LEGAL Decisions

INCOME TAX

DIRECT TAXES

LD/74/83 ITAT Delhi: ITA No. 3593/Del/2025 Atma Ram Builders Pvt. Ltd Vs. The Income Tax Officer *16th January 2026*

ITAT quashed revision order noting that PCIT exceeded the jurisdiction u/s 263 in directing initiation of penalty proceedings u/s 271E in absence of any satisfaction by the AO; PCIT noted violations u/s 269T however said penalty was neither initiated nor imposed during assessment proceeding; When penalty proceedings are not initiated by the AO, the Commissioner cannot direct the initiation of penalty proceedings; Reliance placed on SC ruling in Jai Laxmi Rice Mills.

LD/74/84 ITAT Dehradun: ITA No. 19/DDN/2025 Atul Kumar Agarwal Vs. National e-assessment Centre *16th January 2026*

ITAT held profit rate of 4% on alleged bogus purchases declared by the assessee as reasonable; Assessee has filed all the evidence to prove the genuineness of purchases made from the party alleged as bogus; AO was not able to controvert the evidence filed by the Assessee while discharging its burden u/s 69C; Although the AO referred to certain statements that were recorded during the survey but none of these statements were provided to the Assessee; AO cannot disallow the entire purchases made from the supplier when it has accepted the production and sales thereof.

LD/74/85 ITAT Delhi: ITA No. 616/Del/2025 M S Builders Vs. The Income Tax Officer *16th January 2026*

ITAT deleted addition of Rs. 2.13 Cr by observing that AO's action of holding the finished goods as sales was incorrect; Assessee has followed 'Project Completion Method' wherein the sale is booked when sale deed is executed and physical possession is handed over; Reliance placed on Delhi HC judgment in Paras Buildtech India to note that when income is offered to tax in subsequent year and there is no actual loss to the Revenue, no further addition is required to be made.

LD/74/86 ITAT Ahmedabad: ITA No. 1677/Ahd/2024 SKZ Developers LLP Vs. The Asst. Commissioner of Income Tax *09th January 2026*

ITAT deleted addition of 'on money' received by the Assessee for certain projects undertaken by the Assessee; Lower authorities had made addition as per own presumptions to assume the receipt of 'on-money' by the Assessee on sale of units without any corroborative evidence being found during the search action or during the course of post-search inquiries; Neither any unaccounted cash in the possession of the Assessee, nor any such cash book recording on-money receipts or any other evidence of the utilization of such alleged cash was found during search; In absence of evidence that any transaction actually materialized at the rates as depicted in the alleged seized documents, ITAT opined that the AO had wrongly made assumptions.

LD/74/87 ITAT Delhi: ITA No. 2903/Del/2025 Intertek India Private Limited Vs. The Asst. Commissioner of Income Tax *07th January 2026*

ITAT allowed deduction of employees PF contribution paid with one day delay due to proven technical glitches which were beyond Assessee's control; Despite initiating payment on the due date, remittance could not be completed owing to technical glitches in the PF payment gateway, evidenced by screenshots, contemporaneous emails to the grievance cell, etc; Separately, ITAT held that DTAA provisions override Section 115-O and that DDT on dividends paid to a UK parent company must be restricted to the rate prescribed in DTAA; ITAT thus directed refund of excess dividend distribution tax paid.

LD/74/88 ITAT Delhi: ITA No. 7055/Del/2017 Jag Mohan Vs. The Dy. Commissioner of Income Tax *07th January 2026*

ITAT deleted addition u/s 28(i) observing that the AO had only made reference to Section 2(24)(iv) without specifying the charging section under which the alleged income was taxable; Fundamental principle of taxation is that the liability to tax is based on the charging section and not on a definition section; ITAT articulated that the charging/ machinery provision is necessary for justifying the addition made in the assessment order.

LD/74/89 Bombay High Court: Writ Petition 2713 of 2024 Ambernath City Hospital Pvt. Ltd Vs. The Union of India and Ors *06th January 2026*

High Court quashed notice u/s 148 issued without affixing manual or digital signatures of the AO and ousted the jurisdiction of AO on matter of proceeding with the reassessment; In the absence of such signature, the notice was held to be void and non est in the eyes of law, and consequently, lacked jurisdiction; HC rejected Revenue's reliance on Section 292B and observed that the said provisions cannot resurrect an invalid notice which goes to the root of jurisdiction and an unsigned notice is not a curable defect.

