

LD/70/59; [Bombay High Court: Writ Petition 1083 of 2021] Trendsutra Client Services Pvt. Ltd. Vs. The Asst. Commissioner of Income Tax 14-09-2021

Faceless assessment order held as non-est on account of non-issuance of SCN and draft assessment order u/s 144B and Revenue given liberty to conduct de novo assessment; Assessee was issued notice on April 09, 2021 requiring it to furnish information upto April 13, 2021, 6.54 p.m and in view of the short response time, Assessee required additional time and submitted all requisite details by April 17, 2021; Revenue passed the assessment order without issuance of show cause notice or the draft assessment order; High Court noted that there were variations in the assessment order from the returns filed and thus the final assessment order was not made in accordance with the mandatory prescribed procedure u/s Section 144B;

LD/70/60; [ITAT Delhi: ITA No 2346/DEL/2014] Hughes Communications India Ltd Vs. The Dy. Commissioner of Income Tax, 14-09-2021

Maintaining ERP based accounts having separate code for each head of expenditure sufficient for claim of deduction u/s 80-IA; Assessee claimed deduction of Rs.10.48 Cr. for AY 2008-09 u/s 80-IA which was restricted to Rs.5.61 Cr by the Revenue on the grounds that the Assessee did not maintain separate books of accounts for eligible and non-eligible units; Maintaining accounts on SAP ERP system of accounting tantamounts to maintenance of separate books of accounts and sufficient for claiming deductions u/s 80-IA; Revenue had allowed the deduction in AYs 2007-08 and 2011-12 and thus unless the claim for deduction u/s 80-IA was disturbed in the initial assessment year, the same could not be disturbed in the subsequent assessment years of the block; ITAT ruled in favour of assessee.

LD/70/61; [ITAT Kolkata: ITA No. 39/Pat/2020] Motor Machinery Tools Vs. Asst. Commissioner of Income Tax, 09-09-2021

Assessee-Firm was in receipt of "Special Redistributors' Incentive" of Rs.4.08 lacs from Usha International Ltd. in the form of credit notes, Revenue noted the incentive was given for the purchase of a van to be used for the promotion of the products of Usha International Ltd. and held the amount taxable as business income as per Section 28(iv); Addition u/s 28(iv) deleted by the ITAT for such incentive received; incentive was given for the specific purpose of purchase of van for painting of Usha logo to be used for display by Assessee and that only the balance cost

of van was reflected in the balance sheet on which depreciation was claimed; ITAT holds Assessee's case is covered under Explanation 10 to Section 43(1).

LD/70/62; [ITAT Mumbai: ITA No. 6029/ Mum/2019] Shree Datta Prasad Sahakari Patasantha Ltd. Vs. The Income Tax Officer, 08-09-2021

Assessee held to be ineligible for deduction u/s 80P(2)(a)(i) where no claim was made in the return of income in the light of the condition contained in Section 80A(5); Assessee is an AOP and filed its return for AY 11-12 as a firm which was also processed u/s 143(1); Assessee preferred a rectification application u/s 154 seeking change of status from firm to AOP and also made claim for deduction u/s 80P(2)(a) which was rejected by the Revenue; ITAT finds that the Assessee did not claim deduction u/s 80P(2)(a)(i) in the original or revised return; Besides fulfilling the conditions of section 80P(2)(a)(i), assessee was also required to fulfil the condition of Section 80A(5);

LD/70/63; [ITAT Mumbai: ITA No. 4831/ Mum/2019] Abeezer Faizullahbhoj Vs. The Commissioner of Income Tax (Appeals) 01-09-2021

Deduction of interest on borrowed capital for purchase of house property allowed even though possession of the same was not yet received; Assessee-Individual claimed deduction of interest of Rs.2 lakhs u/s 24(b) without actually taking possession of the property; Revenue had noted that it was unlikely that assessee would get complete possession over the property and earn income in near future on account of ongoing dispute and protracted litigation between the assessee and the Builder; ITAT observes there is no precondition/ criteria mandating possession of the property for claiming deduction u/s 24(b); Provisions only contemplate an innate upper limit on the amount of deduction and do not jeopardize an Assessee's claim to deduction of the interest payable on the capital borrowed.



