



LEGAL Decisions



INCOME TAX

LD/75/23 Punjab & Haryana High Court: CWP No. 15791-2024 Jyoti Sareen Vs. Union of India & Ors 10th September 2026

HC struck down the JAO-FAO retrospective amendment vide Section 147A as unconstitutional; Section 147A retrospective amendment was in conflict with 9 High Court judgments; Post the retrospective amendment, Section 147A and Section 151A exist simultaneously, thereby resulting in confusion and not clarity; Retrospective amendment does not meet the key test of 'random automated allocation', as envisaged u/s 151A/faceless scheme; S. 147A held to be silent w.r.t. categorical findings returned by constitutional courts that as per the S. 151A scheme, allocation of AOs is required to be done randomly and through automated allocation.

LD/75/24 Rajasthan High Court: D.B. Civil Miscellaneous Appeal No. 1595/2026 Alishan Complex Private Limited. Vs. The Initiating Officer, DCIT, Benami Prohibition Unit 01st August 2026 (Benami Property Transactions Act)

Rajasthan HC sets aside the orders of the Tribunal, Adjudicating Authority and consequential attachment, remanding the matter to the Initiating Officer for fresh adjudication; Holds, relying on Andaman Timber Industries, that denial of cross-examination of a witness whose retracted statement formed the foundation of the benami finding violated natural justice; Company has no absolute immunity from being a benamidar merely because it is a corporate entity, provided, the relevant conditions under the PBPT Act r.w. parameters laid down by SC in Valliamal decision are met; Clearance

u/s 69 of Income Tax cannot mechanically become a benami clearance; PBPT operates independently, with the IO bearing the initial burden under Section 2(9)(A).

LD/75/25 Bombay High Court: Criminal Writ Petition No. 202 of 2026. Dinar Tarcar Resources (India) Pvt. Ltd Vs. The Dy. Commissioner of Income Tax 28th July 2026

Bombay HC quashes prosecution under Section 276C(2), holding that the provision requires a "wilful attempt" to evade tax, penalty or interest; Neither "wilful" nor "attempt" is defined in the Act, while the Explanation specifies four categories of attempts; Relying on S. Sundaram Pillai v. V.R. Pattabiraman, HC holds that "wilful" denotes a conscious and deliberate act, importing concept of mens rea; Mere delay, failure, unintentional/accidental conduct or genuine inability cannot attract prosecution; As a penal provision, the complaint must specifically allege and establish the assessee's wilful attempt to evade tax, penalty or interest.

LD/75/26 ITAT Hyderabad: ITA 1828/Hyd/2025 The Dy. Commissioner of Income Tax Vs. Value Labs LLP 22nd July 2026 (Transfer Pricing)

ITAT held that consideration paid to a Malaysian Associate Enterprise for outright purchase of software could not be considered as 'royalty' in terms of Explanation to Section 9(1)(vii) r.w. Article 12 of India-Malaysia DTAA, thus making TDS u/s 195 inapplicable; Transaction was an outright purchase rather than licencing permit; Amount received by associate enterprise for sale of the software constituted its business receipts and since the AE did not have a permanent establishment in India, such business profits were not taxable in India under Article 7.

LD/75/27 ITAT Mumbai: ITA No. 1098/Mum/2026 S F Realty Ventures Private Limited Vs. The Assessing Officer 16th July 2026

Mumbai ITAT held that reassessment u/s 147/148 was invalid where the AO's reasons were founded entirely on seized material and the satisfaction note arising from a third-party search, without independent tangible material; Following jurisdictional Bombay HC's ruling in Sejal Jewellery, ITAT held that Sections 153A/153C assume primacy where assessment

is based on search material; Though Delhi HC in case of Naveen Kumar Gupta held that Section 147 is not automatically barred where Section 153C is not invoked, ITAT held it inapplicable to the present 2019 reopening for AY 2011-12 under the unamended Section 153C. Accordingly, reassessment was quashed.

LD/75/28 ITAT Mumbai: ITA No. 1486/MUM/2026 Sejal Paras Doshi Vs. The Income Tax Officer 13th July 2026

ITAT held that for AY 24-25, assessee is entitled to rebate u/s 87A against the income tax payable on the total income including tax payable on short-term capital gains chargeable u/s 111A; Reliance placed on ITAT Chennai ruling in Venkedapathy Venugopal and Ahmedabad ITAT ruling in Jayshreeben Jayantibhai Palsana; ITAT concluded that rebate u/s 87A of the Act was allowable from the income-tax payable on the total income, without excluding the tax payable on short-term capital gains chargeable u/s 111A; ITAT thus granted the rebate and directed AO to recompute the tax liability.

LD/75/29 ITAT Surat: ITA No. 259/SRT/2025 The Dy. Commissioner of Income Tax Vs. Damodar Bhimjibhai Patel 10th July 2026

ITAT held that cost of land purchased prior to the transfer of the original asset constituted to be part of the cost of the new residential house for the purpose of Section 54F exemption; Expression employed in the statute (Sec. 54F) is "constructed" and not "purchase of land after the date of transfer"; As per ITAT, artificial segregation of the value of land from residential unit would defeat the object of Section 54F; Section 54F is a beneficial provision enacted to encourage investment in residential housing and once the substantive conditions are fulfilled, the benefit should not be denied on the basis of an interpretation importing conditions not expressly found in the statute.

