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TAX GURJARI

Voice of All Gujarat Federation of Tax Consultants

M E S S A G E

Respected Members,

I am proud for being part of this eventful year up till now. First event of my tenure was RRC at Devigarh which was inaugurated by Shriji Arvindsinhji of Mewar. Then we had a seminar at Anand which was well attended. Rajkot was twice the host of seminar on 04.10.2014 and 25.12.2014 both being a great success. We had a seminar at Bharuch & Bhavnagar. Moffusil program at Deesa was the first such event by AGFTC. Nadiad was very well participated seminar. In all this events we were able to mobilize large number of new members.

After my taking over as president, we had two milestones. One, we could successfully get an order from Gujarat High Court extending the time limit for filling audited account returns which was first in India. This success was attributable to Senior Advocate Mr. Saurabh Soparkar, Advocate on record Mr. Manish Kaji along with Mr.Parth Contractor. The second one was successfully amending the constitution by a unanimous decision of EGM which was a long standing demand of members.

During this period, we made various representations with Principal Chief CIT, Ahmedabad like representation for implementation of Instruction No.7 for Scrutiny Assessments, Simplification of ITR, Granting of time for scrutiny hearing in September, Issues for Charitable Trusts, Extension of Audit Report date, TDS issues, Vacation of AGFTC room post restructuring etc. These were great efforts of representation committee. Me along with my Hon. Secretary and Senior Member Mr. Upendra Bhatt & Mr. Latesh Parikh & other members, on invitation, also participated in Vibrant Summit, 2015 at Gandhinagar. I am proposing to organize few more seminars/conventions in the month of February, 2015 followed by marathon “Budget Yatra” at 11 places in the month of March.

But for the active support of Past President Mr. K H Kaji, Mr. Mukesh Patel, Mr. Upendra Bhatt, Mr. Latesh Parikh, Mr. Shailesh Desai, Mr. K D Shah, Vice Presidents Mr. Durgesh Buch, Mr.Bhaskar Patel, Mr. Rajeev Doshi, Mr. Bakul I Shah, Mr. Manish Kaji & other members it would not have been possible to be this active.

At All Gujarat Federation of Tax Consultants it has been over endeavor to penetrate at

the grass root level, understand the ground reality and resolve their issues. We also impart education to professional fraternity of the region and update them about the legal aspects by holding such seminars and conventions. In order to achieve such objectives we organize seminars and publish Tax Gurjari. First such publication in my tenure is now ready for which I thank the respectable contributors Mr.Samir Divetia, Mr.Mehul Patel, Mr.Tushar Hemani, Mr.Hersh Jani & others.

I appeal from this forum that if any member has any issue he is free to call me at any moment and communicate his concern on any issue. I assure you that I shall put in my best to resolve the issues.

I also invite articles or news items for publication in Tax Gurjari from respected members.

Samir S Jani

President

GLIMPSES OF EVENTS HELD DURING AUGUST TO JANUARY 2015

Group Photo of RRC at " Devi Garh By Lebua – 1st to 3rd August 2014

President and Seniors welcoming the Chief Guest Shri. Shriji Arvindsinhji of Mehwar.

Attentive participants in the RRC

Chief Guest on the Dias

Workshop on TDS Provisions held jointly with other Associations on 12/09/2014

TUSHAR HEMANI

B.Com., LL.B, A.C.A., Advocate

Bilag Industries Pvt. Ltd. vs. DCIT [SCA No.24128 of 2005 (Guj HC)]

Facts:

- Notice u/s 148 was issued and re-assessment order was passed. Assessee preferred an appeal against the same before CIT(A) which came to be partly allowed.
- Both, assessee as well as Department, preferred appeal against order of CIT(A) before ITAT.
- Pending aforesaid appeals, notice was issued u/s 263 and hence, assessee preferred writ before Hon'ble Gujarat High Court.
- The short question for consideration before the Hon'ble High Court was whether notice u/s 263 could have been issued despite the fact that appeals preferred by assessee and revenue against order of CIT(A) partly allowing assessee's appeal against the concerned assessment order were pending before ITAT.

Held:

- Hon'ble High Court was of the view that, applying the principles of merger, order passed by AO stood merged with the order passed by CIT(A) which was challenged before ITAT therefore following the ratio of *"CIT vs. Shashi Theater Pvt. Ltd. – 248 ITR 126"*, it was held that powers of revision do not extend to matters on which appellate authorities have given decisions.
- Further it was held that "the assessee was neither heard nor the revenue conducted any inquiry" the notice even otherwise deserves to be dismissed.

CIT vs. Abhishek Corporation [ITR No.15 of 2003 (Guj HC)]

Facts:

- Assessee had collected a sum of Rs.1,88,59,400/- as "on money"/premium and disclosed Rs.30,00,000/- as undisclosed income being net income earned in the concerned project.

- The moot issue was whether the gross receipts collected as on money need to be taxed or only the income component therein.

Held:

- Hon'ble High Court observed that in the following cases it was held that what can be taxed in hands of an assessee is only "Income" and not "gross receipts":
  - *CIT vs. President Industries – 258 ITR 654*
  - *CIT vs. Gurubachhan Singh J. Juneja – 302 ITR 63*
  - *CIT vs. Samir Synthetics Mill – 326 ITR 410*
- In view of the aforesaid legal position, it was held that not the entire receipts, but only the profit element embedded in such receipts can be brought to tax.

Alliance Industries vs. ITO [Tax Appeal No.16 & 229 of 2001(Guj HC)] &ACIT vs. J.R. Dyeing & Printing Mills P. Ltd. [Tax Appeal No.146 of 2003(Guj HC)]

Facts:

- AO made addition in respect of difference between closing stock as shown in regular books of accounts and that declared in statement furnished to the bank in respect of hypothecation facility availed by it.
- CIT(A) deleted the said addition but on Revenue's appeal, ITAT confirmed the same and hence, the assessee preferred tax appeal before Hon'ble High Court.

Held:

- Hon'ble High Court following its earlier decision in the case of *"CIT vs. Riddhi Steel and Tubes Pvt. Ltd. – 40 taxmann.com 177"* decided the issue in favour of the assessee broadly on the following counts:
  - Assessee was subjected to Excise, VAT and also statutory audit under Companies Act and Income-tax Act, no errors were found in reports of such auditors;
  - For past eight years, assessee was consistently following method of accounting as provided u/s 145 and was valuing stock and inventory as provided u/s 145A;
- Hon'ble High Court further held that only on account of inflated statements furnished to banking authorities for availing larger credit facilities, no

addition can be made if there appears to be a difference between stock as per books and as per statement furnished to the bank. If, for fulfilling margin requirements of bank purely on inflated estimate basis, when stock statement reflects inflated value of stock, in wake of otherwise satisfactory explanation, both for the purpose of value as well as quantity, no addition can be made for such difference.

ACIT vs. Geera Finance Ltd. [Tax Appeal Nos.67 & 68 of 2001 (Guj HC)]

Facts:

- AO made addition u/s 68 in respect of share application money received by the assessee in the very first year of its incorporation. ITAT deleted the said disallowance, against which the Revenue preferred tax appeal before Hon'ble High Court.

Held:

- Hon'ble Court held that during the period immediately after its incorporation, when assessee had practically done no business so as to generate any income, no addition can be made in respect of share application money so received by the assessee.

- Hon'ble High Court relying upon the decision in the case of *"CIT vs. Lovely Exports – 216 CTR 195 (SC)"*, had held that if share application money is received by assessee-company from alleged bogus shareholders whose names are given to AO, then Revenue is free to proceed to reopen such individual assessments in accordance with law. However, such amount cannot be added u/s 68 in the hands of assessee-company.

- It was thus held that funds not having emanated from assessee-company, there was no warrant for making addition of the said amount u/s 68 in assessee's hands.

Snesh Resort Pvt. Ltd. vs. SCIT [Tax Appeal No.113 of 2004 (Guj HC)]

Facts:

- Assessee-company was established to provide recreational facilities to its members by way of water park. It had collected "Membership fees" as receipt or advance for rendering such services to members over a period of time. However, assessee did not resume water park till the end of the year.

- AO treated such membership fees as revenue receipt and added the same to the income of the assessee.

- The said addition also came to be confirmed by CIT(A) and ITAT. Being aggrieved by the same, assessee preferred tax appeal before Hon'ble High Court.

Held:

- Hon'ble High Court was of the view that since the assessee had not resumed the task of rendering services of water park to its members, amount received as membership fees was required to be considered as an advance and thereafter, as and when the business commenced, amount of liability was required to be taxed over a period of time proportionately.
- Only "Real Income" that too accrues and arises in the year under consideration can be taxed.
- It was thus held that amount of membership receipts shall be considered as income on proportionate basis in the year in which business of the assessee commenced.

CIT vs. Manjulaben M. Unadkat [Tax Appeal No.167 of 2003 (Guj HC)]

Facts:

- Assessee sold a property during the year under consideration and had declared capital gain arising consequent to such sale.
- AO referred the matter for valuation of such property to the valuation cell. On the basis of such valuation report, AO issued notice u/s 148 and framed assessment u/s 147 r.w.s. 143(3) after estimating capital gain based on such DVO's report.
- CIT(A) upheld the order of AO while ITAT allowed assessee's appeal. Aggrieved by ITAT's order, Revenue preferred an appeal before Hon'ble High Court.

Held:

- Hon'ble High Court observed that S.55A specifically provides that if AO is of the opinion that value disclosed by the assessee is less that fair market value, only then he can make a reference to DVO. Formation of such opinion should have rational connection with the material brought on record. It should not be based on extraneous or irrelevant reasons.
- In this case, AO had not brought on record anything on record indicating that assessee had disclosed lesser selling price of the property. Therefore the reference to DVO itself was not permissible under the law.

