



**JUST 5 MINUTES**

TAXCON™ INDIA PRIVATE LIMITED



# CASE LAWS - INCOME TAX

## 1. *Luxora Infrastructure (P) Ltd. v. DCIT(C) [2022]*

It has been held that ITAT Mumbai cannot refuse to follow Hon'ble jurisdictional High Court's decision merely because the Supreme Court has admitted SLP against the decision.

## 2. *JICE Academy for Excellence Pvt. Ltd Vs NFAC (ITAT Bangalore).*

It has been held that there can be no penalty under section 271D, if cash loan was taken from Director to meet urgent requirements of the company.

## 3. *Shri Lawrence Rebello vs. ITO (ITAT Indore)*

The Hon'ble Income-tax Appellate Tribunal has held that the benefit received by the assessee in the form of bigger size of flat and amount received as hardship allowance from the developer is a capital receipt, which cannot be treated as revenue receipt for taxing as income.

# CASE LAWS - INCOME TAX

## 4. *Piyush Ambalal Gandhi v. DCIT - Date of Judgement : 11.11.2022 (Guj.)]*

It has been held that where relief under section 80CCC(1) is not claimed, then the policy surrender value is not taxable under section 80CCC(2).

## 5. *Section 194H TDS applicable on additional sum charged by agents over & above net fare of air tickets*

Supreme Court in one of the matters has decided that where assessee-airlines executed Passenger Sales Agency (PSA) agreements with travel agents in terms of which they would pay commission to them on published fare of tickets sold by them on behalf of airlines, additional amount over and above net fare charged by agents from customers i.e., supplementary commission were incidental to transaction by which flight tickets were sold on behalf of air carriers and assessee was liable to deduct TDS under section 194H on same.

# CASE LAWS - INDIRECT TAX

## 1. *Genpact India Pvt. Ltd. Versus Union of India and others*

The High Court has recently ruled that the business process outsourcing (BPO) services provided to an overseas entity's customers under a sub-contracting arrangement are not 'intermediary services'. The tax department had contended that BPO services are essentially 'intermediary services' as they involve only facilitation between the overseas entity and its customer. The High Court held in favour of the taxpayer on the basis that the BPO services are provided by the service provider in India on its own account and not on a principal-agent relationship.

# CASE LAWS - INDIRECT TAX

2. *Interest on delay in filing of GSTR-3B to be paid even if tax was already deposited in electronic cash ledger*

High Court in one of the matters has decided that where petitioner denied liability to pay interest on delay in filing of GSTR 3B for disputed periods on ground that amount of tax had already been deposited prior to filing of GSTR 3B return in its electronic Cash Ledger, has held that interest to be paid since any deposit in Electronic Credit Ledger prior to due date of filing GSTR 3B does not amount to discharge of tax liability on part of petitioner.

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