BRIEF INTRODUCTION

Shabbir Amreliwala B.Com, FCA, DISA (ICAI) is founder of chartered accountancy firm S.A & Associates. Under his leadership the firm has transcended from being a micro one person outfit to multi location firm operating out of offices in Mumbai and Thane with team strength of of twelve.

With a keen eye for execution, he has developed and implemented systems and processes which ensure consistency in delivery of services to clients across business verticals.

A veteran of Statutory and Internal Audits and and Financial Services Outsourcing, he has lead audits and FSO services assignments for listed entities, large corporates and plethora of clients from start-up and SME segments. He has experience with organisations in textiles, plastic processing, packaging, non-ferrous metals, hospitality, pharma, clinical research, FMCG, airports, transportation, auto ancilliary, banks, media and entertainment, oil and gas anicillary, etc.

ABOUT THE PRESENTATION

This presentation is based on my first hand experience in income tax assessments over past 3 years. I have tried to expalin in breif as to what transpired at ground level in each case without use of much of jargon.

It has dawned on me that learnings from income tax assessments has broader implications and extends to audit, income tax return filing, accounting and overall working of organisations.

I hope that readers will find this presentation useful.

Learnings from Income Tax Assessments

Part 1

Sr.No.	Name of Client	AY	ITO Designation	Issue involved	Our Reply	Final Status
1.	Individual	13-14	Mumbai	**Capital Gains u/s Section 54/54F** Property was sold for Rs 70,00,000. Against this Rs 1,50,00,000 was invested in new property. However, since there was no registered agreement for new property, ITO disallowed capital gains exemption and levied tax thereon. Property was brought by assessee from his brother. Total cost of new property was Rs 3,60,00,000. But till time of concluding of assessment, balance Rs 2,10,00,000 was not paid by assessee to his brother.	Payments for new property were made as per MoU. We argued that Section 54/54F envisage substantial compliance of law. These sections have always been interpreted in favour of assessee and hence capital gains should be made tax exempt. Another important fact was - client was in possession of property from FY 11-12 and continues to do so till date.	Case is pending with CIT (A). Total tax liability - Rs 28,55,070
2.	Individual	10-11	Mumbai	**Source of funds for purchase of new residential property** Client has purchased a residential property for Rs 2,00,00,000 jointly with his son. ITO wanted to veirfy source of funds it.	Out of Rs 2 Crores property value - Rs 75 lakhs was paid by client. Rs 72 lakhs was paid through repayment of loan received from his another son. Rs 3 lakhs was financed from capital available in partnership firm. Rs 125 lakhs was paid by his son through bank loan (Rs 100 lakhs) and personal savings (Rs 25 lakhs)	Case closed in favour of assessee. No tax liability

Sr.No.	Name of Client	AY	ITO Designation	Issue involved	Our Reply	Final Status
3.	Domestic Company	12-13	Hyderabad	**Full fledged scrutiny for business accounts** Issues raised by ITO: • Reconciliation of turnover - books vs Form 26AS vs Service tax returns • TDS on payments • Details of all expenses above Rs 1 lakh • Debit balance in directors-cum-shareholders account • Sales promotion expenses - Rs 14.01 lakhs done through credit card of director • Agreements with clients • Personal returns of directors - to verify capacity to give loans to company • Travelling expenses	We provided all details called for without exception. Two issues where ITO was not agreeing with us: • Allowability of Sales promotion expenses of Rs 14.01 lakhs and • Allowability of Travelling expenses of Rs 2.08 lakhs For sales promotion expenses we said: *the payment of business promotion and travelling expenses were done through credit cards because credit card statement in turn can be produced as evidence towards justification of expenses* *these expenses which are seemingly personal have been incurred felicitation of various individuals at different point in time to convince them to give business to company's client.* For travelling expenses we said: *these were done for business development for asssessee's clients* For sales promotion - ITO made ad hoc disallowance of Rs 3 lakhs. For travelling expenses - ITO disallowed full amount	Case closed. Tax liability - Rs 2,05,900