Vishnubhai A. Patel vs. State of Gujarat [SCA Nos.3541 of 2014 (Guj HC)]

Facts:

- Petitioner was granted registration under Gujarat Sales Tax [later converted into registration under Value Added Tax Act (VAT)] which came to be cancelled ab-initio by invoking revisionary jurisdiction u/s 75 r.w.s. 100 of VAT Act broadly on the count that Petitioner was engaged in billing activities without actual sale or purchase transaction.
- Aggrieved by the same, the assessee preferred a writ petition before the Hon'ble High Court.

Held:

- S.75 of VAT Act empowers Commissioner with "Revisionary powers" to be exercised within prescribed time frame whereas S.27 of VAT Act specifically deals with power of Commissioner as to "Suspension or cancellation registration" granted to a dealer.
- Authority specifically invoked general revisionary powers u/s 75 of the Act. Hence, it was held that it was not a case of mere wrong reference to a statutory provision. It was rather a situation where the authority passed an order assuming jurisdiction under a wrong provision exercising powers of entirely different nature which powers were not available to him for revising order of registration.
- Also, Hon'ble High Court was of the view that order granting registration cannot be revised because of subsequent acts or omissions of a dealer which had no connection with the competent authority granting registration.

Ram Prakash Singeshwar Rungta vs. ITO [SCA No.9032 of 2014 (Guj HC)]

Facts:

- AO passed an order u/s 179(1) of the Act whereby petitioners (i.e. Directors of Pvt. Co.) have been jointly and severally held liable for payment of outstanding demand of Pvt. Co. in which they were directors.
- Aggrieved by the same, assessee preferred a writ petition before the Hon'ble High Court.

Held:

- Notice issued u/s 179 as well as order passed u/s 179(1) was completely silent on the steps taken by the revenue for recovery of outstanding dues.Provisions of S.179 requires that before initiating recovery proceedings against directors in respect of dues of a company, it is essential for revenue to establish such

recovery cannot be made against the company - **Bhagwandas J. Patel vs. DCIT – 238 ITR 127 (Guj), Indubhai T. Vasa (HUF) vs. ITO – 282 ITR 120 (Guj) &Amit Suresh Bhatnagar vs. ITO –308 ITR 113 (Guj).**

- Also, nothing has been stated regarding misfeasance or breach of duty on the part of directors due to which tax dues of the company couldn't be recovered.
- In absence of any finding as required for invoking S.179, no order could have been passed u/s 179(1) of the Act.

CIT vs. BhagwatiSpherocast Ltd. [Tax Appeal Nos.223 of 2003 (Guj HC)]

Facts:

- Assessee is carrying on the business of manufacturing High Cast Iron specialized casting. Assessee installed certain equipment in the premises of its sister concern due to lack of space.
- Assessee had claimed lease rental during the year under consideration. AO was of the view that since the machinery were not used by the assessee but were used by its sister concern for which no rent was charged from it, it was deemed income for avoiding tax and therefore, the was not admissible.
- CIT(A) upheld the order passed by AO whereas ITAT decided the issue in assessee's favor. Aggrieved by the same, revenue preferred tax appeal before High Court.

Held:

- Hon'ble High Court observed that for the use of such machinery by sister concern, assessee was recovering service charge of Rs.5,000/-.
- Further, assessee had paid lease rental in other years as well which came to be allowed after detailed scrutiny.
- Even ITAT had allowed lease rent in various other assessment years.
- It was thus held that, there being no material change in justifying the revenue to take a different view, Revenue couldn't have taken different and contradictory view during the year under consideration.

CIT vs. S.P. Mehta Memorial Trust [Tax Appeal Nos.187 of 2005 (Guj HC)]

Facts:

- Assessee is a Trust. AO found that the assessee-trust had invested certain amount in GLFL and claimed exemption u/s 11(5). AO was of the view that such investment was not a

specified investment and hence, assessee was not entitled for exemption u/s 11(5).

- Accordingly, AO disallowed the claim of exemption and the entire amount was added to the assessee's income.

- CIT(A) as well as ITAT deleted the said addition. Hence, Revenue preferred an appeal before Hon'ble High Court.

Held:

- Following the decision of Karnataka High Court in the case of *"CIT vs. Fr. Mullers Charitable Institutions – 363 ITR 230",* it was held that it is only the income from such investment or deposit which has been made in violation of S.11(5) is liable to be taxed. Violation of S.13(1)(d) does not result in denial of exemption u/s 11 to the total income of the assessee and that where whole or part of relevant income is not exempted u/s 11 by virtue of S.13(1)(d) of the Act, tax shall be levied on relevant income or part of such relevant income at maximum marginal rate.

- Accordingly, it was held that if the prescribed conditions are violated, then only such income which has been earned in violation of S.11(5) shall loose exemption. Revenue's appeal was thus dismissed.

Virendra R. Gandhi vs. ACIT [Tax Appeal No.230 of 2003 (Guj HC)]

Facts:

- AO made disallowance u/s 57(iii) in respect of interest paid by the assessee which came to be upheld by CIT(A) as well as ITAT. Being aggrieved by the same, assessee preferred tax appeal before Hon'ble High Court.

Held:

- Hon'ble High Court observed that assessee was maintaining one common account in which all his income was deposited and from which, withdrawal for all expenditure was done.

- Further, interest on the same borrowing has been allowed in immediately preceding assessment year.

- Following the decision of Hon'ble Karnataka High Court in the case of *"Sridev Enterprise – 192 ITR 165"* it was held that it would not be equitable to permit the revenue to take a different stand subsequently in respect of amounts which were subject matter of previous year's assessment.

- Hon'ble High Court held that once interest is allowed in previous year and if there is no change in the condition, then it cannot be disallowed in subsequent year.

- Accordingly, the impugned

addition was deleted.

Smt. Neelamben Gopaldas Agarwal vs. ITO [Tax Appeal Nos.600 of 2005 (Guj HC)]

Facts:

- Assessee received a gift from a non-resident Indian by was of cheque from his NRE account. AO held that financial capacity of donor was not proved u/s 68 and hence, the said gift was treated as unexplained cash credit u/s 68.

Held:

- Hon'ble High Court observed that the gift received by cheque was backed by Gift Deed executed by donor and also the bank certificate.
- Assessee had produced complete details of identity of the donor.
- *"MurlidharLahorimal vs. CIT – 280 ITR 512"* - assessee cannot be asked to prove source of source.
- Gift Tax Act nowhere provides that a gift by somebody who is not creditworthy is not a gift.
- Thus, in light of the above discussed law and the evidences furnished by assessee being gift deed executed by donor, bank certificate and the fact that the gift has been received by cheque and that too from NRE account, the impugned addition was deleted.

ShriSoneshware Cold Storage vs. ACIT [Tax Appeal No.284 of 2002 (Guj HC)]

Facts:

- Assessee, engaged in the business of running cold storage, had claimed depreciation @ 33.33% in respect of "Cold storage building" treating it as "Plant" within the meaning of S.32 of the Act. AO treated such cold storage as "Building" and accordingly allowed depreciation on the same @ 15%.
- CIT(A) decided the issue in assessee's favor whereas ITAT decided the same in favor of Revenue. Aggrieved by ITAT's order, assessee preferred tax appeal before Hon'ble High Court.

Held:

- Structure of the cold storage was permanent in nature and therefore, such cold storage plant will be governed by the term "Plant" as defined in the Act.
- Definition of the term "Plant" is inclusive and the word "plant" includes within its ambit buildings and equipment.
- Further, it was found that the building in assessee's case was with insulated walls and was used as freezing chamber. It

was a part of air-conditioning plant of cold storage.

- Hence, it was held that such building has to be treated as "Plant" and accordingly, depreciation was allowed on the same @ 33.33%.

DCIT vs. Sayaji industries Ltd. [Tax Appeal No.331 of 2004 (Guj HC)]

Facts:

- Assessee paid technical know how fees during the year under consideration and claimed the same as "Revenue expenditure". AO was of the view that such expenditure shall fall within the ambit of S.35AB. Accordingly, AO held that assessee couldn't have claimed entire deduction in the assessment year under consideration. Rather, assessee ought to have amortized the same as provided u/s 35AB and spread it over six years.
- CIT(A) decided the issue against the assessee whereas ITAT took a view in assessee's favor. Aggrieved by ITAT's order, Revenue preferred tax appeal before High Court.

Held:

- Hon'ble High Court observed that the expenditure was purely "Revenue" in nature. Assessee had not purchased or obtained ownership of such technical know how. Assessee was merely a licensee under which it could use a know-how for the purpose of its business temporarily.
- It was further observed that Hon'ble Apex Court, in the case of *"CIT vs. Swaraj Engines Ltd. – 309 ITR 443"*, had held that for the applicability of S.35AB, nature of expenditure is required to be decided at the threshold because if the expenditure is found to be "Revenue" in nature, then S.35AB shall not apply. However, if the expenditure is "Capital" in nature", then question of amortization and spread over, as contemplated by S.35AB, would certainly come into play.
- It was further observed that CBDT had come out with a Circular No.421 dated 12.6.85 wherein it was clarified that the new section 35AB was inserted with a view to provide further encouragement for indigenous scientific research. Such provision was made for making available benefits which were hitherto not available to manufacturers while incurring expenditure for acquisition of technical know how. If such expenditure was "capital" in nature prior to insertion of S.35AB, no deduction could have been claimed. Thus, S.35AB was an enabling provision and not for limiting benefits which were already existing.
- In light of the above, it was held

that S.35AB is not applicable in case of revenue expenditure.

