

RECENT JUDICIAL DECISIONS – DIRECT TAXES

**Dr. ANITA SUMANTH
ADVOCATE**

CIT vs SMISS Security Ltd S.C. 348 ITR

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Stock Exchange membership card-asset eligible for depreciation

Recent Judgment of the Madras High court in the case of **Pentamedia Software Technologies Ltd Vs Deputy of Commissioner of Income Tax.** In the context of non-compete fee

To be considered within the phrase 'other business or commercial rights of similar nature'

Re-assessment

CIT vs Usha International Ltd (348 ITR 485) (Delhi High Court)

Concept of change of opinion discussed in detail with regard to application of Evidence Act

ITO vs Gabriel India Ltd (203 ITR 108)(Bombay High Court)

CIT vs Kelvinator of India Ltd (256 ITR 1)(Full Bench of Delhi High Court affirmed by the Supreme Court in *320 ITR 561*)

DCIT and others vs Simplex Concrete Piles (India) Ltd(254 CTR 221). On validity of re-assessment based on Supreme Court Judgment

Mutuality

Bangalore Club vs Commissioner of Income Tax (350 ITR 509) (S.C.)

Conditions for application of the principle of mutuality reiterated and explained

Conditions precedent for adjustment of refund

Cognizant Technologies Solutions India Pvt. Ltd. Vs DCIT – (356 ITR 373)(Madras High Court)

Power of Tribunal to remand

Cholamandalam MS General
Insurance Co. vs. ACIT (Madras High
Court) (357 ITR 597)

Is the Judgment a double edged sword

Judgment of Madras High Court in the
case of Capricorn Foods Vs ACIT

**Assessibility of Income earned
from sale of carbon credits**

My Home Power Ltd vs DCIT 21 ITR

(T) 186 (151 TTJ 616)(ITAT

Hyderabad)

Reference to Special Bench on
account of cleavage of opinion
between Benches of the ITAT

Decision of the Madras ITAT in the
case of **Renuga Textiles Ltd vs CIT**
in the context of Sec. 263

Admission of additional documents

Judgment of the Supreme Court in the case of **Tek Ram (dead through LRs) vs CIT** (357 ITR 133)

**Cancellation of Registration of
Trust u/s 12 AA of the Act**

Bombay High Court in the case of
**Sinhagad Technical Education
Society Vs CIT (Central) (343 ITR
23)**

Madras High Court in **Gowri
Ashram vs CIT (356 ITR 328)**

Levy of Penalty u/s 271 (1) (c)

Recent Supreme Court Judgment in the case of Mak Data Ltd vs CIT([2013]38 taxmann.com 448 (SC))

Agreed additions pursuant to detection in survey proceedings

Large scale ramifications

Decision of Delhi High Court in Commissioner of Income Tax Vs

Zoom Communication (327 ITR 510)

Sharma Alloys (India) Ltd vs ITO (Madras High Court) (357 ITR 379)

CIT vs Balaji Distilleries (Madras High Court) (214 Taxmann 96)

**Various issues in the grant of relief u/s
10A and 10B**

**Eligibility to deduction in respect of
training income**

*Pentamedia Graphics Ltd vs ACIT*

(Madras High Court)(357 ITR 403)

Carry forward and set off of loss

*Pentasoftware Technologies vs DCIT*

(Madras High Court)

Conversion of unit from DTA to EOU

**Absence of ratification from Board-
consequences**

**# *CIT vs Regency Creations Ltd* – (353
ITR 326) - Delhi High Court -**

Levy of interest u/s 234D

CIT vs Reliance Energy (358 ITR 371)

Supreme Court holds Sec. 234D is not retrospective. Provision would apply in the case of all assessments that have been completed subsequent to insertion of provision i.e. 1.6.2003

Decision of Bombay High Court in the case of *Director of Income Tax(International Taxation) vs. Delta Airlines Incorporation* (245 CTR 16) affirmed.

Alternate remedy

Recent Judgment of Supreme Court in the case of *CIT and others vs Chhabil Das Agarwal* (357 ITR 357)

CIT vs Vijay Bhai N. Chandrani
[2013] 35 taxmann.com 580 (SC)

Alternate remedy is to be exhausted before approaching Court under Article 226 of the Constitution of India

Deduction of Tax at source

Regional Director ONGC Ltd and another vs Association of Scientific and Technical Officers, ONGC Ltd and others (354 ITR 156)

Supreme Court explains period of default u/s 201(1) and period for the interest is liable to be paid u/s 201(1)A

Supreme Court Judgment in the case of *CIT vs Gujarat Fluoro Chemicals* (358 ITR 291)

Madras High Court Judgment in
the case of *CIT vs Singapore
Airlines Ltd* (358 ITR 237) and
lease charges paid
Lease of aircraft rent for the
purpose of Sec. 194 I

Advance Ruling

Where a return has been filed in respect of the period for which the ruling has been sought, bar set out in terms of Sec.245 R (2) applies

Microsoft Operations Pvt.Ltd in Re
310 ITR 408 applied in

Red Hat India Pvt.Ltd. in Re: **349 ITR**
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Income from Shipping

Madras High Court in the case of *Poomphar Shipping Corporation and West Asia Maritime* (38 taxmann.com 150) holds issue against the assessee on the question of assessability of income from shipping as well as Permanent Establishment

Liability to tax in terms of Domestic Law as well as Treaty Law

Taxation of income from Telecommunication Services

Madras High Court in the case of Verizon Communications Singapore Pte Ltd Vs Income Tax Officer(39 taxmann.com 70) holds Issue of taxability of income from Telecommunication Services against the assessee.

Limitation in respect of Re-assessment initiated for different year

Proceedings initiated pursuant to direction of ITAT

Issue discussed in detail by the Madras High Court in the case of *Goldmine Investments Pvt.Ltd Vs DCIT*

Impact of Sec.150 (2) and Explanation 2 of sec.153(3)

Interpretation of 'order in appeal'

THANK YOU