Sr.No.	Name of Client	AY	ITO Designation	Issue involved	Our Reply	Final Status
4.	Domestic Company	15-16	Mumbai	**Allowability of bad debts** The client had jointly prodcued a marathi feature film with another company. Film flopped at box office. So advance for film production paid to other company amounting to Rs 31,98,349 was written off. This also lead to huge refund amount. The ITO contended that, since the assessee had not launched a legal action against co-producer, write off cannot be allowed. Another issue was we had wrongly classified advance as sundry debtors hence ITO demanded notices, mail trail, etc. to prove that it was indeed bad debts.	There was no question of initiating legal action against co-producer. Film was released, was not liked by audiences and hence it flopped. Both producers did their job. Wrong classification in audited balance sheet will not affect susbtance of transaction	Case closed No tax liability
5.	Individual	15-16	Thane	**Non filing of tax audit report under Section 44AB** Assessee had done speculative trading in shares. Net result of trading was loss. Total trading turnover exceeded Rs 1 crore and hence tax audit under Section 44AB of the Income Tax Act 1961 was applicable. Assessee was unwaware of audit provisions	We provided all details called for without exception. We had no defence point here, except that since client had already incurred huge losses he should not be punsihed for innocent mistake. Levying of penalty is at discretion of ITO. In this ITO never initiated penalty proceedings withing 6 months of passing of assessment order.	Case closed No tax liability

Sr.No.	Name of Client	AY	ITO Designation	Issue involved	Our Reply	Final Status
6.	Individual	15-16	Mumbai	**Gift from relatives** The client had routed his own income by showing it as gifts received from his wife, mother, brother and father in law. ITO called for income tax returns of these individuals. It came to his notice that returned income did not justify their capability to give the gifts as shown by client. ITO wanted to tax entire gift amount in hands of client.	We had no defence point here. It was open and shut case. It was resolved through persuasion.	Case closed No tax liability
7.	Individual	15-16	Mumbai	**Interest deduction u/s 24(b) of the Income Tax Act, 1961** The client had filed original return without claiming loss on house property. Subsequently, he filed revised return by claiming interest u/s 24(b) amounting to Rs 10,10,800/-. ITO aksed for evidence of a) Ownership details of property b) Valuation of gross annual value and c) interest u/s 24(b)	Here we could not produce before ITO rent agreements. Property purchase agrements were placed on record so doubt on ownership was resolved. For interest deduction, certificate from private lender to the tune of Rs 10,66,800 was provided to ITO. But he did not accept this why? As per Section 24(b) interest certificate from private lender (non NBFC and Banks) is pefectly valid. However, interest payments were not thorugh banking channels. There was no trace that money was indeed borrowed from said lender.	Case closed. Tax liability - Rs 3,67,780

Sr.No.	Name of Client	AY	ITO Designation	Issue involved	Our Reply	Final Status
8.	Individual	16-17	Mumbai	**Source of funds for purchase of new residential property** **Capital Gains u/s Section 54/54F** **Reconciliation of turnover - books vs Form 26AS vs Service tax returns** Assesse had purchased a residential property for Rs 1.31 Crores. ITO wanted to verify sources of funds. Assessee had sold a residential property for Rs 1.71 Crores. ITO wanted to verify calculations of capitals gains and whether 100% gains have been taxed as property was in joint name of assessee and his son. There was differemce of Rs 23 lakhs c. in turnover as per Form 26AS and ITR. ITO had asked to put on record reasons for difference.	New property was financed by housing loan from NBFC for full value. So this issue was sorted. In ROI of assessee only 50% of capital gains amounting to Rs 19.09 lakhs was taxed. On balance 50% tax was not paid at all. Ideally, since son was joint holder and TDS was also reflecting in his name, he should have paid tax. Finally, balance 50% was addedd to income of assessee and tax liability was determmined. As full consideration was received in bank of asessee, ITO took that position. Reco. of differences was given. But, Rs 8 lakhs c. was not reconciled. We said that since money had been received in next financial year, un-reco. difference has been taken as revenue of that year. In Form 3CD, method of accounting was **"Mercantile", had officer paid attention to this she would have taxed unreco difference and there would be have been no defence.**	Case closed Tax liability - Rs 5,34,521