DCIT vs. Gujarat Filaments Ltd. [Tax Appeal No.437 of 2000 (Guj HC)]

Facts:

- Assessee changed its method of providing depreciation from "Straight Line Method (SLM)" to "Written Down Value (WDV)" during the year under consideration which resulted into shortfall in depreciation. Such shortfall was charged to P&L account. AO disallowed claim of such additional depreciation on the count that S.205 of Companies Act does not entitle an assessee to claim depreciation for earlier years placing reliance on "McDowell and Co. vs. CTO – 154 ITR 148".
- On appeal, CIT(A) upheld assessee's contention and directed AO to recompute book profit without disallowing additional claim of depreciation and the said view was upheld by ITAT. Hence, revenue preferred tax appeal before High Court.

Held:

- Hon'ble High Court held that change in method of accounting for depreciation from SLM to WDV was in accordance with Accounting Standards issued by ICAI.
- Hon'ble Apex Court, in the case of *"Apollo Tyres Ltd. vs. CIT – 255 ITR 273"*, had held that AO, while computing book profit, has only the power of examining whether books of accounts are certified by authorities under Companies Act. AO has limited power to make adjustments to such book profit as governed vide *Explanation* to the said section. AO has no jurisdiction to go behind the net profits shown in P&L account except to the extent of prescribed adjustments.
- Further, in the case of *"CIT vs. Rubamin (P.) Ltd."*, Hon'ble Gujarat High Court was called upon to decide as to whether ITAT was right in upholding deletion of addition made in respect of difference in amount of depreciation as a result of change in method of providing depreciation from SLM to WDV. Hon'ble High Court, following the ratio laid down in the case of Apollo Tyres Ltd., decided the said issue in assessee's favor.
- Following the ratio laid down in "Rubamin (P.) Ltd.", the issue was decided in assessee's favor and deletion of addition to books profit in respect of additional depreciation consequent to change in method of accounting for depreciation was upheld by High Court.

CIT vs. Rashmikaben K. Thakkar [Tax Appeal No.517 of 2014 (Guj HC)]

Facts:

- Assessee received certain amount on redemption of Deep Discount Bonds (DDB) of SardarSarovar Narmada Nigam Ltd. (SSNNL). AO treated interest received from SSNNL as "Income from other sources".
- CIT(A) dismissed assessee's appeal whereas ITAT held that such income has to be taxed as "Capital Gain" and not "Income from other sources".
- Aggrieved by the same, Revenue preferred tax appeal before High Court.

Held:

- Hon'ble High Court observed that DDB are capital assets and hence, profit arising on redemption thereof is to be treated as capital gain.
- It was further observed that ITAT, while allowing assessee's appeal, had directed the AO to treat redemption value less issue price as capital gain and tax the same accordingly.
- Hon'ble High Court was in complete agreement with the view taken by ITAT and hence, Revenue's tax appeal was dismissed.

CIT vs. SandvikChokshi Ltd. [Tax Appeal No.1071 of 2014 (Guj HC)]

Facts:

- Assessee is a joint venture (JV) company formed by "Sandvik AB Sweden" ["Sandvik" for short] and "M/s. Chokshi Tubes Coo. Ltd."["Chokshi" for short]. The JV company acquired an undertaking of Chokshi as going concern on "as is where is basis" at a slump price without assigning values to individual assets. Assessee claimed depreciation on value attributable to depreciable assets which came to be disallowed by AO by invoking *Explanation* 3 to sub-section (1) of S.43 on the count that no amount was mentioned in the agreement as to acquisition of the said undertaking.
- CIT(A) and ITAT allowed such claim of depreciation. Hence, revenue preferred tax appeal before High Court.

Held:

- Hon'ble High Court observed that depreciable assets had been valued by approved valuer and the same had been duly recorded in books of accounts. Hence, onus was on part of revenue to prove that such valuation was incorrect which was not done in the instant case.
- Further, it was a slump sale and no individual value was assigned to any particular

asset. In the hands of the transferee, it was open to assign any value as it deems fit as it has paid consideration for the same.

- *Explanation* 3 to S.43(1) can be invoked if AO is satisfied that the main purpose of transfer of assets, direct or indirectly to the assessee, is reduction of liability of income-tax by claiming depreciation with reference to enhanced cost.

- Thus, it was finally held that Explanation 3 to S.43(1) was not required to be invoked in assessee's case.

CIT vs. Prayas Engineering Ltd. [Tax Appeal No.1237 of 2014 (Guj HC)]

Facts:

- AO made disallowance u/s 40(a)(ia) for short deduction of tax consequent to application of incorrect section of TDS. The said disallowance was deleted by ITAT and hence, Revenue preferred tax appeal against the same before Hon'ble High Court.

Held:

- Hon'ble High Court observed that as per assessee, S.194J was applicable which is contrary to the view of AO. Hence, AO concluded that there was short deduction of tax and made disallowance u/s 40(a)(ia).

- ITAT had held that shortfall in TDS was on account applicability of different provision of TDS. No doubt assessee is in default as per provisions of S.201 but disallowance of expenditure u/s 40(a)(ia) is not permissible. Accordingly, AO was directed tot delete the said disallowance.

- Hon'ble High Court approved the decision of the ITAT that short deduction is no ground for invoking provisions of S.40(a)(ia) of the Act.

CIT vs. Shree Govindbhai Jethalal Nathvani Charitable Trust[Tax Appeal Nos.306 of 2014 (Guj HC)]

Facts:

- Assessee trust moved an application in Form No.10G for grant of approval u/s 80G(5) of the Act. CIT called for various details from which he found that trust had failed in making expenditure to the extent 85% in FY 2011-12 which was necessary as per the provisions of S.80G(5). Hence, CIT rejected application moved by the assessee seeking approval u/s 80G(5).

- On appeal, ITAT held that CIT had materially erred in refusing to grant recognition u/s 80G(5) and hence, order of CIT was

set-aside and CIT was directed to grant recognition u/s 80G(5). Being aggrieved by the same, Revenue preferred tax appeal before the High Court.

Held:

- Hon'ble High Court observed that main objects of the trust as per trust deed are educational, social activities, medical, etc.
- It was further observed that, in the case of *"M.M. Desai Charitable Trust vs. CIT – 246 ITR 546"*, it has been held that while considering certification of institution for purpose of S.80G(5), the authority granting approval cannot act as an Assessing Officer and the inquiry should be confined to finding out if institution satisfies prescribed conditions.
- Such prescribed conditions have been duly satisfied in assessee's case. Hence, in light of the above, Hon'ble High Court held that ITAT had not committed any error in setting aside order of CIT.

CIT vs. Suzlon Energy Ltd. [Tax Appeal No.1437 of 2005 (Guj HC)]

Facts:

- AO rejected assessee's claim u/s 80IB by treating interest on fixed deposits as "other income".
- ITAT held that only "net interest" is to be excluded while working out deduction u/s 80IB.
- Being aggrieved by the same, revenue preferred tax appeal before Hon'ble High Court.

Held:

- Hon'ble High Court observed that Hon'ble Apex Court, in the case of "ACG Associated Capsules Pvt. Ltd. vs. CIT – 343 ITR 89 (SC)", has held that 90% of not the gross rent or gross interest but only net interest or net rent which has been included in profits of business of the assessee as computed under the head "Profits and gains of business or profession" was to be deducted under clause (1) of Explanation (baa) to S.80HHC for determining profits of the business.
- In light of the aforesaid decision, it was held that ITAT was right in holding that net interest was to be excluded while working out deduction u/s 80IB instead of gross income. Revenue's appeal was dismissed accordingly.

ACIT vs. Growth Avenues Ltd. [Tax Appeal No.1799 of 2005 (Guj HC)]

Facts:

- Assessee incurred expenditure on purchase of new software and claimed it as revenue expenditure.

- AO treated the same as capital expenditure and disallowed the same.
- ITAT decided the issue in assessee's favor and hence, aggrieved by ITAT's order, revenue preferred tax appeal before Hon'ble High Court.

Held:

- Hon'ble High Court observed that in the case of *"CIT vs. N.J. Invest (P.) Ltd. – 32 taxmann.com 367 (Guj)"*, it was held that software development and up gradation would included data administrative services, information and technology support services, software asset management services, etc. which was in the nature of maintenance, back up and support service to existing hardware and software and did not give any fresh or new benefit and therefore the same shall be treated as revenue expenditure.
- It was thus held that ITAT had rightly concluded that expenditure on purchase of new software was revenue in nature.

Chartered Motors Pvt. Ltd. vs. ACIT [IT(SS)A No.26 of 2012 (A'bad ITAT)]

Facts:

- Assessee-company had received share application money from various companies by cheque.
- AO recorded statement of directors of such companies which had applied for shares of the assessee-company. Such statements were recorded behind the back of the assessee and in spite of categorical request for cross examination of such directors, no such cross examination was granted. Finally, such statements were used against the assessee and addition was made u/s 68 in respect of such share application which came to be confirmed by CIT(A).
- Aggrieved by the same, assessee preferred appeal before ITAT.

Held:

- Hon'ble ITAT observed that assessee had placed on record various documentary evidences of share applicants (viz. MOA, AOA, share application form, board resolution, certificate of incorporation, certificate of commencement, acknowledgments of ITR, audited accounts) so as to prove the identity, genuineness and creditworthiness of such share applicant companies.
- Hon'ble ITAT was of the view that having furnished aforesaid documents, initial onus cast on the assessee shifted on the revenue and it was for the revenue to bring on record relevant material to show that why in spite of above

documents, addition was still required to be made in the hands of the assessee.