LD/75/30 Karnataka High Court: Income Tax Appeal No. 225 of 2021 The Prin. Commissioner of Income Tax Vs. Shri Ravi Shankar Shetty 08th July 2026

HC held that advances received cannot be regarded as forfeited due to the lapse of time (i.e., 8 years) and due to absence of a refund claim, since the advances were still treated as

liabilities in the assessee's books; The advances were entrusted for procuring land for the parties' projects, not towards transfer of the assessee's capital asset; Since section 56(2) (ix) requires both receipt during negotiations for transfer of a capital asset and forfeiture, neither condition was satisfied in instant case; In ordinary course of assessee's business, the lands proposed to be acquired would partake the character of stock-in-trade and not capital assets.

LD/75/31 ITAT Delhi: ITA No. 1543/Del/2026 Kapil Gupta Vs. The Income Tax Officer 30th June 2026 (International Tax)

ITAT directed AO to exclude assessee's salary income received from Australian employer, from the total income of the Assessee since the services were rendered in Australia and Assessee received salary in lieu of such services; Article 15 of India-Australia DTAA was referred to as per which salary would be taxable only in the state where services were rendered; Assessee inadvertently offered salary from Australian employer, for taxation in India, ITAT also pointed out that the Assessee also filed Form 67 to seek foreign tax credit for taxes paid in Australia; Later, the Assessee also filed a rectification for exclusion of salary income from taxation in India, however the same was rejected by the Revenue.

LD/75/32 ITAT Mumbai: ITA No. 222/Mum/2026 Yeoman Marine Services Pvt Ltd Vs. The Dy. Commissioner of Income Tax 30th June 2026

ITAT restored matter to AO on issue of non-admissibility of Bad debts; As per ITAT, requirement of providing the Assessee with responses received by AO u/s 133(6) is not merely procedural but goes to the root of the principles of natural justice; Regarding discrepancies in remand report, ITAT noted that AO had recorded in respect of certain parties that no response was received to 133(6) notices, whereas records indicated that partial replies were received from those very parties; Whether a debt has commercially become irrecoverable is primarily a business decision of the Assessee and deduction cannot be denied merely because the AO entertains a different perception on recoverability.

DISCIPLINARY CASE

Audit of paper entities engaged in providing accommodation entries – Failure to exercise due diligence and report material facts despite of having knowledge of entities being controlled and managed by an entry operator – Failure to maintain and produce audit working papers to substantiate audit procedures – Assisting and abetting activities relating to accommodation entries – Respondent is held guilty under Clauses (5), (6), (7) and (8) of Part I of Second Schedule and Clause (2) of Part IV of First Schedule to the Chartered Accountants Act, 1949.

Held:

The Respondent alleged to have conducted the audit of entities who are engaged in providing accommodation entries. The Committee noted that the entry operator had admitted before the Income Tax Authorities that the entities were merely paper concerns and were being used for providing accommodation entries, while the Respondent, in his statement recorded during the search proceedings, had admitted that he was aware that the entities were being operated at the instructions of the entry operator and that the relevant documentation was maintained at his office. The Committee observed that despite such knowledge, the Respondent failed to flag or disclose the material facts in his audit reports or to the statutory authorities. Further, the Committee noted that the Respondent relied upon various documents to substantiate the genuineness of the business activities but failed to produce the audit working papers evidencing the verification procedures undertaken by him. The Committee also observed that the material on record, including bank transactions, discrepancies in purchase and sale invoices, email communications and possession of digital signatures of the proprietors/partners, indicated that the Respondent was aware of the manner in which the entities were being operated and had assisted and abetted the activities relating to accommodation entries. Accordingly, the Committee held that the Respondent failed to discharge his professional responsibilities with due diligence and failed to comply with the principles of professional behavior. Thus, the Committee held the Respondent guilty of Professional and Other Misconduct under Clauses (5), (6), (7) and (8) of Part I of Second Schedule and Clause (2) of Part IV of First Schedule to the Chartered Accountants Act, 1949.

[PR/G/335/17/DD/344/2017/DC/1340/2020]

Acceptance of position of statutory auditor without first communicating with previous auditor & despite non-payment of undisputed audit fee – Failure to comply with statutory procedure for removal of previous auditor and appointment of new auditor – Violation of Code of Ethics and Sections 139 and 140 of the Companies Act, 2013 – Respondent is guilty under Items (8) and (9) of Part I of First Schedule and Item (1) of Part II of Second Schedule to the Chartered Accountants Act, 1949.

Held:

The Respondent alleged to have accepted the appointment as statutory auditor of the Company for the financial year 2016-17 without first communicating with the previous auditor, as required under the Code of Ethics. The Committee noted that the Respondent could not produce any documentary evidence of such communication and therefore, failed to comply with the requirements applicable to an incoming auditor. Further, the Respondent accepted the audit assignment despite the undisputed audit fee of Rs. 25,000/- payable to the previous auditor for the financial year 2015-16 remaining outstanding, which was ultimately paid only during the pendency of the proceedings before the Committee. The Committee also observed that the Respondent failed to establish that the previous auditor had been removed in accordance with Section 140 of the Companies Act, 2013 or that the prescribed procedure for appointment of a person other than the retiring auditor under Sections 139 and 140 of the said Act had been followed. In the absence of any evidence of special notice, special resolution or compliance with the prescribed procedure, the Committee held that the Respondent had failed to adhere to the provisions of the Companies Act, 2013 and the Code of Ethics. Thus, the Committee held the Respondent guilty of professional misconduct under Items (8) and (9) of Part I of First Schedule and Item (1) of Part II of Second Schedule to the Chartered Accountants Act, 1949.

[PR/237/2017/DD/258/2017/DC/1337/2020]

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