Sr.No.	Name of Client	AY	ITO Designation	Issue involved	Our Reply	Final Status
9.	Domestic Company	15-16	Mumbai	**Justification for value at which shares were issued to new investor** **Source of cash deposits** During the year the client had issued 1,27,273 10% Non-cumulative Compulsory Convertible Preference shares of Rs 10 each at premium of Rs 100 per share. Issue value was Rs 1.40 crores. ITO challenged premium of Rs 100. Client had adopted Discounted Cash Flow method for share valuation. ITO rejected this saying projected future income was not reasonable given past performace of company. Instead he re-caulcuated value per share on basis of Net Asset Value Method at Rs65.13 per share. Difference (Rs 110 - Rs 65.13)*127273 he taxed under explanation a(ii) to Section 56(2)(viib) as gift. The client had made cash deposits of Rs 76 lakhs. ITO wanted source along with identity of persons who had given cash.	We provided all details called for without exception. Rule 111UA of IT Rules specifically allows DCF as one of acceptable methods of share vaulation.The assessee had obtained shares valuation report from independent Chartered Accountants' firm.The valuer had taken cash flows based on optimistic view of cash that would have been generated by project. Since project size was very huge such optimism on part of valuer was not unjustified. Net Asset Value proposed to be applied by learned officer will not give correct picture of value of shares as the assessee barely possessed any assets in the year under scrutiny. Net assets of the company were immaterial to investor. He had invested solely on the strength of size of project and expected future cash flows. Also, investor did not incur any loss as his monies were duly refunded. There was no defence here. If PAN and address would have been available, so we could have had a chance.	Case is pending with CIT (A). Total tax liability - Rs 58,68,500

Learnings from Income Tax Assessments

Part 2

Sr.No.	Name of Client	AY	ITO Designation	Issue involved	Our Reply	Final Status
10.	Individual	12-13	Mumbai	**Capital Gains u/s Section 54/54F** **Difference in stamp duty valuation vis-a-vis agreement value** Assesee had sold a residential flat for Rs 10 lakhs. However, stamp duty value for said flat was Rs 18.62 lakhs. The ITO wanted to tax difference under Section 50C of the Income Tax Act 1961. Further, since assessee had not invested in new property, ITO levied tax on gain amount. Also, while calculating capital gains value ITO only considered allotment cost of Rs 31,000/-. He did not give benefit of construction cost while arriving at taxable capital gains.	We presented to learned ITO that asessee had not received any monies over and above agreement value. Bank statements were placed on record to prove our contention. But, officer did not relent. As far as question of investing new property was concerned, assessee did invest in new property. However, he was defrauded by three real estate agents. Assessee lost full amount of Rs 10 lakhs. He had even lodged an FIR against these individuals and matter was sub-judice. Copies of FIR were placed on record. ITO was adamant and made additions. We submitted following letter to his office.	Case is pending with CIT (A). Total tax liability - Rs 5,78,280  DOCX Document
11.	Individual	15-16	Mumabi	**Difference in stamp duty valuation vis-a-vis agreement value (Section 56(2)(vii))** Assessee had booked a commercial property in year 2010 for Rs 94.64 lakhs. It was registered on 22-10-2014 after completion of construction. Stamp duty value on that date was 1.49 crores. ITO levied tax on difference amount under Section 56(2)(vii) treating it as gift. As per ITO allotment letter and its honoring was irrelevant as it is not legally binding. Final registered agreement was of prime importance.	Assessee booked property in year 2010 vide allotment letter given by developer. All payments as per allotment letter were done and finally on completion, assessee received registered property in his name in year 2014. In span of 4 years value increased with general rise in real estate prices. Year-wise chart of payment was placed on record.	Case is pending with CIT (A). Total tax liability - Rs 20,56,940/-