- Revenue had sought to discharge such onus on the basis of statements of directors of share applicants.
- Hon'ble ITAT was of the view that statements of such directors were self serving evidences and the same cannot be taken as evidence against the assessee unless assessee was allowed sufficient opportunity of cross examination.
- Since no real opportunity to cross examine such directors was allowed, Hon'ble ITAT held that statements of such persons cannot be read against the assessee in light of the followings:
  - ✓ *CIT vs. Indrajit Singh Suri – 33 taxmann.com 281 (Guj)*
  - ✓ *DCIt vs. Mahendra Ambalal Patel – 40 DTR 243 (Guj)*
  - ✓ *Heirs and legal representatives of Late Laxmanbhai S. Patel vs. CIT – 174 taxman 206 (Guj)*
  - ✓ *CIT vs. KantibhaiRevidas Patel – Tax appeal 910 of 2013*
- In absence of these statements, no other material was brought on record by Revenue to show that why amount in question should be treated as income of the assessee.
- It was thus held that addition made solely on the basis of inadmissible and unreliable material cannot be sustained. Accordingly, the impugned addition was deleted.

Shri.Puransingh M. Verma vs. CIT [Tax Appeal No.24 of 2003 (Guj HC)]

Facts:

- Assessee derived income from nursery and claimed the same as exempt income u/s 10(1) since it was agricultural income. AO denied the said exemption.
- CIT(A) held that income derived from nursery is agricultural income and hence, exemption can be availed u/s 10(1) of the Act.
- ITAT held that such income is not agricultural income and hence, being aggrieved by the said order, assessee preferred tax appeal before the Hon'ble High Court.

Held:

- Hon'ble High Court observed that assessee grows plants on land owned by it. During the

course of growing and nurturing plants on the land, assessee carries out certain functions such as tilling the soil, weeding, watering, manuring, etc. and finally the plants are made ready for sale.

- All such tasks involve human skill and effort. When plants are established in soil, only then they are shifted in suitable containers or appropriate places of land.
- It was thus held that sale proceeds from business of nursery carried on by the assessee constitutes income from agriculture. Reliance was placed on the followings:
  - ✓ *CIT vs. Raja Benoy Kumar Sahas Roy – 32 ITR 466 (SC)*
  - ✓ *CIT vs. Green Gold Tea farmers P. Ltd. – 299 ITR 262 (Uttrakhand)*
  - ✓ *A.T. Parthasarathiah& Bros. vs. CIT – 48 ITR 830 (Mysore)*
  - ✓ *CIT vs. Soundarya Nursery – 241 ITR 530 (Madras)*

Guru Ashish Ship Breakers vs. ACIT [Tax Appeal No.732 of 2005 (Guj HC)]

Facts:

- A search action u/s 132 took place and assessment was framed after making several additions. When the matter reached before ITAT, Hon'ble ITAT observed that similar action was made in block assessments of two other concerns and notices u/s 148 were issued to consider the discrepancies in material found during the search. However, no notice u/s 148 was issued in assessee's case. Hence, ITAT directed AO to issue notice u/s 148 to examine discrepancies in assessee's case.
- Aggrieved by the said order of ITAT, assessee preferred tax appeal before Hon'ble High Court.

Held:

- Hon'ble High Court, replying upon the decision in the case of *"Adani Exports vs. DCIT – 240 ITR 224 (Guj)"*, held that directions given by ITAT to the AO to issue notice u/s 148 were contrary to law and the same deserves to be quashed and set-aside.

RECENT IMPORTANT JUDICIAL PRONOUNCEMENTS

SAMIR DIVETIA

B.Com., LL.B, A.C.A., Advocate

Ex-parte order to be on merits

Hon'ble Supreme Court held that Tribunal could not have dismissed the appeal filed by the appellant for want of prosecution and it ought to have decided the appeal on merits even if the appellant or its counsel was not present when the appeal was taken up for hearing. The High Court also erred in law in upholding the order of the Tribunal.

A similar question came up for consideration before this Court in The Commissioner of Income-Tax, Madras vs. S. Chenniappa Mudaliar, Madurai (1969) (1) SCC 591 wherein this Court considered the provisions of Section 33 of the Income-tax Act, 1922 and Rule 24 of the Appellate Tribunal Rules, 1946 which gave power to the Tribunal to dismiss the appeal for want of prosecution.

Balaji Steel Re-Rolling Mills Vs. CEC
[Civil Appeal No. 10265 Of 2014 dt 14-11-2014]

Penalty u/s 271(1)(c) and Explanation-5- A.Y. 2002-03- Additional Income declared in the return filed u/s 153A following decision in case of CIT v. S.D.V. Chandru (266 ITR 175)-

Kirit Dayabhai Patel (Tax Appeal No. 1181 to 1185 of 2010 dt 3-12-2014)

Capital Gains- Conversion of partnership firm into Company by following procedure under Part IX of the Companies Act 1956 does not liable since there is no “transfer” u/s 2(47).

DCIT v. Well Pack Packing (Tax Appeal No. 368 of 2001 dt 3-12-2014) Indian Chamber of Commerce

(2014) Tax Corp (LJ) 4769 (SC)

Supreme Court granted Special Leave against order of High Court where it was held that receipts derived by a chamber of commerce and industry for performing specific services to its members, though treated as business income, would still be entitled to exemption under section 11, provided there is no profit motive Section 2(15), read with section 11 and 28(iii), of the Income-tax Act, 1961 and section 10(6) of the Indian Income-tax Act, 1922 -

Charitable purpose [Chamber of commerce] - Exemption of income from property held Business held in Trust - Assessment years 2006-07 and 2007-08 - High Court by impugned order held that receipts derived by assessee, a chamber of commerce and industry, for performing specific services to its members, though treated as business income, would still be entitled to exemption under section 11,provided there is no profit motive -

Reference to DVO u/s 142A

The initial starting point for triggering a reference to DVO has to be invocation of Sec 69,69A or 69B. The AO has no authority to call for the report and then to judge whether there was any unexplained investment.

(Me & Mummy Hospital v ACIT (272 CTR 1(Guj)

Penalty u/s 271(1)(c) and limitation u/s 275(1A)

When the addition of the amount is deleted in appeal, the penalty imposed upon it u/s 271(1)(c) was required to be cancelled by making necessary order u/s 275(1A). When the order is to be passed in favour of the assessee, the time limit does not come in the way.

Shanti Enterprise) (272 CTR 105)(Guj)

RECENT IMPORTANT JUDICIAL PRONOUNCEMENTS

MEHUL K. PATEL

Advocate

I. ADDITION – SUPPERESSED PRODUCTION & SALES ON BASIS OF ELECTRICITY / FUEL CONSUMPTION.

Shri Chhaganbhai R. Rakholia

ITA No.2544/Ahd/2010 & 3120/Ahd/2009

Dated-31.12.2014.

- Assessee is engaged in business of sizing and processing of yarn.
- AO made addition on basis of units of electricity consumed on monthly basis – Held – production could not be consistent in all months- addition is without any basis and only on presumption.
-

(1) CIT V/S Evergreen Synthetics Pvt.Ltd.
(Guj.HC) TA No.1412 of 2005. Dt.15/12/14

- Assessee is in business of dyeing, processing and manufacturing of grey cloth – AO made huge addition on basis of comparison of results with other two concerns and also on basis of more fuel consumption per meter of cloth – Held – Business of other concerns is not comparable at all – no defects or discrepancies found in books – fuel consumption cannot be static – AO not justified in rejecting books u/s.145 – addition rightly deleted.

II. ADITION UNDER SECTION 68 :

(2) Chartered Motors Pvt.Ltd. IT(ss) No.26/Ahd/2012. Dt.28.08.2014

- Share application money received by assessee – shares allotted at a premium – treated as non genuine and added u/s.68 – Held – Initial burden discharged by assessee by producing evidences like MOA, AOA, share application form , board resolution, return of allotment in Form No.2, bank statements, PAN, acknowledgement of ITR and audited accounts of companies, - additions cannot be made by relying on ex-parte statements recorded without granting an opportunity to assessee to cross – examine the deponents, - such statements are not admissible evidence and cannot be used against the assessee – addition deleted.

Note : Now section 68 amended by Finance Act,

2012 w.e.f 01-04-2013.

III. ADDITION U/S.69 – UNEXPLAINED INVESTMENT:

(3) ACIT V/s J.R. Dyeing & Printing Mills Ltd. (Guj) TA No.146 of 2003, dt.25/11/14

- No addition can be made if there appears to be a difference between stock shown in books of account and the inflated statements furnished to the banking authorities, if otherwise no defects are pointed in audited accounts of assessee

- CIT V/s Riddhi Steel & Tubes P.Ltd.

40 Taxman.com 177 (Guj) – followed.

- Arrow Exim 230 CTR 293 (Guj.)

IV. BUSINESS EXPENDITURE U/S.36(1)(iii):

(4) CIT V/S Raghuvir synthetics Ltd.

354 ITR 222 (Guj)

- Interest – bearing funds and interest – free advances – assessee had sufficient capital, reserves and surplus, profits and other interest – free funds – Department not proving nexus – interest payment cannot be disallowed.

(6) CIT V/s Reliance Utilities & Power Ltd.
313 ITR 340 (Bom)

- Held, dismissing the appeal , that if there were funds available both interest free and overdraft and/or loans taken, then a presumption would arise that investments would be out of the interest free funds generated or available with the company, if the interest free funds are sufficient to meet the investments.

- East India Pharmaceutical Works Ltd. V/s CIT (1997) 224 ITR 622 (SC) and Woolcombers of India Ltd. V/s CIT (1982) 134 ITR 219 (Cal) relied on.

V. BUSINESS INCOME V/S INCOME FROM OTHER SOURCES :

(7) Empire Pumps Pvt.Ltd. (Guj. HC)
TA No.186 of 2003 & others Dt.14/10/2013

- Deduction u/s.80HH & 80I – If assessee is compelled to park a part of its funds in fixed deposits under the insistence of the financial institutions, then the interest income received there from cannot be income from other sources, but must be seen as part of the assessee's business income.

