



# **THE CHAMBER OF TAX CONSULTANTS**

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## **STUDY GROUP MEETING**

**Tuesday, 18<sup>th</sup> December, 2018**

**Kilachand Hall, 2nd Floor, IMC, Churchgate, Mumbai.**

### **RECENT JUDGMENTS ON DIRECT TAX**

**– VIPUL B. JOSHI  
ADVOCATE**

#### **1. PROFESSIONAL MISCONDUCT**

Council of the Institute of Chartered Accountants of India v/s. Gurvinder Singh –  
[(2018) 99 taxmann.com 332 (SC)]

#### **2. INTERPRETATION OF STATUTES**

- (i) CIT v/s. Dilip Kumar & Co. – [(2018) 95 taxmann.com 327 (SC)]
- (ii) CIT v/s. Classic Binding Industries – [(2018) 96 taxmann.com 405 (SC)]
- (iii) Sushila N. Rungta (D) v/s. TRO – [(2018) 100 taxmann.com 53 (SC)]  
[Repeal without saving clause]

#### **3. 14A**

- (i) Pr. CIT v/s. State Bank of Patiala – [(2018) 99 taxmann.com 286 (SC)]
- (ii) ACIT v/s. Satish Kumar Agarwal – [(2018) 172 ITD 143 (Jaipur – Trib)]  
[Disallowance to the extent of exempt income]
- (iii) ACIT v/s. Janak Global Resources P. Ltd. – [I.T.A. No. 470 / Chd / 18, Order Dated  
16.10.2018]  
[Mixed funds. No exempt income]

#### **4. CAPITAL GAIN**

- (i) CIT v/s. Manjula J. Shah (Dead) – [SLP (C) No. 19924 / 2012, Order Dated 18.09.2018]  
[Cost of acquisition / cost of indexation]
- (ii) Pr. CIT v/s. Talwalkars Fitness Club – [(2018) 409 ITR 37 (Bom)]  
[“transfer”]
- (iii) Periar Trading Co. P. Ltd. v/s. ITO – [I.T.A. No. 1944 / M / 18, Order Dated 09.11.2018]  
[Conversion of Cumulative Compulsory Convertible Preference Shares into equity shares]
- (iv) ACIT v/s. Celerity Power LLP – [(2018) 100 taxmann.com 129 (Mum – Trib)]  
[Conversion of company into LLP]
- (v) Mrs. Aarti Sanjay Kadam v/s. ITO – [(2018) 97 taxmann.com 284 (Mum – Trib)]  
[Chargeability]

**5. CASH CREDIT – SECTION 68**

- (i) Pr. CIT v/s. Veedhata Tower P. Ltd. – [(2018) 403 ITR 415 (Bom)]  
[Source of source]
- (ii) Mr. Ramprasad Agarwal v/s. ITO – [I.T.A. No. 4843 & 1228 / M / 18, Order Dated 30.11.2018]  
[Penny Stock]
- (iii) DCIT v/s. Rakesh Saraogi & Sons (HUF) & Ors. – [I.T.A. Nos. 93 to 99 / RPR / 14, Order Dated 16.04.2018]  
[Penny Stock]

**6. UNDISCLOSED INCOME – SET OFF**

ACIT v/s. Satish Kumar Agarwal – [(2018) 172 ITD 143 (Jaipur – Trib)]

**7. PENALTY**

Shri Ajay Loknath Lohia v/s. ITO – [I.T.A. No. 2998 / M / 17, Order Dated 05.10.2018]  
[Bogus Purchase]

**8. PROSECUTION – COMPOUNDING APPLICATION**

Supernova System (P) Ltd. v/s. CCIT – [(2018) 99 taxmann.com 300 (Guj)]

**9. STAY & RECOVERY**

- (i) Pr. CIT v/s. LG Electronics India P. Ltd. – [SLP (C) No. 19027 of 2018, Order Dated 20.07.2018]  
[Office Memorandum dated 29.02.2016 read with 31.07.2017]
- (ii) Samms Juke Box v/s. ACIT – [(2018) 409 ITR 33 (Mad)]  
[Office Memorandum dated 29.02.2016 read with 31.07.2017]
- (iii) Pr. CIT v/s. Monnet Ispat And Energy Ltd. – [SLP (C) No. 6483 / 2018, Order Dated 10.08.2018]  
[Recovery → Crown's Debt]

**10. APPEAL**

- (i) Shri Kaushik N. Tanna v/s. ACIT – [M.A. No. 98 / M / 18, Order Dated 01.11.2018]  
[Order not pronounced within 90 days]
- (ii) Patiala Improvement Trust v/s. ACIT – [(2018) 409 ITR 43 (P&H)]  
[Doctrine of merger]

**11. GAAR**

Gabs Investments P. Ltd. and Ajantha Pharma Ltd. – [CSP Nos. 995 & 996 of 2017, Order Dated 30.08.2018]  
[NCLT – Mumbai Bench]