Sr.No.	Name of Client	AY	ITO Designation	Issue involved	Our Reply	Final Status
12.	Individual	10-11	Mumbai	**Non-filing of return u/s 139(1) of the Income Tax Act, 1961** **Capital Gains u/s Section 54/54F** The case was reopened u/s 147 of the Income Tax Act 1961. Basis for reopening - IT department had information that assessee had purchased a residential flat for Rs 3.60 Crores. Opportunity was given to file return u/s 148 of the Income Tax Act 1961 and disclose income which was earlier not done.We filed return u/s 148 and dislcosed interest income as per Form 26AS. But we did not disclose capital gains. During the assessment proceedings, it was placed on record that assessee had joint properties (2) with her sister. These properties were disposed off and funds were invested in new property. Assessee's share of sale proceeds was Rs 2.43 Crores. Balance amount was gifted by her sister and new property was financed in this manner. ITO disallowed claim u/s 54 of the IT Act 1961 saying since 1) Original return was not filed and 2) Assessee failed to disclose and take exemption even when second chance of filing return u/s 148 of the IT Act 1961 was given. To prove that 50% belonged to assessee's sister we had to given her returns as well. This was accepted by officer.	We provided all the details called for without exception. Documents that were submitted, proved in no uncertain terms that assessee's claim u/s 54 of the IT Act 1961 was perfectly valid. Section 54 is a beneficial provision of income tax legislation. Courts at different points in time have interpreted said section in favour of tax payers - CIT v. Dr. Laxmichand Narpal Nagda [1995] 211 ITR 804 (Bom.)., CIT v. Mrs. Shahzada Begum [1988] 173 ITR 397 (AP)., Balraj v. CIT [2002] 123 Taxman 290/254 ITR 22 (Delhi).etc. To claim exemption u/s 54 following three conditions should be satisfied: a) The benefit of section 54 is available only to an individual or HUF b) The asset transferred should be a long-term capital asset, being a residential house property and c) Within a period of one year before or two years after the date of transfer of old house, the taxpayer should acquire another residential house or should construct a residential house within a period of three years from the date of transfer of the old house. If it was intention of legislature to give benefit of exemption only if assessee had filed return of income then it would have been enshrined in conditions laid down in Section 54.	Case is pending with CIT (A). Total tax liability - Rs 56,54,280 A substantial compliance of law is sufficient to claim benefit under this section. For instance, to carry forward business loss it is mandatory to file return u/s 139(1) otherwise claim of loss is not available. Such condition is nowhere to be found u/s 54.

Sr.No.	Name of Client	AY	ITO Designation	Issue involved	Our Reply	Final Status
13.	Individual	14-15	Mumbai	**Reconciliation of turnover - books vs. Form 26AS vs Service tax returns** Revenue as per books was Rs 1.21 Crores and as per Form 26AS was Rs 1.61 Crores. ITO wanted us to explain the reasons for difference and why it should not be taxable. All documentary evidence to prove legitimacy of constituents of computation of income was required to be placed on record. This included: interest certificate, school fees receipts, LIC receipts, audited financials, ledger confirmation from parties etc. In Form 3CD, method of accounting was **“Mercantile” .** While presenting we had stated that client had followed **“Cash” system.** Officer noted this anomaly but took a lenient view as difference was duly taxed in next AY.	We provided all the details called for without exception. Difference was on two accounts 1) Rs 12.87 lakhs was service tax and 2) Rs 27.17 lakhs was considered in AY 15-16. There was no differene between books and service tax returns.	Case closed No tax liability
14.	Individual	15-16	Mumbai	**Reconciliation of turnover - books vs. Form 26AS vs Service tax returns** Revenue as per books was Rs 1.33 Crores and as per Form 26AS was Rs 1.06 Crores. ITO wanted us to explain the reasons for difference and why it should not be taxable. ITO accepted our reasoning but did not give credit of c/f TDS of Rs 2.71 lakhs leading to unwarranted liability.	We provided all the details called for without exception. Here difference was on account of short revenue booked in AY 14-15 and considered in AY 15-16	Rectification application u/s 154 of IT Act 1961 is pending Total tax liability – Rs 4,97,470