- DCIT V/s Hari Orgochem Pvt.Ltd. (Guj.HC)
TA No. 257 of 2000, Dt.21/08/2012 – followed.

- Shipra Ship Builders (Guj.HC)
TA No.1281 of 2006, Dt.01/12/2014

VI. BOGUS PURCHASE :

(8) Shri Bharatbhai Naranbhai Patel

ITA No.186/Ahd/2009 – Bench "D"

Dated 19/12/2014

- Business of polishing and trading of diamonds - Cash purchase disallowed

- Quantity – wise register maintained - better G.P. Shown – sales accepted by AO – HELD – Not possible for assessee to maintain quality – wise stock register of each diamond – disallowance @ 10% of cash purchases would meet the ends of justice.

- TA No.601 of 2012 Satyanarayan P. Rathi(Guj).

VII CHARITABLE TRUST SECTION 2(15) :

(9) DIT (Ex) V/s SABARMATI ASHRAM GAUSHALA TRUST 362 ITR 539 (Guj) – A.Y.2009-10

- The main objectives of the trust were to breed cattle and endeavour to improve the quantity of the cows and oxen in view of the need for good oxen as India is prominently an agricultural country. All these were objects of general public utility and would squarely fall under section 2(15) of the Act. Profit making was neither the aim nor object of the trust. It was not the principal activity. Merely because while carrying out the activities for the purpose of achieving the object of the trust, certain incidental surpluses were generated, that would not render the activity in the nature of trade, commerce or business. The assessee was entitled to exemption under section 11.

(10) Indian Chamber of Commerce (Kolkatta ITAT) ITA NO.149/Kol/2012 & 1284/Kol/2012, Dt. 02/12/2014 A.Y.2008-09 & 2009-10

- Interpreting the definition of "charitable purpose" as laid down in section 2(15) of the Act and also the

definition of "business" in relation to the said section, amply reveals that the theory of dominant purpose has always, all through the years, been upheld to be the determining factor laying down whether the institute is charitable or not – where the main object of the institution was "charitable" in nature, then the activities carried out towards the achievement of the said objects being incidental or ancillary to the main object, even if resulting in profit and even if carried out with non members were all held to be "charitable" in nature

VIII. DISALLOWANCE U/S.14A:

(11) CIT V/s Corrtech Energy P.Ltd.
(2014) 223 Taxman 130 (Guj)
(2014) 45 Taxman.com 116 (Guj)

- No disallowance u/s.14A can be made in a case where the assessee does not claim any exempt income CIT V/s Winsome Textile Industries Ltd. 319 ITR 204 (P&H) followed

(12) Maxopp Investment Ltd.
347 ITR 272 (Delhi)

- The AO cannot apply the provisions of sec.14A r.w. Rule 8D mechanically. The AO has to first record a satisfaction about the correctness of the claim of assessee regarding incurring of any expenditure or non- incurring of any expenditure to earn exempt income.

(13) Jivraj Tea Ltd.
ITA No.866/Ahd/2012, dt. 28/08/2014

- Disallowance u/s.14A cannot exceed the amount of exempt income.

(14) DCIT V/s Alembic Ltd.
ITA No.1928/Ahd/2010 dt.27/03/2014

- Addition u/s.14A cannot be made while computing the book profit u/s.115JB.

IX. DISALLOWANCE U/S.40(a)(ia)

(15) Rajeev Kumar Agarwal ITA No.337/Agra/2013, dt.29/05/2013

- The insertion of second proviso to section 40(a)(ia) by Finance Act, 2012 w.e.f 1st April, 2013 is declaratory and curative in nature and it has retrospective effect from 1st April,2005

(16) DCIT V/s Ananda Marekala (2014) 48 Taxman.com 402 (Banglore -Trib)

- The insertion of second proviso to section 40(a)(ia) by Finance Act, 2012 w.e.f 1st April, 2013 is declaratory and curative in nature and it has retrospective effect from 1st April,2005

X. DISALLOWANCE U/S.41(1)

(17) CIT V/s Bhogilal Ramjibhai Atara (Guj.HC) (2014) 43 Taxman.com 55 (Guj)

- Outstanding liabilities of creditors shown in the balance sheet – liabilities are old and confirmations not filed – Held – There is nothing on record to suggest that there was remission or cessation of liability and that too during the relevant previous year – though there are certain doubtful circumstances, yet addition cannot be made u/s.41(1) of the Act.
- Nitin S. Garg (2012) 208 Taxman 16 (Guj) followed.

(18) Shri Sattarbhai S. Sarvaiya ITA No.1533/Ahd/2011 dt.05/12/2014

- Outstanding creditors for expenses shown in balance sheet assessee could not produce creditors for examination, nor any documentary evidence to establish genuineness of transaction- assessee only furnished ledger accounts showing payments made in subsequent years- HELD – It is

not proved by the Department that assessee had obtained any benefit in respect of such trading liability by way of remission or cessation thereof outstanding creditors are balances brought forward from earlier years addition canot be made u/s.69C or u/s.41(1)

- CIT V/s Purvidevi Mahendrakumar Chaudhary (2014) 41 Taxman.com 329 (Guj) followed.

XI. <u>DEDUCTION U/S.54/54F</u> :

- Exemption u/s.54 and 54F is available even if the capital gain is invested in purchase of more than one residential unit – The expression 'a' residential house should be understood in a sense that the building should be of residential in nature and 'a' should not be understood of indicate a singular number.

(19) 309 ITR 329 (Karn) D. Ananda Basappa

(20) 331 ITR 211 (Karn) Smt. K.G. Rukminiamma

(21) 352 ITR 418 (AP) Syed Ali Adil

(22) 357 ITR 153 (Delhi) Gita Duggal.

<u>Note</u> : Now section is amended by Finance (No.2)

Act, 2014 w.e.f. 01.04.2015

XII <u>DEDUCTIONS U/S.80IA(4) / 80IB(10) DEVELOPER V/S WORKS CONTRACT</u>:

(23) <u>B.T. Patil & Sons Belgaum Construction Pvt.Ltd. (Pune ITAT) ITA No.1408 & 1409/PN/2003 dt.28/02/2013</u>

Deduction u/s.80IA(4) disallowed by AO – difference of opinion at ITAT – Third Member opines to form larger bench of three members – larger Bench upholds disallowance of deduction – Matter referred back to Division Bench to give effect to order of larger bench(TM) – Assessee filed appeal to High Court – High Court remands to ITAT to consider afresh in light of decision of Bombay High court in case of ABG Heavy

Industries 322 ITR 323 (Bom) – Held – The deduction u/s.80IA(4) is allowable – The amendment of 2009 to sub-section (13) of 80IA(4) is not applicable in case where the assessee executes the works by shouldering investment and technical risk by employing team of technically & administratively qualified persons and it is liable for liquidated damages if failed to fulfill the obligation laid down in the agreement and also securing by bank guarantee – The law interpreted by Third Member is no longer a good law.

(24) <u>CIT V/s Vishal Developers (Guj.HC)</u>

<u>IT No.507 of 2014, Dt.07/10/2014</u>

- Deduction u/s.80IB(10)

- Factors to be considered from development agreement to decide whether assessee is "**<u>developer"</u>** or not are usually : Possession and dominant control over land and project - responsibility of development and construction - bring in technical knowledge and skill – assessee can appoint architect, other skilled professionals - investment of own funds in cost of construction – booking of members - payments to land owners – entire risk element of assessee – assessee to bear the loss or retain the profit.

- 341 ITR 483 (Guj) Radhe Developer – followed

- Archan Enterprises (Guj) TA No.171 of 2014 Dt.18/03/2014 – followed

- Larsen & Turbo (SC) – Distinguished (2014) 1 SCC 708 (SC)

- Raheja Development Corporation (SC) (2005) 141 STC 298 (SC) – Distinguished

XIII. DEDUCTION U/S.80IA(4) R.W.S.80IA(5):

(25) Sadbhav Engineering Ltd.(Ahd.ITAT)
ITA No.610/Ahd/2008, Dt.19/12/2013

The initial assessment year is when the assessee exercises his option to claim deduction u/s.80IA(4) for the first time – The losses and depreciation prior to such initial assessment year which are already set-off cannot be notionally brought forward and adjusted into the period beginning from the initial assessment year. It is only when the loss has been incurred after the initial assessment year, then such loss has to be adjusted in subsequent years and deduction is to be computed as if eligible business is the only source of income as per section 80IA(5) of the Act.

- Velayudhaswamy Spinning Mills
340 ITR 463 (Mad) followed

XIV. STATEMENT RECORDED U/S.133A HAS NO EVIDENTARY VALUE.

(26) CIT V/s S. Khader Khan Son 300 ITR 157 (Mad)

Whatever statement is recorded u/s.133A is not given any evidentiary value, obviously for the reason that the officer is not authorised to administer oath and to take any sworn statement, which alone has evidentiary value as contemplated under law.

- Civil Appeals filed by Department against above judgement are dismissed by Supreme Court.
- Civil Appeals Nos.1324 of 2008 & 6747 of 2012 vide order dated 20.09.2012.

XV RE-OPENING U/S.147 :

(27) Raymon Glues & Chemicals (Guj.HC)

TA No.343 of 2002, Dt.05/12/2014

- Re-opening due to audit objection and mere change of opinion on same set of evidence on record which was already processed at the time of original scrutiny assessment is not permissible even within four years.

- B. Nanji Construction Pvt.Ltd. (Guj)
  SCA No.8754 of 2014, Dt.08/07/2014
- Shilp Gravures Ltd. 40 Taxman. 309 (Guj)
- Vodafone West Ltd. 37 Taxman 158 (Guj)
  followed.

