LEGAL Decisions

INCOME TAX

DIRECT TAXES

LD/74/73 ITAT Delhi: ITA No. 1579/ Mum/2024 Intermesh Shopping Network Pvt. Ltd Vs. The Income Tax Officer *01st December 2025*

ITAT deleted addition made u-s/ 56(2)(viib) holding that Revenue was not justified in rejecting the valuation report submitted by the Assessee determining the FMV of shares as per DCF method as per Rule 11UA; Rejecting the valuation report merely based on the disclaimer clause provided in the valuation report is not sustainable, as per ITAT; AO was not justified in rejecting DCF method merely because the projected turnover was not achieved; Reliance placed on ruling in Cinestaan Entertainment P. Ltd.

LD/74/74 Bombay High Court: ITA No. 34357 of 2024 Principal Commissioner of Income Tax, Central Vs. Citron Infraprojects Limited *26th November 2025*

HC held that no substantial question of law arose since the assessment order u/s 143(3) r.w. Section 153A was quashed due to mechanical approval u/s 153D; Proposals seeking approval were submitted to ACIT at 5:02 PM and more than 30 approvals were issued the same day which demonstrated non application of mind; Approvals must reflect some degree of independent satisfaction and mechanical approvals vitiate the assessments; Since the foundational jurisdiction of a lawful Section 153D approval was absent, assessments were invalid.

LD/74/75 ITAT Ahmedabad: ITA No. 388/ Ahd/2025 Rajsheel Jitendra Patel Vs. Income Tax Officer *25th November 2025*

ITAT allowed exemption u/s 54 and 54EC observing that once the receipt is explained and eligible for capital gains computation, the corresponding exemption cannot be denied; AO's conclusion cannot be sustained since assessee furnished requisite documentation that conclusively established that the Assessee's wife transferred her 50% share in the property to Assessee in 1995, by entering his name as a joint holder in the share certificate, which is also reflected in the society's approved resolution; Also, AO failed to demonstrate that how a receipt arising from a registered transfer of a capital asset, already subjected to capital gains computation, could fall within the ambit of Section 56.

LD/74/76 ITAT Ahmedabad: ITA No. 1352/ Ahd/2025 Suyog Electricals Limited Vs. The Dy. Commissioner of Income Tax *25th November 2025*

Book profit on sale of a depreciable asset forming part of a block cannot be taxed separately once the sale consideration is duly reduced from the block under Section 32 and 43(6)(c); During assessment, AO treated the book profits on sale of car as taxable business income merely because it appeared in the accounts, thus, overlooked the computation; Computation of business income must follow the statutory method and cannot be overridden merely because account standards require recognition of profit on sale of assets.

LD/74/77 ITAT Ahmedabad: ITA No. 715/Ahd/2023 Aashka Hospitality Pvt. Ltd. Vs. The Income Tax Officer *25th November 2025*

ITAT held that Assessee is not entitled to challenge AO's jurisdiction in light of Section 124(3); Assessee failed to respond to any of the notices served by the Revenue, including notices u/s 143(2), 142(1), 274 r.w. Section 271; Assessee is not entitled to question the jurisdiction of the AO after the expiry of one month from the date on which he was served with the notice u/s 142(1) or after the completion of assessment, whichever is earlier; Revenue's ex-parte assessment order confirming addition on account of LTCG, thus upheld by the ITAT.

LD/74/78 ITAT Ahmedabad: ITA No. 2018/Ahd/2024 The Dy. Commissioner of Income Tax Vs. Sameep Fabrics Pvt. Ltd. *24th November 2025*

ITAT quashed reassessment notice u/s 148 for AY 2017-18 issued beyond period of three years due to improper/incorrect sanction as mandated under Section 151(ii)(new regime); Specified authority must be PCCIT, however, in the present case, the notice u/s 148 was issued after obtaining approval from PCIT, which rendered the assessment void ab initio.

LD/74/79 ITAT Bangalore: ITA No. 585/ Bang/2025 Mr. Abdul Jaleel Vs. The Income Tax Officer *24th November 2025*

ITAT deleted addition u/s 68 in the absence of corroborative material discrediting the Assessee's fruit-selling business; AO failed to accept the Assessee's contention to be fruit dealer since no corroborative evidence was submitted, and treated cash deposit of Rs. 1.29 Cr as unexplained cash deposits; Assessee being a fruit dealer was exempted under Karnataka VAT; Confirmation letters of Assessee's dealers confirmed Assessee's fruit selling business; Ad-hoc addition of 8% to be done by AO rather than adding entire Rs. 1.29 Crores u/s 68.

LD/74/80 Kerela High Court: WP(C) No. 43816 of 2025 Thekkee Cherupillil Sarada Vs. The Income Tax Officer *21st November 2025*

HC quashed CIT(A) order passed without merits; None of the provisions in Section 250 of the Act permit the appellate authority to reject the appeal on the ground of non-appearance of the appellant, without going into the merits of the case; Section 250(6) specifically stipulates that, the appellate authority shall state the points for determination and the decision thereon in the order; HC directed the CIT(A) to reconsider the Assessee's appeal and to pass fresh orders on merits.

