

AO vide a statement, which was rejected by the AO. CIT(A) allowed assessee's claim for deduction under section 80JJAA as the assessee placed on record Form 10DA, duly certified by the Chartered Accountant and details concerning the new regular workmen, however, did not allow the deduction of prior period expenses due to TDS default. ITAT had observed that because as no opportunity was given to AO to examine the material, the matter needed to be remanded for fresh verification. As per High Court, fresh claim could be entertained since ITAT had accepted the CIT(A)'s view and the Revenue did not prefer an appeal against the ITAT's order.

LD/69/159, [ITAT Delhi: I.T.A. No. 1428/Del/2016], Income Tax Officer Vs. M/S Arizona Ventures Pvt. Ltd., 26/03/2021

Assessee company received funds amounting to ₹ 53 crores on account of Optionally Fully Convertible Debentures (OFCD) which was added by the AO under section 68 as unexplained cash credit. Revenue alleged that most of the subscribers did not have appreciable liquidity to invest in Assessee's OFCD and that the assessee did not produce a list of Directors of subscriber companies as required by Revenue. ITAT deleted the addition and noted that details like PAN, address, confirmation from investors, bank statements highlighting the transactions, etc were submitted by the assessee and AO did not rebut the aforementioned documents filed or produce materials to allay the veracity of the documents. Revenue granted insufficient time to respond to notice calling for the Directors of investor companies. There was no material evidence demonstrating Revenue's stand that assessee had engaged in recording dummy entries. ITAT ruled in the assessee's favour.



GST

LD/69/160, [2021 - TIOL - 1127 - HC - Teangana - GST], M/s Golden Mesh Industries vs. ACST, 31/03/2021

Where the department proceeds against the assessee for assessment under section 62 of the CGST Act, on his failure to file a return in response to the notice under section 46 of the CGST Act, the department is expected to put the assessee to notice indicating the method of best judgment and pass reasoned order after affording to him reasonable opportunity of being heard. As order

passed by merely multiplying the average monthly tax by 3 times without explaining any reasons and imposing 100% penalty without quoting any section is arbitrary and contrary to the provisions of the Act.

Service Tax

LD/69/161, [2021-TIOL-241-CESTAT-BANG], ACE Creative Learning Pvt. LTD. Vs. Commissioner of Central Tax, 15/04/2021

An investment in mutual funds carried out by a service provider who is in the business of Commercial Training and Coaching services, should not be perceived as Trading in mutual funds/securities. Further, investment in a mutual fund cannot be regarded as a provision of service. The assessee is not liable for any reversals of Common Cenvat Credit treating redemption in mutual fund as exempt service for the purpose of Rule 6(3) of the CENVAT Credit Rules.

LD/69/162, [2021-TIOL-207-CESTAT-BANG], Tektronix India Pvt. Ltd. Vs. Commissioner Of Central Tax, 06/04/2021

Where CENVAT credit has been reversed by the assessee before utilisation thereof prior to issuance of a show-cause notice, even after the liability was brought to its notice during the course of Audit, no show cause notice can be issued and imposition of penalty u/s 78 of the Finance Act, 1994 is illegal.

Customs

LD/69/163, [2021-TIOL-259-CESTAT-BANG], Baby Marine Seafood Retail Pvt. Ltd. Vs. Commissioner of Customs, Cochin, 26/04/2021

Where the vendor of the imported goods was communicated specification of goods as per permissible norms, and if after the import, the said goods fail to meet the said specified norms, the Importer cannot be held liable to have been imported 'Prohibited Goods.' Thus the same cannot be made liable for confiscation or redemption fine and penalty under the Act. In other words, no costs can be imposed on an importer who has acted in bonafide way and has taken due care in the course of the import transaction.