The Commissioner of Income-tax cannot remand the matter to the Assessing Officer to decide whether the findings recorded are erroneous. In cases where there is inadequate enquiry but not lack of enquiry, again the Commissioner of Income-tax must give and record a finding that the order/inquiry made is erroneous. This can happen if an enquiry and verification is conducted by the Commissioner of Income-tax and he is able to establish and show the error or mistake made by the Assessing Officer, making the order unsustainable in Law.

XVI REVISION U/S.263 :

(28) ITR V/s D.G. Housing Projects Ltd.
343 ITR 329 (Delhi)

The matter cannot be remitted for a fresh decision to the Assessing Officer to conduct further enquiries without a finding that the order is erroneous. Finding that the order is erroneous is a condition or requirement which must be satisfied for exercise of jurisdiction under section 263. In such matters, to remand the matter/issue to the Assessing Officer would imply and

mean the Commissioner of Income-tax has not examined and decided whether or not the order is erroneous but has directed the Assessing Officer to decide the aspect/question.

In most cases of alleged 'inadequate investigation', it will be difficult to hold that the order of the Assessing Officer, who had conducted enquiries and had acted as an investigator, is erroneous, without Commissioner of Income-tax conducting verification/inquiry. The order of the Assessing Officer may be or may not be wrong. Commissioner of Income-tax cannot direct reconsideration on this ground but only when the order is erroneous. An order of remit cannot be passed by the Commissioner of Income-tax to ask the Assessing Officer to decide whether the order was erroneous. This is not permissible. An order is not erroneous, unless the Commissioner of Income-tax hold and records reasons why it is erroneous. An order will not become erroneous because on remit, the Assessing Officer may decide that the order is erroneous. Therefore, the Commissioner of Income-tax must after recording reasons hold that the order is erroneous. The jurisdictional precondition stipulated is that the Commissioner of Income-tax must come to the conclusion that the order is erroneous and is unsustainable in law.

(29) CIT V/s Nirma Chemicals

309 ITR 67@78(Guj)

The contention on behalf of the Revenue, that the assessment order does not reflect any application of mind as to the eligibility or otherwise under section 80-I, of the Act requires to be noted to be rejected. An assessment order cannot incorporate reasons for making/granting a claim of deduction. If it does so, an assessment order would cease to be an order and become an epic tome.

The reasons are not far to seek. Firstly, it would cast an almost impossible burden on the Assessing Officer, considering the workload that he carries and the period of limitation within which an order is required to be made; and, secondly, the order is an appealable order. An appeal lies and would be filed only against disallowances which an assessee feels aggrieved with.

(30) <u>Jet Electronics (Ahd.ITAT)</u>
<u>116 TTJ 225 (Ahd)</u>

The AO has issued the query letters to the assessee from time to time on both the issues relating to the GP as well as the investment by partners and cash credit. The assessee has duly replied all the queries raised by the AO. Merely that the AO has not discussed the inquiry carried out and its outcome in the assessment order does not mean that the assessment order passed by the AO is erroneous. There is no provision under the IT Act which requires that the AO should pass the assessment order in the manner so that all the queries raised by him as well as the submissions made by the assessee along with the decision of the AO should be incorporated in the assessment order. Where the AO takes a view against the assessee, the AO should discuss the same in the assessment order so that the party against whom the adverse view is taken, can know the reasons for the same. In this case the AO after examining both the issues prefered not to make the addition in the case of the assessee, therefore, in our opinion there is no error in the order if he has not discussed the issues in the assessment order. It is only the queries raised by the AO and the submissions made by the assessee will speak of whether the AO has applied his mind or not. An assessee cannot compel the AO to incorporate each and every issue in respect of which the AO made the enquiry with the assessee even if the

AO got satisfied that no addition is required to be made in the assessment.

(31) Bilag Industries P.Ltd. (Guj.HC)

SCA No.24128 of 2005, Dt.18.11.2014

Assessee's claims u/s.80HHC and 80IA are partly disallowed in assessment order u/s.143(3) by AO – The assessee's appeal partly allowed by CIT(A) – Further appeals pending before ITAT – Thereafter CIT issued notice u/s.263 to make further modification u/s.80HHC and 80IA – Held – The order of AO stood merged into the order of CIT(A) - the issue of deduction u/s.80HHC and 80IA was at large before ITAT – Notice u/s.263 invalid and quashed.

- 248 ITR 126 (Guj) Shashi Theatre

followed.

XVII SECTION 254 – LEGAL ISSUE BEFORE ITAT :

(32) Shri Kishor R. Pithva (Ahd.ITAT)

ITA No.2931/Ahd/2010, Dt.17/10/2014

- Assessee is an individual – made certain payments without deducting TDS u/s.194C – AO disallowed payments u/s.40(a)(ia) – In first appeal this ground was not pressed by C.A. before CIT(A). In second appeal before ITAT – HELD-

- Admittedly, the provisions of TDS u/s.194C became applicable to individuals w.e.f 01/06/2007 only.

- Legally there can be no estoppel against the Law.

- There cannot be a valid agreement in contravention to the statute- It is the responsibility of the Revenue authorities to compute the correct taxable income in accordance with provisions of law – taxing authorities should not tax an amount if the assessee makes a concession or agrees to taxation of

amount under some misconception of correct legal provision.

- 261 ITR 367 (SC) Shelly Products – Applied
- 113 ITR 22 (Guj) P.V. Doshi - Applied.
- 276 ITR 165 (Guj) S.R. Koshti.- Applied.

XVIII JUDICIAL DISCIPLINE :

If the assessee has been granted recognition / certificate / approval under any other mandatory applicable Act / Rules, the same cannot be questioned under the Income - tax Act, It is not open to the taxing authorities to go behind or to sit in judgment over the recognition / certificate/ approval till it is valid and not disturbed under the relevant Act / Rules, by the concerned authority – The taxing authorities must proceed on such basis for maintaining judicial discipline, certainly and uniformity in administering law.

(33) Gestetner Duplicators P.Ltd.
117 ITR 1 (Sc)

(34) Nitin P. Shah alias Modi
276 ITR 411 (Guj)

(35) Ahmedabad Urban Development Authority,
335 ITR 575 (Guj)

(36) Gujarat Information Technology Fund
64 DTR 169 (Ahd)(Trib)

(37) E- Infochips Ltd.
124 TTJ 176 (Ahd)

(38) Zaveri & Co. Pvt.Ltd. (Ahd.ITAT)
ITA Nos. 1395 & 1396/Ahd/2013.
Dated : 07/05/2014

XIX PENALTY U/S.271(1)(c) :

(39) Kirit Dahyabhai Patel (Guj.HC)
TA No.1181 of 2010, Dt.03/12/2014

Return of income filed in response to notice u/s.153(a) is to be considered as return filed u/s.139

of the Act, as the AO has made assessment on the said return – penalty u/s.271(1)(c) cannot be levied on the additional income disclosed in the return field u/s 153A – assessee entitled to get immunity under Explanation - 5 to section 271(1)(c).

- 266 ITR 175 (Mad) SDV Chandra
- 348 ITR 561 (SC) Gebilal Kanhaialal HUF

followed

- 40 Taxman.com 244 (Chhattisgarh) Abdul Rashid

Followed

- 88 ITR 192 (SC) Vegetable Products – Applied.

(40) <u>Shivdhara Developers (Guj.HC)</u>

<u>TA No.1030 & 1031 of 2014, Dt.23.09.2014</u>

Assessee's claim of deduction u/s.80IB(10) was rejected and such rejection was also confirmed by ITAT – penalty levied u/s.271(1(c) – Held – merely because assessee has not filed any reply to show-cause notice u/s.271(1)(c), it cannot be presumed that assessee has nothing to say and is not objecting to the levy of penalty – where all particulars are disclosed and no information given in return is found to be incorrect or inaccurate, penalty cannot be levied for mere rejection of a wrong claim made in return - 322 ITR 158 (SC) Reliance Petroproducts P.Ltd. followed

CONTROVERSIES

Study Circle Meeting

Computation of Business Income with latest judicial authorities

By. CA K. D. Shah

Rajkot 25th December, 2014

dhirubhai shah & doshi
CHARTERED ACCOUNTANTS

Content

1. Disallowance of Interest u/s 36(1)(iii). 03-03
2. Deduction of Bad Debt. 04-04
3. Deduction of Employees' Contribution u/s 43B. 05-05
4. Change in the method of Accounting. 06-06
5. Treatment of Prior Period Expenditure. 07-07
6. Applicability of Section 269SS & 269T. 08-08
7. Expenditure Capitalization – TDS & Disallowance u/s 40(a)(ia). 09-09
8. Applicability of Section 41(1) to remission of loan liability. 10-10
9. Share of Profit from Agriculture Firm. 11-11
10. Short Deduction of TDS & Disallowance u/s 40(a)(ia). 12-12
11. Gift by Pharmaceutical Companies whether hit by Section explanation to Section 37(1). 13-13
12. Software Expenditure – Capital or Revenue. 14-14
13. Deduction of Pooja Expenses. 15-15
14. Commission to Export Agents to outside India & liability for TDS. 16-16
15. Depreciation to Partnership firm when Car is in the name of the partner. 17-17
16. MODVAT Credit on raw material not consumed. 18-18

Disallowance of Interest u/s 36(1)(iii).

DBS GROUP

- **Disallowance of interest u/s 36(1)(iii) of the Income Tax Act, 1961 when interest free advances have been granted and assessee has borrowings on which interest has been paid.**
  In earlier years no disallowance was made can disallowance be made in the current year.