LD/74/81 Telangana High Court: W.P.No.25121 of 2024 Cyberabad Citizens Health Services Private Limited Vs. The Income Tax Officer *17th November 2025*

HC quashed order u/s 148A(d) and consequential reassessment notice u/s 148 for AY 2017-18, holding that the same is issued beyond the period of limitation as per the first proviso to Section 149 (as amended with effect from April 01, 2021); For AY 2017-18, four years would end on 31.03.2022 and notice was issued on 22.04.2024; No notice u/s 148 of the Act for AY 2017-18 could be issued on or after 1st April 2021 based on the first proviso to Section 149; HC Rejected Revenue's reliance of fifth or sixth proviso and opines fifth proviso cannot apply where the first proviso applies because, if a notice u/s 148 could not be issued beyond the time period provided in the first proviso, then the fifth proviso could not save such notices;

LD/74/82 Calcutta High Court: WPO/646/2024 Shiv Kumar Saraf Vs. The Prin Commissioner of Income Tax *10th November 2025*

HC ruled against the assessee where assessee contended that impugned assessment proceedings ought to have been initiated and concluded u/s 153C, and not u/s 147; As per HC, if incriminating material during a search and seizure procedure is not found, then in that case assessment is to be completed under Section 147 and not u/s 153A or 153C; HC remarked that although the jurisdictional issues can be raised at any point of time, yet raising of such issue for the first time in the second round of writ proceeding, gives an impression that the Assessee only seeks to avoid the statutory forum of appeal and delay final adjudication of the matter.

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

DISCIPLINARY CASE

Issuance of false Utilization Certificates without verification of records – Failure to maintain and retain working papers in certification assignment involving Government grants – Lack of due diligence – Violation of documentation requirements under AAS-3 – Held, Respondent guilty of Professional Misconduct under Clause (7) of Part I of the Second Schedule to the Chartered Accountants Act, 1949.

Held:

A complaint was received against the Respondent pursuant to an investigation conducted by the CBI in relation to fraudulent sanction and disbursement of Government grant amounting to Rs. 86.23 lakhs. The investigation disclosed that the Respondent had issued 14 Utilization Certificates in Form GFR 19-A in the names of 14 applicants, without verification of authentic records and for a professional fee of Rs. 20,000/-. The Respondent was named as an accused in the CBI investigation report, wherein it was recorded that the certificates were issued without inspection of supporting documents and formed part of a larger fraudulent scheme. The Committee noted that the Respondent admitted to having issued and signed the said 14 Utilization Certificates and also certified the Receipts and Payment Accounts for the relevant period. However, the Respondent failed to produce any working papers or documentary evidence in support of the certificates issued by him. The Respondent contended that due to shifting of his office, the records could not be traced and that SA-230 on Audit Documentation was not applicable for the relevant period. The Committee observed that AAS-3, 'Documentation', which was applicable at the relevant time, required retention of working papers for a reasonable period sufficient to meet professional and legal requirements. The Respondent failed to demonstrate adoption of any reasonable procedures for custody and retention of working papers, particularly when the CBI investigation commenced. Accordingly, 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/ PR-48/15-DD/88/2015-DC/759/18

Statutory Auditor of the Companies simultaneously providing bookkeeping services to auditee; retaining documents and passwords of the Companies; raising additional professional bill over and above the contracted professional fee; failure to conduct audit despite receipt of audit fees and not resigning as Statutory Auditor—Respondent acted in violation of auditor's independence and professional ethics—Held, Respondent is guilty of Professional and Other Misconduct under Clause (1) of Part II of the Second Schedule and Clause (2) of Part IV of the First Schedule to the Chartered Accountants Act, 1949.

Held:

Respondent firm was the statutory auditor of the Companies since their incorporation. It was alleged that the Respondent was engaged in statutory audit as well as bookkeeping services of the Companies, had retained their documents and passwords, raised an additional professional bill over and above the agreed contractual fee and despite receipt of audit fees, neither completed the audit nor resigned as Statutory Auditor. The Committee examined the Contracts of Services executed for Financial Year 2009-10 and for the period from April 2011 to March 2013 and observed that the scope of work included maintenance of books of accounts and allied services and that monthly bills were raised and paid in accordance with the agreed annual professional fee of Rs. 4 lakhs, indicating that the said contracts were subsisting during subsequent years as well. The Committee further noted from the email correspondences that despite repeated requests by the Complainant for return of documents and passwords, the Respondent did not deny possession thereof and merely demanded payment of professional fees. The Committee observed that members are not permitted to write the books of accounts of their auditee clients, and reliance was placed on the Guidance Note on Independence of Auditors. Regarding the demand of additional fees amounting to Rs. 2,12,500/-, the Committee observed that most of the services claimed as additional were already covered under the existing contract of services, and such demand was unjustified. The Committee further observed that despite receipt of audit fees for Financial Year 2014-15, the Respondent failed to complete the audit, and even if irregularities were noticed, he was duty-bound to complete the audit and report the same by appropriately modifying his audit opinion in accordance with Standard on Auditing (SA) 705 or alternatively resign or disclaim his opinion. Accordingly, the Committee held the Respondent GUILTY of Professional and Other Misconduct falling within the meaning of Clause (1) of Part II of the Second Schedule and Clause (2) of Part IV of the First Schedule to the Chartered Accountants Act, 1949.

