If a residential property is jointly owned by two persons, that would not preclude the person from claiming exemption u/s 54F of the Act, as the assessee would not be hit by the proviso to section 54F of the Act, being not the exclusive owner of the residential property; Further, the fact that the assessee began construction of the property much prior to the date of sale of capital asset would not disentitle her from claiming exemption u/s 54F.

LD/74/102 ITAT Delhi: ITA No. 3454/Del/2025 JHS Svendgaard Laboratories Ltd Vs. The Dy. Commissioner of Income Tax *07th January 2026*

ITAT set aside the reassessment proceedings by holding the same to be unsustainable being based on borrowed satisfaction as there was no live and rational nexus between information received from investigation wing and the belief of escapement of income formed by the AO; Notice u/s 148A(b) did not clarify whether the alleged transaction was related to sales made by the Assessee or purchases made from the said concern; AO had not verified the underlying facts to ascertain the actual nature of the transaction before recording his satisfaction; Fact that certain suppliers were inactive on the GST portal cannot be a ground for making additions in the hands of the purchaser.

The section on Legal Decisions has been contributed by CA. Sahil Garud, Disciplinary Directorate.

DISCIPLINARY CASE

Failure to exercise due diligence as statutory auditor – Failure to verify compliance with provisions relating to further issue of share capital – Allotment of shares made without shareholder consent – Improper accounting treatment of amount paid by guarantor towards loan settlement recognised as gain instead of liability – Material misstatement in financial statements not reported – Held, Respondent guilty of Professional Misconduct under Clauses (6) and (7) of Part I of the Second Schedule to the Chartered Accountants Act, 1949.

Held:

The Respondent was the Statutory Auditor of the Company for the financial years 2013-14 and 2014-15. The Complainant was one of the shareholders and had also served as its director from 2009 to 2011. The Company had availed a term loan of Rs. 10 Crores from a bank on 31 March 2009 for which the Complainant stood as one of the personal guarantors. The loan later became a Non-Performing Asset and was settled under a One Time Settlement (OTS) whereby the outstanding loan of Rs. 6.51 Crores was settled for Rs. 5.50 Crores. It was alleged that during December 2014 to March 2015 the Complainant transferred Rs. 1.54 Crores to the Company to enable repayment under the OTS arrangement. However, the Company treated the said amount as share subscription money and allotted equity shares to the Complainant without his consent and without complying with the provisions of Section 62 of the Companies Act, 2013. The Committee noted that although the Respondent produced certain documents relating to the rights issue, he failed to produce any evidence such as acceptance or request letter from the Complainant indicating consent for subscription of shares. In absence of such evidence, the Committee viewed that the Respondent failed to exercise due diligence while verifying the issue of share capital. The Committee further noted that the said allotment of shares was later declared null and void by the National Company Law Tribunal and the Company was directed to repay the amount with interest, which was upheld by the Appellate Tribunal. The Committee also examined the charge relating to accounting treatment of Rs. 55 Lakhs paid by one of the guarantors directly to the bank towards settlement of the Company's loan. It was observed that the amount was recognized as gain and transferred to Capital Reserve instead of being shown as liability payable by the Company. The Committee held that the Respondent failed to point out this inappropriate accounting treatment and thereby failed to disclose a material misstatement in the financial statements. Accordingly, the Committee held the Respondent GUILTY of Professional Misconduct falling within the meaning of Clauses (6) and (7) of Part I of the Second Schedule to the Chartered Accountants Act, 1949.

[PR-323/16-DD/15/2017-DC/818/2018]

Participation in Tender floated exclusively for Chartered Accountants in which no minimum fees prescribed — Violation of ICAI Guideline No. 1-CA (7)/03/2016 – Respondent held Guilty of Professional Misconduct under Item (1) of Part II of the Second Schedule to the Chartered Accountants Act, 1949.

Held:

In the instant case, the Respondent Firm participated in a tender issued for engagement of a Chartered Accountant firm for maintenance and audit of accounts for the financial year 2017-18. Pursuant to the tender, the Respondent Firm was appointed as Statutory Auditor vide appointment letter dated 30-06-2018 and quoted a professional fee of INR 21,240 for the assignment. The Committee noted that the tender was issued exclusively for Chartered Accountant firms for audit and related services, which are areas reserved for members of the Institute. On perusal of the records, including the RTI reply, it was observed that no minimum scale of fees had been prescribed in the tender document for the said assignment. The Committee further examined Guideline No. 1-CA (7)/03/2016 dated 07-04-2016 issued by the Council of the Institute of Chartered Accountants of India, which provides that a member in practice shall not respond to any tender issued by an organization or user of professional services in areas exclusively reserved for Chartered Accountants unless the tender document prescribes a minimum fee or the assignment is open to other professionals along with Chartered Accountants. In the present case, the tender was restricted to Chartered Accountant firms and did not prescribe any minimum fee. Accordingly, the Respondent Firm ought not to have participated in the said tender. The Committee also considered the submissions of the Respondent that participation in tenders is not prohibited under the Chartered Accountants Act, 1949 and that the Council is not empowered to issue such guidelines. However, the Committee observed that Item (1) of Part II of the Second Schedule to the Act provides that a member shall be deemed to be guilty of professional misconduct if he contravenes any guidelines issued by the Council. In view of the above, the Committee held that by participating in the said tender, which was exclusively meant for Chartered Accountant firms and where no minimum fee was prescribed and thereafter accepting the assignment, the Respondent Firm violated the aforesaid guideline issued by the Council. Accordingly, the Respondent was held Guilty of Professional Misconduct under Item (1) of Part II of the Second Schedule to the Chartered Accountants Act, 1949.

[PR/70/2019/DD/91/2019/DC/1440/2021]