Sr.No.	Name of Client	AY	ITO Designation	Issue involved	Issue involved	Issue involved
15.	Domestic Company	13-14	Mumbai	**Non-filing of return u/s 139(1) of the Income Tax Act, 1961** **Full fledged scrutiny for business accounts** Issues raised by ITO: 1. Reconciliation of turnover - books vs. Form 26AS vs. Service tax returns 2. Non deduction of TDS on eligible payments 3. Allow ability of expenses done in cash 4. Allow ability of statutory payments u/s 43B of IT Act 1961 5. Allow ability of depreciation u/s 32 of IT Act 1961 **What went wrong?** Negligence on part of consulitng CA on some very basic issues: • Non-filing of income tax returns on time • TDS payments and returns • Filing of VAT/CST/Service tax returns with either NIL or wrong data. Non rectification at later point in time • Non-filing of tax audit report u/s 44AB of IT Act 1961 • Not replying to IT notices - taking it for granted • Hasty finalisation without closing all loose ends • Non communication of pending statutory dues to client on timely basis • Non reco of revenue with 26AS and Service tax returns • Non filing of ROC returns	This resulted in raid at client office in September 2016 Non compliane continued even after conduct of raid and no communication was initiated with IT deparment. Pending returns were filed hastily with huge variations in profit for each year. Without giving appropriate thought, CA went ahead and filed declaration under Income Disclosure Scheme (IDS) declaring total undisclosed income of Rs 1.45 crores and tax thereon approx Rs 46 lakhs. Client paid Rs 3 lakhs but could not gather balance payment and hence lost Rs 3 lakhs as well. Upto this point CA had kept client completely in dark about compliance status. IT department initiated assessments proceedings under Section 147 of IT Act 1961 for AY 13-14/15-16 and 16-17.	Specific disallowances proposed by ITO: • Disallowance u/s 40(a)(ia) - labour charges and machinery rent - Rs 3.45 Crores • Expenses in cash - Rs 25.18 Lakhs • Difference in P&L and Form 26AS - Rs 73.87 lakhs • Non payment of short term provisions - Rs 22.74 lakhs • Disallowance of depreciation • Disallowance u/s 43B - Rs 2.03 lakhs

Sr.No.	Name of Client	AY	ITO Designation	Our Reply	Final Status
15.	Domestic Company	13-14	Mumbai	We provided all the details called for without exception. Approx 4-5 thousand pages for all 3 years combined. What about e-assessment?? • Disallowance u/s 40(a)(ia) could not be defended • For expenses incurred in cash, we gave sample vouchers + ledgers for account heads pointed by ITO. Ad hoc disallowance of 10% was done • Difference in P&L and Form 26AS - service tax and VAT components were adjusted. Here we had presented that - difference in consturction industry is ver common. Why? Because work certifed is always less than or equal to actual work done. Sample documents were placed on record but were not considered by ITO • Short term provision was service tax o/s at the year end. Paid challans were presented, this was cosnidered and allowed • Relevant invoices and ledgers were given but were not consiered and depreciation on additions was disallowed • Disallowance u/s 43B - relevant challans were given, taken on record by ITO and allowed. Wrongly disallowed o/s PT. If old CA had been prudent and got issue sorted before March 2017, disallowance u/s 40(a)(ia) would have got restricted to the extent of amounts o/s at year end.	Case is pending with CIT (A) Total tax liability – Rs 2,81,05,550

Sr.No.	Name of Client	AY	ITO Designation	Issue involved	Our Reply	Final Status
16.	Domestic Company	15-16	Mumbai	Specific disallowances proposed by ITO: • Disallowance u/s 40(a)(ia) - labour charges and machinery rent - Rs 1.70 Crores • Expenses in cash - Rs 8.55 Lakhs • Difference in P&L and Form 26AS - Rs 41.37 lakhs • Disallowance of depreciation • Disallowance u/s 43B - Rs 5.38 lakhs From AY 15-16, Section 40(a)(ia) has been amended and only 30% of payments where TDS has not been done are taxable. But ITO missed it and hence rectification application is made by client.	Same set of replies as given in AY 13-14	Rectification application u/s 154 of IT Act 1961 is pending Total tax liability – Rs 1,13,91,630
17.	Domestic Company	16-17	Mumbai	Specific disallowances proposed by ITO: • Disallowance u/s 40(a)(ia) - labour charges and machinery rent - Rs 1.72 Crores • Expenses in cash - Rs 10.45 Lakhs • Disallowance u/s 43B - Rs 6.99 lakhs From AY 15-16, Section 40(a)(ia) has been amended and only 30% of payments where TDS has not been done are taxable. But ITO missed it and hence rectification application is made by client.	Same set of replies as given in AY 13-14	Rectification application u/s 154 of IT Act 1961 is pending Total tax liability – Rs 1,32,95,207

