

**INCOME TAX APPELLATE TRIBUNAL, MUMBAI BENCHES, MUMBAI**

**STATEMENT SHOWING THE LIST OF SPECIAL BENCH CASES PENDING AS ON 06.01.2013.**

Sr. No	Appeal No.	Name of the Assessee	To whom assigned the Special Bench	Points involved	Remark
	<b>MUMBAI BENCHES</b>				
1.	ITA No. 5568 & 5569/M/1995 & 6448/M/1994 A.Y. 1991-92 to 1993-94	DHL Operations & B.V. Netherlands	1. Hon'ble Vice-President (MZ) 2. Shri. P.M.Jagtap, A.M. 3. Shri. B.Ramakotaiah, A.M.	"Whether, or not, on the facts and in the circumstances of the case and on a proper interpretation of Art. 5.5 and Art. 5.6 of the DTA (with Netherlands) and having regard to its activities, it can be said that Airfreight Ltd. was the agent of the assessee so that it can be held that the assessee had a PE in India? And if the answer is in the affirmative, whether or not the income from inbound shipments can be treated as attributable to the PE?"	Fixed on 29.04.2013.
2.	ITA Nos. 5034/M/2004 5035/M/2004 2060/M/2008 2061/M/2008 3021/M/2005 7095/M/2004 C.O. 41-44/M/2008 A.Y. 1998-1999 to 2003-2004	M/s. Clifford Chance LLP	1. Hon'ble President, I.T.A.T. 2. Hon'ble Vice-President (MZ) 3. Shri.P.M.Jagtap,A.M.	1. "Whether, the substitution of the Explanation to Section 9 by the Finance Act, 2010 with retrospective effect from 01.06.1976 changes the position of law as far as the assessee is concerned, by making the ratio of the judgment of the Hon'ble Bombay High Court in the assessee's own case for the assessment year 1986-87 inapplicable to the assessment years now in appeal?" 2. "Whether on a true and correct interpretation of the term "directly or indirectly attributable to the permanent	Fixed on 28.01.2013

					establishment” in Article 7(1) of the India – UKDTAA, it is correct in law to hold that the consideration attributable to the services rendered in the state of residences is taxable in the source state?”	
3.	ITA 5996/M/93 ITA 1055/M/94 ITA 1056/M/94	GTC Industries Ltd.	1. Vice President(MZ) 2. Shri R.S.Syal,AM. 3. Shri B. Ramakotaiah, A.M.			Fixed on 21.01.13
	<b>DELHI BENCHES</b>					
1.	ITA No. 1976/Del/2006	M/s C.L.C. & Sons Pvt. Ltd.	1. Hon’ble President, I.T.A.T. 2. Hon’ble Vice-President (Zonal) 3. Shri. Rajpal Yadav, JM.	“Whether, on the facts and circumstances of the case, assessee is entitled to claim depreciation on the value of all intangible assets falling in the category of “any other business or commercial rights”, without coherence of such rights with the distinct genusis/ category if intangible assets like know how, patents, copyrights, trade marks, licences and franchises as defined U/s 32(1) (II) of the I.T. Act.”		Fixed after the disposal of Hon’ble High Court in the case of CLC Global Ltd. which is pending before Hon’ble High Court.
2.	ITA No. 1999 & 2000/Del/2008	M/s National Agricultural Co-op. Mkt. Federation of India, New Delhi	1. Shri.G.D.Agarwal,VP (DZ). 2. Shri. Rajpal Yadav, J.M. 3. Shri.I.C. Sudhir,JM	“Whether on the facts and circumstances of the case, where claim of damages and interest thereon is deputed by the assessee in the court of law, deduction can be allowed for the interest claimed on such damages while computing business income.”		Adjourned Sine die

	<b>KOLKATTA BENCHES</b>					
1.	ITA Nos.1548 & 1549/Kol/2009 A.Y.2003-04 & 2004-05	M/s. Instrumentarium Corporation Ltd.	1.	Hon'ble President, I.T.A.T. 2. Hon'ble V.P. (KZ) Shri Mahavir Singh, J.M. 3.	1. "Whether, on the facts and in the circumstances of the case, no arm's length rate of interest was required to be charged on the loan granted by the non-resident assessee-company to its wholly owned subsidiary Indian company M/s Datex Ohmeda(Indian) Pvt. Ltd.(Datex)?" 2. "Whether, in the given facts and circumstances of the case, CBDT Circular No. 14 of 2001 [252 ITR (St.) 104] and Taxation Ruling TR 2007/1 issued by Australian Taxation Office are relevant in the context of Transfer Pricing Regulations of India, in particular to the case of the assessee?" 3. "Whether, setting off of loss with future profits and not assessing the interest income in the hands of the assessee on arm's length price will cause real loss to the Govt. exchequer?"	Adjourned Sine-die.
	<b>CHENNAI BENCHES</b>					
1.	Int. T.A. 101 & 161/Mds/2003 A.Y. 1999-2000 A.Y.2000-2001	M/s Bharat Overseas Bank Ltd., Chennai	1.	Hon'ble Vice-President (CZ) 2. Shri. N.S.Saini,A.M. 3. Smt. P.Madhavidevi, J.M.	"Whether, the amount collected from the borrowers to meet the interest tax liability could be taxed as interest under the Interest-Tax Act, 1974?"	Adjourned Sine die

