LEGAL Decisions



INCOME TAX

LD/75/33 ITAT Delhi: ITA No. 6559/Del/2025 Welspun Aunta Simaria Project Pvt. Ltd Vs. The Dy. Commissioner of Income Tax *06th October 2026*

ITAT held that interest paid by the Assessee to NHAI on mobilization advances is not liable for deduction of tax at source u/s 194A; Payment made to corporation established under a statutory enactment falling within the ambit of Notification No. 3489 dated 22.10.1970 is outside the purview of the TDS obligation under section 194A; Reliance placed on Allahabad HC judgment in Canara Bank.

LD/75/34 Bombay High Court: Writ Petition No. 4002 of 2026 Farah Khurshed Titina Vs. The Income Tax Officer *05th October 2026*

Bombay HC quashed the impugned order rejecting assessee's application u/s 270AA seeking waiver of penalty and immunity from initiation of proceedings u/s 276C or Section 276CC; Assessee, realising her mistake in making erroneous claims under Chapter VI-A, had filed a revised computation of income and voluntarily paid tax and interest and Revenue had initiated penalty u/s 270A for misreporting; In the wake of amendment to Section 270AA vide Finance Act, 2026, by which an application for waiver of penalty could be made even in cases of misreporting of income, assessee had filed a second application seeking waiver of the said penalty, which also was rejected.

LD/75/35 ITAT Ahmedabad: I.T.A. No. 2123/Ahd/2025 Shweta Manish Jain Vs. The Income Tax Officer *01st October 2026*

ITAT remitted matter back to AO noting that the assessment record did not indicate any independent inquiry or verification by the Assessing Officer with regard to the specific transactions undertaken by the assessee with M/s Niyati Traders; Burden lied on Revenue to demonstrate that transaction recorded as sale was not a sale transaction or amount received from Niyati Traders represented something other than sale consideration; However, ITAT remarked that where purchaser specifically admits that transactions were accommodation entries, it is supported by independent corroborative material, mere recording of receipts as sales and offering resultant profit to tax would not establish genuineness of underlying transactions.

LD/75/36 Bombay High Court: Income Tax Appeal No. 2642 of 2018 The Prin. Commissioner of Income Tax Vs. Ashoka Buildcon P Ltd. *01st October 2026*

High Court dismissed Revenue's appeal against ITAT order deleting penalty u/s 271(1)(c); Objection to ITAT finding cannot be a substitute for a substantial question of law; Section 260A does not confer general appellate jurisdiction permitting routine reconsideration of evidence or substitution of High Court opinion for factual findings of lower authorities; Revenue merely dressed up objections to ITAT order as substantial question of law.

LD/75/37 Bombay High Court: Writ Petition No. 3233 of 2019 H. P. Diamonds India Pvt. Ltd. Vs. The Deputy Commissioner of Income Tax *30th September 2026*

Bombay HC sets aside notice u/s 143(2) noting that since issuance of notice u/s 143(2) is the starting point of assessment proceedings, the AO cannot issue notice u/s 143(2), or even notice u/s 142(1), before disposing of objections filed by the assessee by a speaking order; Analysis of Sections 148, 143 and 142 makes it clear that notice u/s 143(2) is issued only when a return is filed in response to notice u/s 148 and issuance of such notice marks the starting point of assessment proceedings.

LD/75/38 ITAT Delhi: ITA No. 4637/Del/2025 Alsorg Interiors India Pvt. Ltd. Vs. The Deputy Commissioner of Income Tax *24th September 2026*

ITAT deleted addition towards unaccounted sale by applying ad-hoc profit rate @ 8.5% noting that jurisdictional condition prescribed u/s 149(1)(b) remained unfulfilled; Reasons recorded did not identify the exact factual legal limb of sec 149(1)(b) which was sought to be invoked; As per ITAT, alleged unaccounted business receipts/payments/ expenses could not be classified as 'asset', within the meaning of Section 149(1)(b) so as to justify re-opening after expiry of 3 years; ITAT remarked that profit estimation could have been sustained when the Revenue first established actual unaccounted sales or receipts attributable to AY 2016-17 to 2022-23, which itself failed.