Sr.No.	Name of Client	AY	ITO Designation	Issue involved	Our Reply	Final Status
18.	Individual	14-15	Thane	**Interest income mismatch** **Sources of funds for bank deposits** There was difference in interest income as reported in ITR and bank certificate. The client had placed fixed deposits worth Rs 8 lakhs in AY 14-15. ITO wanted us to explain sources for these deposits.	Difference in interest income was offered for tax. No defense here. For fixed deposits - Rs 6 lakhs were renewals from deposits placed in earlier years. This was accepted by ITO. For balance Rs 2 lakhs we presented that - this amount was accumulated from earlier years (basically cash income). We also tried to convince source was gift from nephew of client. But since no documentary evidence was there, ITO added Rs 2 lakhs and levied tax.	Case closed Total tax liability – Rs 34,700 Client has not paid tax till date

Learnings from Income Tax Assessments

Part 3

Sr.No.	Name of Client	AY	ITO Designation	Issue involved	Our Reply	Final Status
19.	Individual	13-14	Mumbai	**Source of funds for purchase of new residential property** The client had purchased residential property for Rs 2.44 Crores. ITO asked the client to explain sources of funds for purchase of property The officer dragged on case for no reason - from July 2015 to March 2016	We provided all the details called for without exception. We submitted as under: 1. Property was financed from accumulated funds of client and her husband from period when they were non residents. 2. Money was remitted from aborad through banking channels only. 3. Client had capital balance in business in UAE and this was major source of funds. 4. Financials of UAE company were also placed on record 5. Passport copies to prove NRI status 6. Indian bank statements duly highlighting payments for property 7. ITR of Mr. Sunny Fernandes to prove his credit worthiness. In final analysis, ITO accumulated so much documentation, he himself got confused and got to real point!!	Case closed No tax liability
20.	Individual	11-12	Mumbai	**Bogus Long Term Capital Gains on Listed Shares** **Non-filing of return u/s 139(1) of the Income Tax Act, 1961** The client had earned LTCG of Rs 23.23 Lakhs by trading in shares of listed company known as VAS Infrastrucure Limited. As per ITO (based on report of investigation wing), given fundamentals of company, increase in share price of was result of manipulation. Jump in share price was used to convert cash into tax free LTCG.	This case was not directly handled by us. Relevant details called for by ITO were not provided in time to him. Ultimately he passed an order u/s 144 of IT Act (ex-parte). Following details were relevant: 1) Client has brought shares in FY 2006-2007 and holded it till FY 2010-11. He continues to hold some portion till date. 2) Client invested across spectrum of securities across multiple years. Was not case of one hit wonder. 3) Timely attending to notices is of utmost important	Case is pending with CIT (A). Total tax liability - Rs 12,65,140

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<tr><th>Sr.No.</th><th>Name of Client</th><th>AY</th><th>ITO Designation</th><th>Issue involved</th><th>Our Reply</th><th>Final Status</th></tr>
<tr><td>21.</td><td>Domestic Company</td><td>16-17</td><td>Mumbai</td><td>Foreign outward remittances were from disclosed sources

Deduction claimed under head “Other Expenses” were admissible

During the year client had made foreign outward remittances to tune of Rs 24.24 Crores. ITO asked us to produce following documents:

1. Invoice copies of foreign vendors
2. Form 15CA-CB
3. Agreements with vendors
4. Email correspondences with vendors
5. Documentary evidence for expenses done by company staff in UAE

Only partial documentation was placed on record. Business is no longer operational and hence it was difficult to locate relevant documents. There were neither formal agreements nor email trail on record.

