LEGAL Decisions

INCOME TAX

DIRECT TAXES

LD/74/32 High Court of Chhattisgarh: Taxc No 8 of 2024 Nanakchand Agrawal Vs. The Income-tax Officer *29th August 2025*

High Court (HC) overruled ITAT decision and deleted addition u/s 69A; Source of cash deposits made during the demonetization pertained to and had its immediate inextricable nexus with cash withdrawals made by the Assessee from regular bank account in AY 2015-16; As per HC, explanation of nature and source of cash and invocation of deeming fiction engrafted u/s 69A, could only have been undertaken in AY 2016-17 and not in AY 2017-18 by the AO; Also, factum of refund of short term loans and advances and its consequential accumulation as cash-in-hand as on 31-3-2016 could have been examined in the assessment year 2016-17 only; Suspicion, however strong, cannot take the place of proof beyond reasonable doubt.

LD/74/33 ITAT Delhi: ITA No.2312/Del/2023 Deepak Batra Vs. The Deputy Commissioner of Income Tax *22nd August 2025*

ITAT confirmed the addition made towards commission income of the assessee, a CA, for providing accommodation entries of bogus LTCG; Search conducted u/s 132 on the assessee wherein it was found that assessee was involved in arranging accommodation entries for commission at 4%; CIT(A) confirmed the addition by relying on depositions of various parties recorded during the course of investigation; ITAT noted that the assessee did not avail the cross examination opportunity offered by the Revenue; ITAT upheld the addition in principle, however, considered the possibility of some expenditure which might be incurred and therefore directed that a lumpsum deduction towards expenditure of Rs. 1 lakh may be given.

LD/74/34 ITAT Chennai: ITA No. 822/Chny/2025 The Income Tax Officer Vs. Narayanaswamy *20th August 2025*

ITAT deleted penalty u/s 271D levied on the basis of an unregistered sale deed alleging receipt of consideration in cash without any corroborative evidence to substantiate violation of Section 269SS; There was no corroborative evidence such as DVO report to substantiate claim about the fair market value or the alleged cash component; ITAT rejected Revenue's contention that Assessee's failure to file appeal against assessment order amounted to acceptance of AO's finding; ITAT opined that requirement to file an appeal was not warranted as no addition was made to the returned income in the assessment order.

LD/74/35 ITAT Delhi: ITA No. 600/Del/2020 The Assistant Commissioner of Income Tax Vs. Subramaniam Hariharan *20th August 2025*

ITAT held that payments made by Assessee to non-resident foreign law firms were purely for professional services and did not partake the character of FTS u/s 9(1)(vii); Reliance placed on co-ordinate bench decision in Chander Mohan Lall, wherein the disallowance u/s 40(a)(i) in respect of legal fee paid to foreign attorneys without TDS was deleted, holding that there is a clear distinction between FTS and fee for professional services. "Professional Service" is a separate category of service, distinct from Fee for Technical Services (FTS) that is primarily "managerial, technical or consultancy" services; While FTS is defined in Explanation 2 to Section 9(1)(vii), fee for professional services draws its meaning from Explanation (a) to Section 194J.

LD/74/36 ITAT Chennai: ITA No. 1431/Chny/2025 Venkatachalam Venkatraman Vs. Income Tax Officer *20th August 2025*

ITAT allowed assessee's claim of rebate u/s 87A holding that the rebate under the said section is available to all incomes and does not provide for any special rate income exclusion, i.e., with respect to exclude any Long term capital gains; ITAT observed that the first proviso to Section 87A included an exemption qua total income falling under Section 115BAC(1A), however, the impugned amendment was brought by Finance Act 2024 w.e.f April 01, 2025 and the present AY 2024-25 was not hit by the same; ITAT set aside the orders of lower authorities and directed the AO to allow the Assessee its claim of rebate under Section 87A.

LD/74/37 ITAT Delhi: ITA No. 5472/DEL/2024 Saroj Rani Vs. The Income Tax Officer *19th August 2025*

ITAT allowed assessee's claim of exemption u/s 54 for AY 2016-17 on investments made in seven residential units on the same floor; Reliance placed on Delhi HC in ruling in Lata Goel wherein it was held that multiple residential units may be construed as a single residential house for the purposes of exemption u/s 54F of the Act and that the term 'a residential house' can be construed as 'one residential house'; ITAT held that "one residential house" in Section 54/54F can encompass within its fold seven residential units on the same floor and therefore deleted the addition made by the AO.

LD/74/38 ITAT Mumbai: ITA No. 673/MUM/2025 Manisha Kiran Temkar Vs. The Assistant Commissioner of Income Tax *18th August 2025*

ITAT deleted addition u/s 40(a)(i) for not deducting tax at source on foreign remittances made by the Assessee u/s 195; Since the recipient was non-resident and provided services outside India, there would be no tax liability in India and no TDS was required to be deducted on such payment; When any non-resident agent of the assessee rendered certain services outside India and commission was paid to them, same could not be said to be income which had accrued in India and the said recipient was not liable to pay tax in India; Also the commission paid to non-resident Indian could not be treated as FTS as per ITAT.

LD/74/39 ITAT Mumbai: ITA No. 3647/MUM/2025 Payal Kishore Kulchandani Vs. Income Tax Officer *18th August 2025*

ITAT held that date of possession is relevant for determining eligibility under Section 54, and not the date of agreement or payment; Assessee purchased an under construction flat in 2009 for which part payments were made and final possession was taken on 06.04.2011; Assessee also sold an old flat on 21.07.2011 and claimed exemption u/s 54; AO denied the claim u/s 54 noting that almost the entire payment was made before 14.12.2009 which was more than 'one year prior to the date of sale' of the old property; Since possession date was within prescribed period of less than one year before the sale of old flat, claim u/s 54 could not be denied.