  - It is interesting to know that even in respect of current year if interest free advances are given and assessee pays interest on borrowings, no disallowances can be made when interest free advances are available with the ssessee. This was decided by their lordships of Gujarat High Court in the case of CIT vs. Raghuveer Synthetics Ltd. 354 ITR 222.
  - Meenakshi Synthetics (P.) Ltd. vs. CIT [2003] 84 ITD (Lucknow).
  - ITO vs. Naresh Fabrics [2002] 75 TTJ (Jodh) 386.
  - Reference should be made to the latest decision of Supreme Court in the case of CIT vs. Excel Industries Ltd. 358 ITR 295 wherein their lordships of Supreme Court held that consistency and definiteness of approach in Tax proceedings require that if expenses are allowed in the past then they must be allowed in the current year unless there are change of circumstances.
  - CIT vs. Sridev Enterprises 192 ITR 165 & Ritz Hotels (Mysore) Ltd. vs. CIT 196 ITR 614.
  - CIT vs. S.A. Builders. 288 ITR 1 (SC).
    In this landmark decision Supreme Court held that if interest free advances are granted to subsidiary company and Associate, no disallowance can be made if commercial prudence is established.

Deduction of Bad Debt.

DBS GROUP

- **When the bad debt is Written off, the same has to be allowed as deduction u/s 36(1)(vii) of the Income Tax Act, 1961?**

  - T.R.F. Ltd. vs. CIT reported in 230 CTR 14 (sc).
  - Dhal Enterprise and Engineers Pvt. Ltd. vs. CIT 295 ITR 481.
  - Circular No. 551 dated 23-01-199[183 ITR St.) 37)].
  - CIT vs. Morgan Securities and Credit Pvt. Ltd.
  - Dy. CIT vs. Patidar Ginning and Pressing Co. (157 CTR 177).
  - It is also important to refer to the decision of their lordships of Madras High Court in the case of South India Surgical 287 ITR 62 wherein it was held that what is allowed is bad debts so assessee has to primafacie lead the evidence that the debt has become bad and hence had to be written off.
  - Again Mumbai bench of the Tribunal in the case of R. R. Nabar & Co. vs. IT Appeal No. 984 (Mum.) of 1999 dated 25-03-2004, has also held that twin condition must be satisfied namely (i) that the assessee has to actually write off the bad debt, and (ii) that the debt written off by the assessee should be bad debt.

Deduction of Employees' Contribution u/s 43B.

DBS GROUP

- **When employees' contribution is not deposited by the due date prescribed under the relevant Acts but before the due date of filing the return. Whether deduction is available u/s 43B of the Income Tax Act, 1961?**

- CIT vs. AIMIL (2010) 35 DTR 68 (Del.).
- CIT vs. Modi Spinning & Weaving Mills Co. Ltd. (2007) 292 ITR 479 (Del.).
- CIT vs. Usha (India) Ltd. (2009) 184 Taxman 83 (Del.).
- Alom Extrusion Ltd. 319 ITR 306, 185 Taxman 416.
- There are it appears conflict in judgments of Supreme Court in CIT vs. Alom Extrusions Ltd. 319 ITR 306 it was held by the supreme court that to claim deduction for employees' contribution has to be made within the time prescribed u/s 36(1)(va) and if payment is made before the last date of filing the return then the deduction is not available u/s 43B of the I. T. Act, 1961. However special bench of ITAT chennai branch in the case of Kwality Milk Foods Ltd. 100 ITD 199 held that if payment is made before the last date of filing the return, deduction would be allowed. Similarly Supreme Court has decided in the case of Vinay Cement 213 CTR 268 that even if the payment is made before the last date of filing the return. Deduction would be allowed u/s 43B of the I.T.Act, 1961.
- Recently in the case of Gujarat State Road Transport Corporation (GSRTC), the Gujarat High Court (HC) held that the employees' contribution to the Employees' Provident Fund (EPF)/Employees' State Insurance Corporation (ESIC) deposited beyond the due date prescribed under Section 36(1)(va) of the Income Tax Act, 1961 would not be eligible for deduction u/s 43B of the Act, even if deposited before the due date of filing the tax return.

Change in the Method of Accounting.

DBS GROUP

- **Whether Assessee is entitled to change the method of Accounting from Mercantile System of Accounting to Cash System of Accounting or vice versa?**

- CIT vs. Standard Radiators P. LTD. [2006] 286 ITR 207 (Guj).
- CIT vs. West Coast Paper Mills Ltd. [1992] 193 ITR 349 (Bom).
- Echke Ltd. vs. CIT 310 ITR 48 (Guj).
- ACIT vs. Choromandal Investment (P.) Ltd. 174 Taxman 194.
- Dicotomy arises when assessee switches over from Mercantile System to Cash System of Accounting so to say supposing commission expenditure is provided in the last year and assessee got deduction since liability had accrued and in the current year when assessee follows cash system of accounting, actual payment of commission is made assessee will get deduction. Which amounts to double deduction but according to Gujarat High Court in the case of Standard Radiators this may happen to income also. And there will be double taxation. So if the change is bonafide and intended to be applied in future, it has to be accepted.
- In view of the several decisions of High Courts and the Supreme Court, the changed method of accounting adopted by the assessee was genuine and bona fide. There was no reason for the Assessing Officer to disapprove the said change and merely on the basis of such disapproval, to make an addition of interest income which, in fact, had not been received by the assessee in the year under consideration. The addition made by the Assessing Officer was, therefore, not just and proper and had rightly been deleted by the Commissioner (Appeals) as well as the Tribunal.

Treatment of Prior Period Expenditure.

DBS GROUP

- **Treatment of Prior Period Expenditure – Whether Prior Period Expenditure can be disallowed ignoring Prior Period Income?**

- Saurashtra Cement 213 ITR 523.
- CIT vs. Phalton Sugar Works Ltd. 162 ITR 622.
- CIT vs. Vishnu Industrial Gases.
- Metalizing Equipment Co. (P.) Ltd. 70 TTJ 365.
- CIT vs. Exxon Mobil Lubricants P. Ltd. 328 ITR 17.
- It is interesting to know that in the case of CIT vs. Exxon Mobil Lubricants P. Ltd. 328 ITR 17 it was decided by their lordships of Delhi High Court that if Prior Period Expenditure is disallowed, then Prior Period Income also cannot be taxed. So only the net result is to be seen. If there is an income, no impact but if there is net expenditure, it can be disallowed.

Applicability of Section 269SS & 269T.

DBS GROUP

- **Whether Transactions between closely related persons in cash are not covered by provisions of sections 269SS & 269T of the Income Tax Act, 1961?**

  Whether in respect of Transactions entered into by way of adjustment entries, provisions of Sec. 269SS & 269T apply?

- Dr. B. G. Panda vs. Dy. CIT (2000) 111, Taxman 86 (Cal.)(Mag).
- ITO vs. Tarlochan Singh (2003) 128 Taxman 20 (Amt.)(Mag.).
- ITO vs. B Prabhakaran (2004) 2 SOT 564 (Chennai).
- Section 269SS refers to … Take or accept any loan or deposit from any other person. Which means according to Calcutta bench this section is not applicable when deposit in cash is accepted from relatives. Further honorable Ahmedabad bench in the case of Shri Hemendra C. Shah vs. ITO also held that if deposit in cash is accepted from relatives, Section 269SS is not applicable.

  However when loan or deposit is accepted or repaid by way of journal entries there is violation of Section 269SS & 269T but reasonable cause could be shown to avoid penalty u/s 273B/271E of the I.T.Act, 1961. Ref CIT vs. Bombay Conductors 301 ITR 328. and CIT vs. Triumph International Finance (I.) Ltd. it was held that in respect of repayment of deposit by journal entries, there is violation of Section 269T and penalty would be charged u/s 271E. However in my opinion if reasonable cause is shown then penalty could be avoided.

  i. Sunflower Builder P. Ltd. vs. ITO (1997) 61 ITD 227 (Pune).
  ii. CIT vs. Noida Toll Bridge Co. Ltd. (2003) 262 ITR 260 (Delhi).
  iii. CIT vs. Natwarlal Purshottamdas Parekh (2008) 303 ITR 5 (Guj.).

Expenditure Capitalization – TDS & Disallowance u/s 40(a)(ia).

➢ **When expenditure is capitalized to the cost of Fixed Asset when no tax is deducted at source, whether disallowance can be made u/s 40(a)(ia)?**

- Nectar Beverages P. Ltd. vs. Dy Comm. of Income Tax 314 ITR.
- SMS Demag (P) Ltd. vs. Dy. Comm. Of Income Tax ITAT, Delhi, 'G' Bench.
- Sumilon Industries Ltd. vs. Income Tax Officer, Surat (ITA No. 3296 and 3297/ahd/2008).
- SPACO Carburetors (I) Ltd. vs. Asstt. Comm. Of IT reported in 3 SOT 798 (Mumbai).
- Section 40(a)(ia) refers to disallowance of interest, commission, contractual payments etc. when no TDS is made. Thus there is no reference to section 32 i.e. depreciation and hence when no expenditure is claimed even if there is no TDS, no disallowance can be made. However in the case of Spaco Carburetors (I) Ltd. vs. Asstt. Comm. Of IT reported in 3 SOT 798 (Mumbai) it was held that Section 40(a)(ia) applies to Capital as well as revenue expenditure.

Applicability of Section 41(1) to remission of loan liability.