ITO asked us to define our clients' business

The invoices raised by vendors nowhere mentioned “rental of equipments”. ITO agrued that client had brought capital goods worth Rs 24.24 Crores. He allowed only depreciation component.

What did ITO miss:

1. He never asked to substantiate sales side of profit and loss account
2. Tax audit report u/s44AB was not filed.</td><td>What went wrong from our end?
• Delay in submission of documents. Even basic things like bank statements were submitted at the fag end of December.
• We were not able to define clients' business

We argued case on following lines:

• Given net margins disclosed by assessee in return of income filed, addition of Rs 24.24 crores is completely out of proportion.
• Assessee contends that - if viewpoint of learned AO is accepted then business was conducted with 100 percent margins. This practically not possible.
• Also, if no services were received by assessee’s clients here in India why would they pay such huge sums?
• Typographical issues in drafting of invoices by vendors would not invalidate the real nature of transactions.
• If assessee did make such huge capital expenditure where is physical existence of these assets?

Above submission were not accepted by ITO and additions made.</td><td>Case is pending with CIT (A).

Total tax liability - Rs 10,05,61,955</td></tr>
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Sr.No.	Name of Client	AY	ITO Designation	Issue involved	Issue invloved	Our Reply
22.	Domestic Company	16-17	Mumbai	**Foreign outward remittances were from disclosed sources and appropriate withholding and reporting obligations have been complied with** **Proper TDS and foreign remittance** The client has received revenue of Rs 2.07 Crores from various parties during the year. ITO asked us to establish credibilty of company's client through - identity, genuineness and creditworthiness. Further, nature of receipts were to be defined. **ITO asked us to define our clients' business.** Establishing 1) PAN and contact details and 2) Routing of transactions through banking channels are not sufficient. ITO pointed at having proper and cognet documentation for transactions, business should be conducted from a definite place by employing men, machine and power and physical presence of these behind viel of business is must. Since it is service business, ITO raised doubts as to why company's clients did not do TDS on payments made by them. Independent third party verification of company's client had falied. ITO asked for following documents: • Complete and correct address, PAN and contact details of receipient of services • Copies of agreements with clients • Running ledger from 01.04.13 to 31.03.17 • Copies of emails/other communications with clients of nature, scope and place of service required	ITO taxed entire sales value of Rs 2.07 crores as unexplained cash credit u/s 68 of IT Act. The client had paid US$ 2.59 lakhs or Rs 1.74 Crores to M/s Moonbay Hongkong Pvt Ltd in Hongkong, China. As this was foreign outward remittance ITO asked us to produce following documents: • Certificate issued by AO(International taxation) u/s 195 or 197 of IT Act to justify non deduction of TDS • Form 15CA/CB in respect of outward remittance • Documentary evidence to prove the correct nature of the transactions as far as outward remittance by way of copy of agreement or emails ,etc. • Explain and substantiate the nature and scope of services availed from Hongkong based concern According to ITO above case was fit for diallowance u/s 40(a)(ia) but since overall liability was higher u/s 68 he passed order under that section. **Very strong worded order by ITO, he defended each and every asserion made by him. It was check-mate order.**	**What went wrong from our end?** • Delay in submission of documents. Even basic things like bank statements were submitted at the fag end of December. • **We were not able to define clients' business** • Tax audit report u/s 44AB of IT Act was not filed (ITO initiated penalty on these grounds) **ITO even mentioned his communication with us over whatsapp in his order and attached screenshot.** Even genuineness of directors was questioned by ITO. **Final Status** Case is pending with CIT (A). Total tax liability - Rs 91,14,884