GST

LD/70/64 [2021-TIOL-612-Cestat-Mad] M/S Abi Showatech India Ltd Vs Commissioner Of GST and Central Excise, 20-09-2021

Manpower shared amongst group companies, wherein the intent was to rationalise cost and not create any agency-client relation, where no profit was earned, and where the control over the resources was

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exclusively with the actual employer, in such case the sharing of resources could not be classified as 'Man Power Supply Services'.

*LD/70/65 [2021-TIOL-615-Cestat-Mum]
M/S Aurangabad Electricals Ltd Vs
Commissioner of Central Excise and Service Tax,
Aurangabad, 22-09-2021*

The insurance premium paid for 'Employee compensation service' under the statutory obligation with the intent to protect employees at work is eligible cannot be said to be the insurance meant primarily for personal use by the employees and hence is an eligible CENVAT credit.

*LD/70/66 [2021-TIOL-620-Cestat-Del]
M/S International Travel House Ltd Vs
Commissioner of Service Tax, Delhi, 17-09-2021*

Incentives received by the Air travel agents based on performance targets achieved cannot be subjected to service tax. The nature of services provided by Air Travel agents cannot be classified as 'Business Auxiliary services'.

*LD/70/67 [2021-TIOL-1907-Hc-Mum-Gst] M/S
Monopoly Innovations Pvt Ltd Vs Union of India
and Ors, 24-09-21*

The High Court directed that the objections raised by the assessee against the provisional attachment ought to be considered de novo as the detailed order passed by the Commissioner was found to suffer from infirmity of lack of application of mind as well as breach of principles of natural justice. High Court also stated that attachment of a property being in the nature of the exercise of a drastic power, the Commissioner was required to be more circumspect in recording his conclusions by reference to the applicable law rather than recording his ipse dixit. The Court also reiterated the principle that the validity of an order passed by an authority has to be judged on the basis of the reasons assigned therein, and reasons cannot be supplemented later on by an affidavit or otherwise when such order is challenged in a Court. It further stated that if the report of the expert is to be rejected, then a counter expert opinion would be required and the Commissioner cannot reject the same on its own.

Disciplinary Case



Appointment of Auditor -- Acceptance of appointment by the Respondent in contravention of appointment rules of the Bhajan Mandal -- Failure to qualify audit report -- Held, Respondent is guilty of professional misconduct within the Clause (7) of Part I of the Second Schedule to the Chartered Accountants Act 1949.

Held:

In the instant case, the allegation against the Respondent is that he was appointed as auditor of the Bhajan Mandal (hereinafter referred to as "Mandal") for the financial year 2014-15 without calling the AGM/SGM. The Respondent in his defence submitted that there were threats and pressure from the opponent groups therefore, the Annual General Meeting was not called for. In support of his contention, the Respondent submitted the Minutes of the Management Committee. The Committee perused the Rules and Regulations, applicable to the Mandal, under Rule 8 under heading "General Meetings" and

found that the Rules provide that the auditor has to be appointed in General Body Meeting. Respondent violated the rules of appointment and accepted the appointment by the Resolution passed in Special Management Committee Meeting. As regards the second charge is concerned, the Committee noted that an amount of Rs.13,65,610 has been incurred under the head "Repairs and Maintenance for the Financial Year 2014-15". On perusal of the audit report, dated 15th June, 2017, for the Financial Year 2014-15 under (I) whether any tender was invited for repairs or construction involving expenditure exceeding Rs.5,000, the Respondent has mentioned 'Not Applicable'. On being enquired during the hearing, the Respondent mentioned that the above was typographical error and he intends to mention as 'NO'. However, he further submitted that no tenders were invited for the expenditure exceeding Rs.5,000/-. The Respondent therefore failed to convince the Committee that he inadvertently mentioned that his attention was to disclose properly that no tender has been invited for expenditure exceeding Rs.5,000/-. In view of above noted facts, the Committee held that Respondent is grossly negligent in performing his duty and did not exercise his due diligence while issuing net worth certificate and is GUILTY of professional misconduct falling within the meaning Clause (7) of Part I of the Second Schedule to the Chartered Accountants Act, 1949.

In the matter of Sh. Vasant k. Kotian V. CA. Pranaay Naresh Ingle PR/251/2017-DD/279/2017/DC/919/2018