

- 1. Initiation of proceedings under section 201 against assessee after 4 years from end of relevant financial year is time barred :** In the terms of Section 201, no limitation can be imputed and that if Parliament had so intended like other instances in the Income Tax Act, a specific period would have been engrafted. He also relied upon specific amendments made to secure Section 201 by virtue of Finance Act 2/2009 w.e.f. 1.4.2010 and the other 2/2014 w.e.f. 1.10.2014. Counsel for the assessee points out that the ruling of this Court as to the period of limitation, i.e., CIT v. NHK Japan Broadcasting Corpn. [2008] 305 ITR 137 and CIT v. Hutchison Essar Telecom Ltd. [2010] 323 ITR 230 (Delhi) concludes the issue. In those judgments, two Division Benches consistently ruled that the foundational requisite for initiation of proceedings under Section 201 is a period of four years if no limitation is prescribed. The Revenue had contended that since these matters were carried in appeal by special leave to the Supreme Court, the issue was left open. In the absence of compelling reasons, this Court should follow the ruling in NHK Japan Boardcasting Corpn. (supra). **Commissioner of Income-tax (TDS)-I v. C.J. International Hotels (P.) Ltd. [2015] 372 ITR 684 (Delhi).**
- 2. Whether the loss suffered by assessee in a unit entitled for exemption under section 10B, can be set off against income from any other unit (i.e. not eligible for exemption). – Held No.** In TEI Technologies (P.) Ltd. [2014] 361 ITR 36 it was held that even if Section 10A/ Section 10B are treated as exemption provisions, Section 80A (4) cannot defeat that interpretation. The object of Section 80-A (4) was explained as ensuring that "double benefit does not result to an assessee in respect of the same income, once under Section 10A or Section 10B or under any of the provisions of Chapter VIA and again under any other provision of the Act." It was held that even if Section 10A or Section 10B is construed as exemption provisions, "it is still possible to invoke the sub-section and ensure that the assessee does not obtain a deduction in respect of the exempted income under any other provision of the Act. The only object of the sub-section is to ensure that there is no double benefit arising to the assessee in respect of the same income." In this case, this court is of the opinion that TEI Technologies (P.) Ltd. (supra) applies. The tax-exempt income of the assessee, eligible under Section 10-B could not have been set off against the losses from tax-liable income. Accordingly, the question of law framed is answered in favor of the revenue and against the assessee. The appeal is, therefore, allowed. **Commissioner of Income-tax v.KEI Industries Ltd)/[2015] 373 ITR 574 (Delhi)**