LD/74/90 ITAT Mumbai: ITA No. 4046/ MUM/2025 The Dy. Commissioner of Income Tax Vs. Sunil Bhagwatlal Dalal *02nd January 2026*

ITAT upheld validity of assumption of the reassessment jurisdiction under Section 147 by observing that there was enough material before the AO to initiate the proceedings; ITAT restored the matter directing the AO to allow the Assessee cross examination of Mr. Chabaria, based on whose statement, the AO re-opened the assessment; Reliance placed on SC judgments in Andaman Timber Industries and M. Pirai Choodi; AO is under statutory obligation to facilitate a cross examination.

LD/74/91 ITAT Rajkot: ITA No. 283/ RJT/2025 Girish Lahori Vs. The Income Tax Officer *09th December 2025*

ITAT quashed reassessment proceedings based on mechanical sanction of PCIT u/s 151 which merely specified 'Yes, I am satisfied' expression; Sanction held to be given without application of mind; PCIT merely relied on reasons recorded by AO without having tangible material on hand; PCIT must record his 'independent' satisfaction and not 'borrowed' satisfaction; Reliance placed on Gujarat HC judgment in Adani Ports.

LD/74/92 ITAT Mumbai: I.T.A No. 6228/ Mum/2025 The Dy. Commissioner of Income Tax Vs. Anil Ambani *09th December 2025*

ITAT deleted addition u/s 69A for Mr Anil Ambani towards deposits in HSBC account, holding that no independent material existed to support the additions; Revenue had reopened the assessment for AY 2006–07 based on information received from the French Government that certain beneficial interest in bank accounts of Late Mr. Dhirubhai H. Ambani with HSBC Bank, Geneva, having a peak balance of US $55 lacs was passed on to his legal heirs; Addition merely based on the strength of BUP IDs, internal transaction identifiers was not sustainable; Reliance placed on co-ordinate bench rulings in case of Shri Dhirubhai H. Ambani and Shri Mukesh D. Ambani.

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

DISCIPLINARY CASE

Deviation from mandate in NAV assignment – Adoption of unapproved methodology – Issuance of inconsistent NAV/Net Asset statements – Failure to exercise due diligence – Acting beyond scope of engagement without written authorization – Held, Respondent guilty of Professional and Other Misconduct under Item (2) of Part IV of the First Schedule and Item (7) of Part I of the Second Schedule to the Chartered Accountants Act, 1949.

Held:

A complaint was filed against the Respondent who was appointed pursuant to a mandate dated 11th November 2017 to vet the statement of Net Assets as on 30th September 2017 in connection with the exit of the majority shareholder. The Respondent along with the senior partner alleged to have inflated the Net Asset Value (NAV); issued inconsistent NAV/Net Worth statements for the same period; and failed to act in accordance with the mandate. The Committee noted that as per the mandate letter issued by the Group CFO, the Respondent was required only to vet the statement of net assets with adjustments and provide feedback, and no certification of NAV or report on "amount to be retained in consolidated financial statements" was envisaged. However, the Respondent issued a statement titled "Statement of adjusted amount to be retained in Consolidated Financial Statements" as on 30th September 2017, which was beyond the scope of the mandate. The Respondent contended that the mandate was modified, but failed to produce any written approval or correspondence, and reliance on alleged telephonic instructions was found to be untenable. The Committee further observed that while audited financials as on 30th September 2017 were to form the basis of calculation, the Respondent adopted the net worth as per books as on 31st March 2014 as the base, without authorization under the mandate. The CFO had also categorically stated that the amount reflected as retained capital was never requested. The Committee also noted material inaccuracies in the Respondent's report, including incorrect reference to redemption of preference share capital in excess of the authorized limit, and failure to substantiate non-consideration of proposed adjustments on the grounds of lack of documentation. The Committee, held that the Respondent deliberately deviated from the scope of the assignment, adopted an unapproved methodology, and failed to exercise due diligence, thereby caused loss to the Complainant. Accordingly, the Committee held the Respondent GUILTY of Professional and Other Misconduct falling within the meaning of Item (2) of Part IV of the First Schedule and Item (7) of Part I of the Second Schedule to the Chartered Accountants Act, 1949.