	<b>AHMEDABAD BENCHES</b>					
1.	ITA No. 36/Ahd/2004, ITA No. 48/Ahd/2004, A.Y. 1999-2000, ITA No. 35/Ahd/2005, A.Y. 2001-02 & ITA No. 1095/Ahd/2006, A.Y. 2002-03, ITA No. 515/Ahd/2005, A.Y. 2001-02.	Gujarat Gas Financial Services Ltd., Ahmedabad.	1. 2. 3.	Hon'ble Vice-President (AZ) Shri.D.K. Tyagi, J.M. Shri.A.K.Garodia, A.M.	"Whether, on the facts and in the circumstances of the case, the assessee company is a financial company under the Interest tax Act,1974 liable to tax there under and if yes, then which portion of the income/receipts of the assessee company can be considered 'chargeable Interest' under Interest Tax Act, 1974."	Fixed on 30/01/2013
2.	ITA 2170/Ahd/2005	M/s Nanubhai D. Desai, Surat	1. 2. 3.	Hon'ble President, I.T.A.T. Hon'ble Vice-President (AZ) Shri.R.S.Syal,A.M.	"Whether, Shri Deepak R.Shah, advocate and ex-Accountant Member of the Income Tax Appellate Tribunal, is debarred from practicing before the Income Tax Appellate Tribunal in view of the insertion of Rule 13 E in the Income Tax Appellate Tribunal Members (Recruitment and Conditions of Service) Rules,1963?"	Fixed on 01/02/13
	<b>BANGALORE BENCH</b>					
1.	ITA 248/Bang/2010 A.Y.2004-05 ITA 368/Bang/2010 A.Y.2003-04 ITA 369/Bang/2010 A.Y.2004-05 ITA 370/Bang/2010 A.Y.2005-06 ITA 371/Bang/2010 A.Y.2006-07 ITA 1206/Bang/2010 A.Y.2007-08	M/s. Biocon Limited	1. 2. 3.	Hon'ble President, I.T.A.T. Shri. R.S.Syal,A.M. Shri. N.V.Vasudevan, J.M.	"Whether, discount on issue of Employee Stock Options is allowable as deduction in computing the income under the head profits and gains of business?"	Fixed on 14 <sup>th</sup> &15 <sup>th</sup> February-2013

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**LIST OF SPECIAL BENCH CASES HEARD AND PENDING FOR ORDERS AS ON 06.01.2013**

Sr. No.	Appeal No.	Name of the Assessee	To whom assigned the Special Bench	Points involved	Remark
	<b>NEW DELHI BENCHES</b>				
1.	ITA 5890/Del/2010 A.Y.2006-07	M/s. IHG IT Services Pvt. Ltd.	1. Hon'ble President, I.T.A.T. 2. Hon'ble Zonal Vice-President 3. Shri.Rajpal Yadav, J.M.	Whether prior to insertion of second proviso to Section 92C(2), the benefit of 5% tolerance margin as prescribed under proviso to Section 92C(2) of the IT Act, 1961 for the purposes of determining the arm's length price of an international transaction is allowable as a standard deduction in all vases, or is allowable only if the difference is less than 5%."	Heard on 27.07.2012
2.	ITA No.5140/Delhi/11	M/s. L.G.Electronics India (P) Ltd., Gurgaon.	1. Shri. G.D.Agarwal, VP(DZ). 2. Shri R.S.Syal, A.M. 3. Shri Hari Om Maratha, J.M.	1. "Whether, on the facts and in circumstances of the case, the Assessing Officer was justified in making transfer pricing adjustment in prelation to advertisement, marketing and sales promotion expenses incurred by the assessee ? 2. "Whether the Assessing Officer was Justified in holding that the assessee should have earned a mark up from the Associated Enterprise in respecpt of AMP expenses alleged to have been incurred for and on behalf of the AE?"	Heard on 08.11.2012