LD/75/39 Madras High Court: Rev.Appl. No. 107 of 2021 V. Babu. Vs. The Deputy Commissioner of Income Tax *28th September 2026*

Madras HC dismissed the Assessee's Review Petition against judgment upholding the addition u/s 68; HC noted that initial burden u/s 68 rested on assessee and that a paper arrangement or routing of funds through a personal account did not discharge that burden, and the Assessee's explanation has already been rejected by ITAT; Reconsideration of existing factual explanations as new material would amount to rehearing an appeal, which review jurisdiction prohibits; HC held that unsupported accommodation entry explanation cannot justify restricting taxation to the commission allegedly retained by the assessee.

LD/75/40 ITAT Delhi: ITA No 2537/Del/2026 Subhash Chand Gulati Vs. The Income Tax Officer *25th September 2026*

ITAT held that GST refund did not constitute taxable income if the underlying tax payment was not claimed as a deduction; ITAT rejected adjustment under Section 143(1) solely based on disclosure made in Form 3CD; Reliance placed on coordinate bench ruling in Ecoenergy Insights to note that reporting a GST refund in the tax audit report did not make it taxable where the underlying payment had not been claimed as expenditure in the relevant or any preceding AY.

LD/75/41 ITAT Varanasi: ITA No. 49/VNS/2018 The Asst. Commissioner of Income Tax Vs. Shri Bajrang Bahadur Singh Marhatha *24th September 2026*

ITAT upheld 6% profit estimation u/s 145(3) holding that mandatory disallowance under Section 40A(3) requires specific identification and verification of cash payments exceeding the prescribed limit to a person per day; ITAT noted that AO was required to identify and verify each cash payment exceeding Rs. 20,000 to a single person on a single day; ITAT further held that Assessee's explanations regarding purchases from truck drivers and labour payments through site incharges required examination, including with reference to Rule 6DD(j)/(k).

LD/75/42 ITAT Mumbai: ITA No. 26/Mum/2026 Rudaram D. Choudhary Vs. The Income Tax Officer *15th September 2026*

ITAT deleted penalty levied u/s 271(1)(c) on account of income disclosed in the return of income filed in response to Section 148 notice, observing that since the AO accepted the income so disclosed by the Assessee with no variation/additions, no penalty for concealment of particulars of income, can survive; ITAT noted that the AO had accepted the quantum and nature of gross receipts so offered by the Assessee as arising out of his business; In absence of any particulars of income being concealed given that there is no variation between the returned income and assessed income, the computational machinery also failed.

LD/75/43 ITAT Mumbai: I.T.A. No. 3473/ Mum/2025 Godrej Consumer Products Limited Vs. The Dy. Commissioner of Income Tax *15th September 2026*

ITAT quashed order passed u/s 201 as invalid for non-mentioning of Document Identification Number (DIN); Order passed u/s 201(1)/(1A) cannot be treated as an "assessment order" for the purposes of Section 292B (which validates certain orders) merely because such proceedings have been judicially described as being "akin to an assessment" in a different context; Absence of DIN cannot be brushed aside as a mere technical or hyper-technical defect.

DISCIPLINARY CASE

Failure to exercise due diligence in audit during insolvency proceedings – Failure to obtain sufficient audit evidence and report material matters – Non-compliance with Accounting Standards and statutory requirements relating to revision of audited accounts – Held, Respondent is GUILTY of professional misconduct falling within the meaning of Items (2), (5), (6), (7), (8) and (9) of Part I and Item (1) of Part II of the Second Schedule to the Chartered Accountants Act, 1949.