Sr.No.	Name of Client	AY	ITO Designation	Issue involved	Our Reply	Final Status
23.	Individual	16-17	Mumbai	**Claim of huge refund on revision of return - mainly through loss from house property** **Interest deduction u/s 24(b) of the Income Tax Act, 1961** The client had filed original return as per Form 16. Subsequently, return was revised and loss from house property was claimed. This resulted in huge refund which was paid by ITD. Case was picked up for scrutitny under CASS. The ITO asked us to substantiate our claim for loss from house property. Documents called for 1) Rent agreement and 2) Interest certificates and 3) Property purchase agreement	Property purchase agrements were placed on record so doubt on ownership was resolved. For interest deduction, certificate from private lender to the tune of Rs 10.15 lakhs was provided to ITO. But he did not accept this why? As per Section 24(b) interest certificate from private lender (non NBFC and Banks) is pefectly valid. However, interest payments were not thorugh banking channels. There was no trace that money was indeed borrowed from said lender. **The great anamoly** Rent agreement was dated 2015 whereas property purchase agreement was dated 2017.This proved that rent agreement was forged and claim of interest u/s 24(b) became untenable. Summon to client u/s 131 of IT Act was forced. ITO threatened to launch prosecution if assessee did not present himself.Confession statement of client was recorded. Client named one XYZ who had helped him to forge documents. We were also questioned about our knowledge of XYZ.	Case closed Total tax liability - Rs 4,94,000/-

Sr.No.	Name of Client	AY	ITO Designation	Issue involved	Our Reply	Final Status
24.	Individual	14-15	Thane	**Full fledged scrutiny for business accounts** **Difference in sale value of property - AIR vis-a-vis ITR** As per return filed, sale value of flat was taken at Rs 35 Lakhs. Whereas, as per AIR data available with ITO, sale value of flat was Rs 45 Lakhs. With regards to business accounts, ITO called for following information: • Entire set of financials along with tax audit report, return and computation of income • Bank statements for all active bank accounts • Details of commission paid to foreign parties • Details of unsecured loans • Applicability of Chapter XVII B of IT Act 1961 • Details of major expenses in profit and loss account • Details of capital introduction of 24.30 Lakhs • All primary books of accounts ITO accumulated lot of papers without any specific aim. He agreed with us to disallow purchases to extent of Rs 3.60 lakhs u/s 37(1) of IT Act, 1961. But while passing order disallowed u/s 68 of IT Act, 1961. As a result, income tax liability shot from 0.4 lakhs to 1.15 lakhs. When we protested, ITO confessed to error from his side but liability remains.	We presented that, client was NRI for most of his working career,he was not aware of nitty-gritties of Indian laws. Buyer of proeprty mislead client in entering into higher agreement value so he could avail of loan from bank. Actual consideration was Rs 35 lakhs only. This was substantiated with entries in bank statements. ITO accepted our view. We provided all details called for without exception. Even details not called for by ITO were also placed on record e.g. invetory books. We applied for rectification with ITO but before he could act, he was transferred. His successors in office did not act all. Finally, ITD said, order cannot be recitifed as there is change of section. You can go ahead and file appeal. We have applied for rejection of rectification application so we can go into appeal. Its bee two since passing of order.	Rectification application u/s 154 of IT Act 1961 is pending Total tax liability – Rs 1,48,190/-

Sr.No.	Name of Client	AY	ITO Designation	Issue involved	Our Reply	Final Status
25.	Individual	16-17	Mumbai	**Claim of huge refund on revision of return - mainly through loss from house property** **Interest deduction u/s 24(b) of the Income Tax Act, 1961** Original return of income was filed declaring total income of Rs 37.39 lakhs. Subsequently. return of income was revised declaring income of Rs 29.13 lakhs and refund of Rs 2.55 lakhs was claimed. ITO asked for following documentation: • PAN of tenant • Rent received substantaied through bank statements • Demand letter for maintenance charges issued by housing society • Purchase agreement for house properties • Interest certificates from bank He rejected bank interest certiifcates - as it was titled provisional and porperty details were not mentioned on it. Our contention that rent was received in cash was not accepted by him.	We submitted requisite documents callled for but ITO was in no mood to accept it. Only ownership of house properties was conclusively proved.	Case is pending with CIT (A). Total tax liability - Rs 5,65,557/-