[PR/41/18-DD/92/18] & [PR/41A/18-DD/93/18 (Clubbed)]-DC/1138/19]

Failure to exercise due diligence as statutory auditor – Audit conducted without verification of crucial records – Non-reporting of acceptance of public deposits in guise of sale and rearing of livestock – Misclassification of interest and commission to avoid TDS – Gross negligence in audit of fraudulent schemes – Held, Respondent guilty of Professional Misconduct under Item (7) of Part I of the Second Schedule to the Chartered Accountants Act, 1949.

Held:

A complaint was filed against the Respondent, who was the Statutory Auditor of the Company for the financial years 2008-09 to 2013-14, pursuant to assessments and investigations conducted by the Income Tax Department, SEBI and CBI, and a special audit under section 142(2A) of the Income Tax Act, 1961. The special audit revealed serious irregularities, including non-maintenance of crucial statutory records such as subsidiary ledgers, stock registers, purchase and sales registers, commission and TDS computations, balance confirmations and title deeds, and material discrepancies in inventory. The Committee noted that despite absence of such records and inconsistencies, the Respondent completed the audit without qualification. The Committee observed that the Company was engaged in collection of public monies in the guise of sale and rearing of livestock, which in substance constituted investment/deposit schemes, as established by SEBI, CBI, the special auditor and the Hon'ble High Court of Madhya Pradesh. It was noted that there was no evidence of actual delivery of livestock; that sale and rearing agreements were merely symbolic, and that payments to customers represented assured returns, rendering the operations akin to an unregistered collective investment scheme. The Committee also noted that the Company used misleading nomenclature by classifying commission paid to sales agents as "spot discount" and interest paid on deposits as "maintenance charges", thereby avoiding deduction of tax at source. Despite being the statutory and tax auditor, the Respondent failed to report the true nature of these transactions, non-deduction of TDS, fictitious sales, suspicious cash transactions and other serious accounting irregularities highlighted in the special audit. The Respondent's defence that his working papers were seized by the CBI was not accepted, as he failed to establish that requisite records were maintained by the Company. In view of the same, the Committee held that the Respondent failed to exercise due diligence, failed to point out the correct nature of expenses and other irregularities related to the sale of goat / buffalo and expenses related thereto. Moreover, despite being the tax auditor of the Company, he failed to point out non-deduction of TDS on the payment made to the agent in form of interest and commissions. Accordingly, the Committee held the Respondent GUILTY of Professional Misconduct falling within the meaning of Item (7) of Part I of the Second Schedule to the Chartered Accountants Act, 1949.

[PR/262/16-DD/307/2016/DC/1310/2020]

FEMA

FEMA UPDATES

Review of FDI Policy in Insurance Sector

DIPP Press Note No. 1 (2026 Series) dated February 09, 2026

The Government has issued Press Note 1 (2026) to further liberalise the FDI framework for the insurance sector by allowing 100% foreign investment under the automatic route in Indian insurance companies, replacing the earlier 74% cap. This reform completes a gradual liberalisation journey (26% → 49% → 74% → 100%) aimed at deepening capital availability in the sector.

A separate 20% automatic FDI window for LIC has been introduced to provide clarity following its listing and to facilitate diversified global institutional participation. Earlier, LIC did not have a dedicated entry in the FDI policy, creating interpretational gaps for foreign investors.

The Government has retained key safeguards such as IRDAI licensing, FEMA pricing norms and the requirement that at least one among the Chairperson/MD/CEO must be a resident Indian citizen. These conditions indicate that while ownership is liberalised, management control and regulatory oversight remain protected.

The policy intent is to increase insurance penetration, attract global insurers and long-term capital, strengthen competition, and support India's financial inclusion and "Insurance for All by 2047" vision. The reform is also expected to bring advanced underwriting expertise, technology adoption, and improved risk management practices into the Indian insurance ecosystem.