Held:

The charges against the Respondent are that he audited and signed the financial statements of the Company for the financial year 2017-18 after commencement of insolvency proceedings without ensuring compliance with Section 17 of the Insolvency and Bankruptcy Code, 2016; failed to appropriately consider the going concern status of the Company, obtain sufficient audit evidence and report material matters; made errors in the financial statements and used the erstwhile name of the firm in the tax audit report; and subsequently issued a certificate altering the audited accounts without following the prescribed procedure. The Respondent pleaded, inter alia, lack of awareness of the insolvency proceedings and contended that the Company could continue as a going concern. The Committee observed that upon appointment of the Resolution Professional, the powers of the Board stood suspended under Section 17 of the Insolvency and Bankruptcy Code, 2016 and the Respondent ought to have ensured that the financial statements were signed by the Resolution Professional. The plea of lack of awareness was not accepted, particularly as the Respondent was in contact with the management and stakeholders. The Committee further observed that destruction of the Company's only owned manufacturing unit and closure of manufacturing operations raised serious doubts regarding going concern. The documents produced by the Respondent were insufficient to establish the Company's ability or plans to continue its operations. The Respondent also failed to produce adequate working papers and original accounting records to establish the basis of the audit. The Committee further noted material errors in the presentation of fixed assets, improper recognition of the insurance claim, non-reporting of the CIRP proceedings and use of the erstwhile firm name despite its change, in violation of Regulation 190 of the Chartered Accountants Regulations, 1988. With regard to the subsequent certificate, the Committee observed that the changes made in the audited figures amounted to revision of the accounts, for which the Respondent failed to establish any legal basis, and the requirements under Section 131 of the Companies Act, 2013, including consequential revision of the Director's Report, were not complied with. Accordingly, the Committee held the Respondent GUILTY of professional misconduct falling within the meaning of Items (2), (5), (6), (7), (8) and (9) of Part I of Second Schedule and Item (1) of Part II of the Second Schedule to the Chartered Accountants Act, 1949.

[PR/78/2019-DD/95/2019-DC/1359/2020]

Acceptance of appointment as Statutory Auditor without communicating with Previous Auditor and without ensuring compliance with Sections 139 and 140 of the Companies Act, 2013 – Held, Respondent is GUILTY of professional misconduct falling within the meaning of Clauses (8) and (9) of Part I of the First Schedule to the Chartered Accountants Act, 1949 and NOT GUILTY of other misconduct falling within the meaning of Item (2) of Part IV of the First Schedule to the Chartered Accountants Act, 1949.

Held:

The charges against the Respondent are that he accepted the appointment as statutory auditor of the Company for the financial year 2015-16 without communicating with the previous auditor and without ensuring compliance with Sections 139 and 140 of the Companies Act, 2013 relating to appointment and removal of auditor. In defence, the Respondent admitted that he had not communicated with the previous auditor in writing before accepting the appointment and stated that he had instructed his staff to prepare the requisite communication under the impression that the same had been done. The Board observed that prior communication with the previous auditor is a mandatory professional requirement and that the incoming auditor is required to ascertain the reasons for the change before accepting the assignment. Accordingly, the Respondent was held guilty of professional misconduct falling within the meaning of Clause (8) of Part I of the First Schedule to the Act. With regard to Sections 139 and 140 of the Companies Act, 2013, the Board noted that the previous auditor had been appointed up to the financial year 2018-19 and that the documents relating to the Respondent's appointment did not establish resignation or removal of the previous auditor in accordance with the prescribed procedure. The Board further observed that the incoming auditor was required to ensure compliance with the requirements of Sections 139 and 140 before accepting the appointment. Accordingly, the Respondent was held guilty of professional misconduct falling within the meaning of Clause (9) of Part I of the First Schedule to the Act. As regards the allegation concerning delayed filing of statutory forms and the appointment letter, the Board noted that the Respondent had produced documents evidencing his appointment and that the relevant statutory forms had been filed by the Company. In the absence of any material establishing the Respondent's role in such filings, he was held not guilty of other misconduct falling within the meaning of Item (2) of Part IV of the First Schedule to the Act.

[PR/313/2020-DD/310/2020-BOD/669/2022]

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