PR/218/2015-DD/233/2015-DC/807/2018

FEMA UPDATES

Foreign Exchange Management (Guarantees) Regulations, 2026

A.P. (DIR Series) Circular No. 19/2025-26 dated January 12, 2026

The Reserve Bank of India has issued Foreign Exchange Management (Guarantees) Regulations, 2026. These regulations superseded earlier guarantee regulations of Notification No. FEMA 8/2000-RB dated May 3, 2000.

The regulations provide for comprehensive reporting of all guarantees – issued, modified or invoked, to the authorised dealer banks, in form GRN annexed to the regulations. The manner and format in which authorised dealer bank shall compile and submit the returns received will be communicated in due course.

Below is summary of changes as compared to previous regulations:

Clause	2000 Regulations	2026 Regulations	Key Change / Impact
Clause 2: Definitions	Minimal definitions; guarantee not specifically defined.	Detailed definitions of guarantee, surety, creditor, principal debtor and IFSC.	Greater clarity; wider and unambiguous scope.
Clause 3: Prohibition	Resident prohibited from giving guarantees to non-residents except as permitted.	Any party (surety, debtor or creditor) restricted unless compliant with regulations.	Expanded coverage and clearer responsibility for all parties.
Clause 4: Exemptions	No consolidated exemption clause.	Specific exemptions for AD branches abroad, IFSC, IPCs and ODI guarantees.	Codifies exclusions and recognises modern financial structures.
Clause 5: Permission to act as surety / principal debtor	Permissions based on specific listed transactions.	Allowed if underlying transaction is FEMA-compliant and parties eligible under Borrowing & Lending Rules.	Shift from approval-based to principle-based framework.
Clause 6: Permission to obtain guarantee as creditor	No explicit provision.	Resident creditors permitted to obtain guarantees subject to FEMA compliance.	New clarity for inbound guarantee arrangements.
Clause 7: Reporting requirements	No structured reporting mechanism prescribed.	Mandatory quarterly reporting of issuance, modification and invocation in Form GRN.	Significant new compliance obligation introduced.
Clause 8: Late Submission Fee	No provision for delayed reporting.	Explicit Late Submission Fee formula prescribed.	Regulatory certainty and alignment with other FEMA filings.
Annex / Forms	No prescribed standard form.	Detailed Form GRN with granular disclosures.	Enhanced RBI monitoring and data collection.

Export and Import of Goods and Services

A.P. (DIR Series) Circular No. 20/2025-26 dated January 16, 2026

The Reserve Bank has comprehensively reviewed the regulations and directions governing export and import of goods and services, under FEMA, 1999, in consultation with stakeholders, and issued Foreign Exchange Management (Export and Import of Goods and Services) Regulations, 2026. The Regulations are intended to promote ease of doing business, especially for small exporters and importers, and to empower authorised dealers to provide quicker and more efficient service to their customers. The Regulations will be effective from October 01, 2026.

Particulars	2015 Regulations	2026 Regulations (Key Change)
Export realisation period	9 / 12 months with extensions via circulars	Uniform 15 months; 18 months for INR-invoiced exports.
Reporting mechanism	EDF for goods; SOFTEX for software	Single EDF for goods and services including software.
Service export reporting	Limited statutory clarity	EDF filing within 30 days from invoice month-end.
Advance against exports	Prescriptive rules, interest caps	Risk-based thresholds set by AD banks
Write-off / reduction	RBI approval with percentage caps	AD banks empowered based on satisfaction
Set-off of receivables	Highly restrictive	Permitted with same/group overseas parties
Third-party payments	Allowed with strict conditions	Permitted under AD bank approval
Small value closure	Documents generally required	Up to INR 10 lakh per invoice on declaration
Import payment timeline	Generally 6 months from shipment	Aligned to contractual terms subject to AD satisfaction
Extension of timelines	RBI/AD approvals on case basis	AD banks empowered to grant extensions
Advance import remittance	Allowed with monitoring	Structured framework; BG/SBLC if not adjusted
Import of services	No codified timelines	Payment as per underlying contract
Import reporting	IDPMS via circulars	Mandatory IDPMS and FETERS reporting
INR trade settlement	Via circulars (Vostro route)	Formally codified in regulations
Merchanting trade	Complex and restrictive	Simplified; AD bank risk-based oversight

The above is gist of comparative summary of changes. Full regulation can be viewed at –
https://rbidocs.rbi.org.in/rdocs/notification/PDFs/NRAR23R16012026C1272B8B66944ED5A53741840B973363.PDF

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