LD/74/40 Bombay High Court: Income Tax Appeal No. 2245 of 2018 Principal Commissioner of Income Tax-2, Mumbai Vs. Morgan Stanley India Capital Pvt. Ltd. *14th August 2025*

High Court (HC) directed deletion of disallowance noting that second proviso to Section 40(a)(ia) applies retrospectively from April 1, 2005; It was undisputed that the persons to whom the payments were made by the assessee had already paid the requisite taxes; If an assessee has not been declared as an assessee in default u/s 201(1), and the payee has paid the tax, then it shall be deemed that the assessee has deducted and paid the TDS; Reliance placed on jurisdictional HC ruling in Perfect Circle India.

LD/74/41 Delhi High Court: ITA No. 295/2025 Pr. Commissioner of Income Tax (Central) Vs. Pancham Realcon Pvt. Ltd. *12th August 2025*

An addition u/s 68 was made for unexplained cash deposits made post-demonetization, which was deleted by the ITAT; High Court held that no substantial question of law arose and issue was a pure question of fact; ITAT had noted that time gap of a few months between cash withdrawal and cash deposits was similarly observed in preceding AY also, which establishes a pattern; Assessee had satisfactorily proved the deposits by placing on record main as well as site cash books which AO had failed to consider.

LD/74/42 ITAT Mumbai: ITA No. 1587/MUM/2025 Creative Ashtech Power Projects Private Limited Vs. Deputy Commissioner of Income Tax *23rd July 2025*

Penalty u/s 270A upheld by ITAT for non-disclosure of foreign exchange gains in the original return; Forex gains of Rs. 69.79 lakh were failed to be reported; Reliance placed on SC ruling in Mak Data P. Ltd. wherein it was held that voluntary disclosure or revised computation of income does not release the Assessee from the mischief of penal proceedings; Assessees argument that wrong section of 270A(9)(e) was applied, was rejected by ITAT by noting that the CIT(A) had rectified the AO's mistake and invoked correct provision of 270A(9)(a).

DISCIPLINARY CASE

Failure to detect short deduction of TDS and stock mismatch – Non-verification of TDS on the portal and improper representation before tax authorities – Discrepancy in opening and closing stock figures leading to scrutiny – Respondent held guilty of professional misconduct under Clause (7) of Part I of the Second Schedule to the Chartered Accountants Act, 1949.

Held:

In this case, the Respondent was held guilty of professional misconduct for failing to exercise due diligence while conducting tax audit and representing the Company before the Income Tax Department. During Assessment Year 2012–13, the Complainant Company had deducted TDS at 1% instead of 2% on certain payments. The Respondent, despite being the tax auditor, failed to verify TDS data from the TDS-CPC portal and did not report the irregularity under Clause 20 of Form 3CD. This lapse resulted in disallowance of expenses under Section 40(a)(ia) and raised a tax demand of ₹29 lakhs. Furthermore, during the assessment proceedings, the Respondent failed to clarify that Section 40(a)(ia) was applicable only for non-deduction, not short deduction. He also initially advised the Company to pay the demand amount instead of opting for appeal, which he later agreed to submit only after the Company approached another Chartered Accountant.

Additionally, the Respondent was found negligent in preparing the Income Tax Returns, where the closing stock figures in AY 2012–13 did not match with the opening stock in AY 2013–14. The Respondent claimed that the return was filed by the Company's accountant; however, this was contradicted by the Complainant. The Committee observed that the mismatch arose due to exclusion of packing material stock, which led to scrutiny by the Income Tax Department. The Respondent failed to provide sufficient documentary evidence to demonstrate due care in this regard. The Committee, after considering the facts and lack of appropriate explanation or supporting evidence, concluded that the Respondent failed to discharge his professional duties with due diligence. Accordingly, he was held guilty of professional misconduct under Clause (7) of Part I of the Second Schedule to the Chartered Accountants Act, 1949.

[PR-21/2017-DD/59/17/DC/1266/2020]

Acting as Internal Accountant while Statutory Auditor of the Company – Conflict of interest – Respondent should have desisted from accepting the dual assignment – Guilty of professional misconduct under Clause (4) of Part I of Second Schedule to the Chartered Accountants Act, 1949.

Held:

The Respondent, while functioning as the Statutory Auditor, was found guilty of professional misconduct for simultaneously acting in the capacity of internal accountant of the same company. The Committee noted that although the Respondent claimed that the amounts received from the company were reimbursements for outsourced staff deputed on the company's request, the documents produced failed to establish any independent control or employment of the said staff by the company. The accountant was paid through the Respondent; no appointment letter or direct payment by the company existed, and the accountant appeared to be under the direct control of the Respondent. This dual association created a clear conflict of interest and compromised the Respondent's professional independence, violating Clause (4) of Part I of the Second Schedule to the Chartered Accountants Act, 1949. However, other charges regarding alleged misstatements, diversion of funds, fictitious expenses, and personal expenses charged to the company could not be substantiated due to lack of sufficient evidence and the complainant's failure to pursue the matter. Accordingly, these charges were dropped, and the Respondent was held guilty solely under Clause (4) of Part I of the Second Schedule to the Chartered Accountants Act, 1949.

[PR- 268/13-DD/259/2013/DC/546/2017]