DBS GROUP

- **Is section 41(1) applicable only to trading liability or is it applicable to other liabilities also? Further when loan liability for acquiring Fixed Asset is waived, whether it can be reduced from the cost of Fixed Asset?**

- Chetan Chemicals Pvt. Ltd. 267 ITR 770 (Guj.).
- Solid Containers Ltd. vs. Dy. CIT 308 ITR 421 (Bom.).
- T V Sundaram Iyenger and Sons Ltd. 222 ITR 344.
- Mahindra & Mahindra Ltd. vs. CIT [2003] 261 ITR 501 (Bom.)
- CIT vs. M/s. Xylon Holdings Pvt. Ltd. Dated 30th September, 2012 (Bom.)
- CIT vs. Cochin Co. Pvt. Ltd. 184 ITR 231 (Kerala).
- It must be noted that in the case of Solid Containers Ltd. vs. Dy. CIT 308 ITR 421 (Bom.) it was held that Section 41(1) is applicable to other business liabilities also. Which has been written back. In this case the other liabilities were written back to Profit & Loss A/c. subsiquently Bombay High Court in the case of CIT vs. M/s. Xylon Holdings Pvt. Ltd. Dated 30th September, 2012 (Bom.) held distinguishing the judgments of solid containers that Section 41(1) can apply only to Trading Liability where deduction was allowed in the past.

  Chetan Chemicals Pvt. Ltd. 267 ITR 770 (Guj.) However in this case the Gujrat High Court decided that Section 41(1) is applicable only to trading liability and not to loan liability.
- CIT vs. TISCO 231 ITR 285 (SC).
- Ravi Leather 240 ITR 702(Allahabad).

  In the case of TISCO Supreme Court held that the defination of actual cost is clear i.e. the cost incurred at the time of acquiring fixed asset. Subsequent waiver can not change the cost of Fixed Asset. However, in the case of Ravi Leather, it was held by their lordships of Allahabad High Court that if the loan is given as grant then subsequent waiver will reduce actual cost of Fixed Asset.

Share of Profit from Agriculture Firm.

DBS GROUP

- **Whether share of profit received by a non-agriculture partner from the Agriculture firm is exempt under section 2(1A) of the Income Tax Act, 1961?**

  - Babulbhai Gulabdas Navlakhi 46 ITR 49.
  - R. M. Chidambaram Pillai vs. CIT 106 ITR 292.
  - CIT vs. Maddi Venkatasubbayya [1951] 20 ITR 151 (Mad).

Short Deduction of TDS & Disallowance u/s 40(a)(ia).

DBS GROUP

➢ **Sec. 40(a)(ia) disallowance for short deduction of TDS – Whether entire expenditure can be disallowed?**

- Dy. CIT vs. S. K. Tekriwal [2011] 48 SOT 515/15 (Delhi).
- IT Officer, Ward-11(4), Kolkata vs. Premier Medical Supplies & Stores (Kolkata).
- DCIT vs. Chandabhai Jasabhai (Mum.).
- We have to examine whether in respect of short deduction of TDS
  i. Entire expenditure will be disallowed u/s 40(a)(ia)?
  ii. Proportionate expenditure will be disallowed?

In the above referred judgments, it was decided that 40(a)(ia) is applicable only in case of non deduction of TDS and not for short deduction of TDS.

Gift by Pharmaceutical Companies - whether hit by explanation to Section 37(1)?

- **Gift by Pharmaceutical Companies – Whether Gift expenditure can be disallowed as per explanation to Sec. 37(1)?**

- CIT vs. Desiccant Rotors International Pvt. Ltd. 347 ITR 32 (Delhi).
- Prakash Cotton Mills (1993) 201 ITR 684 (SC).
- Sanjay Enterprise vs. Asstt. CIT.
- HSBC Securities & Capital Markets (P.) Ltd. vs. Asstt. CIT.
- We have to note that as per Circular No. 5/2012 [F. No. 225/142/2012-ITA.II], dated 01/08/2012 a circular for prohibition by medical practitioners from taking any gift/feebies or holiday facility or travel facility from pharmaceutical companies. In the case of Confederation of Indian Pharmaceutical Industries vs. CBDT, it was decided by their lordships of HP High Court that benefits given by indian pharmaceutical companies will be disallowed under explanation to Section 37(1) it is submitted that this decision requires reconsideration since MCI cannot lay down law. It has only advisory capacity.

Software Expenditure – Capital or Revenue.

DBS GROUP

- **When assessee acquires software and incurs the expenditure. Whether it is a revenue expenditure or capital expenditure and if it is a capital expenditure whether 25% depreciation should be allowed or 60% depreciation should be allowed?**

- CIT vs. Varinder Agro Chemicals Ltd. (2009) 309 ITR 0272 (P&H).
- CIT vs. Southern Roadways Ltd. (2008) 304 ITR 0084 (Chennai).
- CIT vs. G. E. Capital Services Ltd. (2008) 300 ITR 0420 (Delhi).
- CIT vs. G. E. Power Services India Ltd. (2008) 171 Taxman 0010 (Delhi).
- CIT vs. Toyota Kirloskar Motors P. Ltd. Karnataka High Court ITA No. 174 of 2009 decision dated 23.03.2011.

It is interesting to note that in the case of CIT vs. Arvalli Construction 259 ITR 30 the Rajasthan high Court held that the software acquired for application to four mines gives advantage of enduring nature and hence it is capital expenditure. In the case of Maruti Udyog Limited 92 ITD 111 held that outright purchase of software is capital expenditure.

The settled law is that expenditure incurred on system software is capital expenditure while expenditure incurred on application software is revenue expenditure. However if application software is purchased instead of taking it license then debate is raised by IT department regarding the deduction.

Deduction of Pooja Expenses.

DBS GROUP

➢ **Pooja Expenses whether allowable deduction – Whether it can be treated as Personal Expenditure?**

- Board Circular No. 13/A/20/68-IT (A-II).
- Atlas Cycle Industries vs. CIT [1982] 134 ITR 458 (P&H).

  In following cases it was decided that Pooja Expenses are personal expenses and hence will be disallowed u/s 37(1)

  I. Hira Ferro Alloys (Chhatisgarh High Court)- Vishwakarma Pooja exp.
  II. Kolhapur Secgen Mills – 119 ITR 387 (Bom).
  III. Brijmohandas & Sons – 142 ITR 509 (All).

In the case of Brijmohandas & Sons their lordships of Allahabad High Court allowed the deduction for expenses incurred on Ganeshji ki Pooja as the pooja was incurred in the office premises of the assessee.

Commission to Export Agents outside India & liability for TDS.

DBS GROUP

- **When Commission is paid to Export Agents outside India – Whether TDS liability arises on such payments?**

  - CIT vs. Toshoku Ltd.
  - Gujarat Reclaim & Rubber Products Ltd. Vs. ACIT, ITA No. 8868/Mum/2010.
  - SKF boilers & Driers Pvt. Ltd.
  - GE India Technology Centres Pvt. Ltd. 327 ITR 456.

The CBDT issued Circular No. 23 dated 23/07/1969 and Circular No. 786 dated 07/02/2000 whereby it said that TDS provisions u/s 195 of the Act are not applicable to the commission paid by the indian exporters to their foreign agents. However, subsequently CBDT issued Circular No. 7 of 2009 dated 22/10/2009 and withdrew the aforesaid Circular. However in the case of Gujarat Reclaim & Rubber Products Ltd. Vs. ACIT The honorable Mumbai bench held that even after withdrawal of Circular No. 23 of 1969 Position had remain the same and commission paid to Non Resident Agents is not liable to tax when services are rendered outside India, Payments were made outside India and there was no Permanent Establishment in India.

Depreciation to Partnership firm when Car is in the name of the partner.

- **Whether Depreciation would be allowed to the partnership firm on Motor Car which is in the name of the Partner but consideration is paid by the Firm and Motor Car is used by the Partnership Firm for the purpose of the Business?**

- Mysore minerals, 239 ITR 775 (SC).
- CIT vs. Fazika Dabwali TPT Co. Pvt. Ltd. 270 ITR 398 (P&H).

It is submitted that where the vehicle is purchased by the firm on behalf of the firm but it is registered in the name of the partners, it was held that merely because, the vehicles had been registered under the Motor Vehicles Act in the name of one of the partners only, it would not deprive the firm of the ownership of the vehicle which is not distinct from its partners. The firm was entitled to depreciation on the vehicles. (CIT vs. Mohd. Bux Shokat Ali (No. 2) (2002) 256 ITR 357 (Raj.).

MODVAT Credit on Raw Material not consumed.

DBS GROUP

➢ **Whether MODVAT Credit on Raw Materials not consumed shall take part of Closing Stock?**

- CIT vs. British Paints India Ltd. (1991) 188 ITR 44 (SC).
- Central Excise vs. Dai Ichi Karkaria Ltd. (1999) 156 CTR (SC) 172.
- CIT vs. English Electric Co. of India Ltd. [2000] 243 ITR 512 (Mad).
- CIT vs. Indo Nippon Chemical Co. Ltd. (2003) 261 ITR 275 (SC).

It is important to note that the valuation of inventory is not affected by MODVAT credit. If the inventory is valued at gross rate then the purchases will also have to be recorded at the gross rate. For this proposition, reliance is placed on the judgment of the Supreme Court in the case of CIT vs. British Paints India Ltd. (1991) 188 ITR 44 (SC). Whatever component forms part of purchase should also form part of closing stock and if duty paid is excluded from purchase, it cannot be included in the closing stock.

EGM and Felicitation of Shri. Saurabh Soparkar, Manish Kaji, Bandish Soparkar and Parth Contractor on 09/10/2014

Full Day Seminar at Anand on 06/11/2014

Half Day Seminar At Rajkot on 25/12/2014

GLIMPSES OF EVENTS HELD DURING AUGUST TO JANUARY 2015

Half Day Seminar at Bharuch on 03/01/2015

Half Day Seminar at Bhavnagar on 10/01/2015

Half Day Seminar at Deesa on 17/01/2015

Half Day Seminar at Nadiad on 31/01/2015