Foreign Exchange Management (Borrowing and Lending) (First Amendment) Regulations, 2026

A.P. (DIR Series) Circular No. 22 dated February 16, 2026

Provisions pertaining to ECB contained in Master Direction – External Commercial Borrowings, Trade Credits and Structured Obligations and related provisions pertaining to borrowing in Indian Rupees (INR) by persons resident in India contained in Master Direction – Borrowing and Lending transactions in Indian Rupee between Persons Resident in India and Non-Resident Indians/ Persons of Indian Origin have been reviewed and consolidated in the Regulations.

In view of the above, the following amendments are being made to the aforesaid master directions and Frequently Asked Questions (FAQs):

(a) Para 1 to 12 of Master Direction – External Commercial Borrowings, Trade Credits and Structured Obligations shall be deleted;

(b) Para 2 of Master Direction – Borrowing and Lending transactions in Indian 2 Rupee between Persons Resident in India and Non-Resident Indians/ Persons of Indian Origin shall be deleted; and

(c) Part I of FAQs on External Commercial Borrowings (ECB) and Trade Credits shall be deleted.

Following changes have been made to ECB provisions:

1. **Eligible borrowers list broadened** – Any person resident in India (other than an individual) that is incorporated, established or registered under a Central or State Act is an eligible borrower. So now even LLPs are allowed to borrow which was not allowed in earlier provisions.
2. **Borrowing Limit** – The limit is now changed to USD 1billion or total of outstanding borrowing upto 300% of networth.
3. **Minimum Average Maturity** – The same is standardised to 3 years. For manufacturing sector it is 1 to 3 years if outstanding amount does not exceed is USD 150 million.
4. **Cost of borrowing** – The same shall be in line with prevailing market conditions. For ECBS of less than 3 years it shall be in compliance with cost ceiling specified in Trade Credit. For fixed rate loans, the floating rate plus spread of corresponding swap should not be more than ceiling.
5. **Reporting** – The reporting is codified in Form ECB1 for LRN or changes and Form ECB2 for monthly transactions.
6. **Untraceable borrowers** - Threshold for treating a borrower as untraceable is reduced to **4 consecutive quarters** of non-reporting.

Apart from above key changes, another important change is made to Regulation 6(B)(vi) with reference to borrowing in INR by individuals. RBI has now specified for such borrowings. As per the amended provision a person resident in India being an individual may borrow in INR from an NRI or a relative who is an OCI cardholder for use in India subject to following conditions:

a. The amount of loan should be received either by inward remittance from outside India or by debit to NRE/NRO/FCNR(B)/SNRR account of the lender; and

b. Borrowing shall be on non-repatriation basis i.e. payment of interest and repayment of loan shall be made only to NRO account of lender.

For more changes and full revised regulation can be viewed at –

https://rbidocs.rbi.org.in/rdocs/notification/PDFs/BORO17122018141D6FF9D78A4F3BBB96BC74A6C11945.PDF

Reporting under Foreign Exchange Management Act, 1999 – Returns pertaining to External Commercial Borrowing (ECB)

A.P. (DIR Series) Circular No. 23 dated February 18, 2026

The Reserve Bank has issued the Foreign Exchange Management (Borrowing and Lending) (First Amendment) Regulations, 2026 dated February 09, 2026 (published in the official gazette on February 16, 2026) for revising the External Commercial Borrowing (ECB) Framework. The forms for returns pertaining to ECB, prescribed under the Master Direction ibid, have been modified in light of the revised ECB Framework.

In view of the above, Part V - Annex I and Part V - Annex II of the Master Direction – Reporting under Foreign Exchange Management Act, 1999 shall be substituted with the format given at

https://rbidocs.rbi.org.in/rdocs/content/pdfs/FormECB1_18022026_AN1.pdf (Form ECB 1 / Revised Form ECB 1) and

https://rbidocs.rbi.org.in/rdocs/content/pdfs/FormECB2_18022026_AN2.pdf (Form ECB 2).

(Matter on FEMA has been contributed by CA Manoj Shah, Mumbai, CA Hinesh Doshi, Mumbai, CA Sudha Bhushan, Mumbai and CA Viral Satra, Mumbai)