1. **In view of DTAA between India and Switzerland, Whether establishment of subsidiary in India by a Swiss holding company will result in creation and establishment of PE.** Delhi High Court in the case of *DIT* v. *E-Funds IT Solution*, has held that establishing subsidiary in the other treaty country would not result in creating and establishing a PE of a foreign holding company in the said third country. Moreover under the given circumstances The employees of subsidiary are not providing services to the holding company as if they were the employees of the holding company. There is no nothing on record to prove that the employees of subsidiary Co. had provided services to the holding company or it is paying their salaries or perquisites. There was neither Service PE nor Agency PE. **Swiss re-Insurance Co. Ltd. *v.* Deputy Director of Income-tax,**
2. **Whether A coaching institute giving coaching for preparation for entrance of various competitive examinations is eligible for exemption under section 10(23C)(iiiad)- Held yes-** On examination of the definition of 'charitable purpose' under section 2(15), it is clear that education is one of the activity coming within the meaning of charitable purpose. Though it is a fact that the Supreme Court in the case of *Sole Trustee, Loka Shikshana Trust* (*supra*) has observed that 'education' as used in section 2(15) cannot be construed to be in a very wide and extended sense but the said decision cannot be interpreted in a manner to mean that the expression 'education' envisaged under section 2(15) has to be given a restricted meaning and would only mean the education as imparted in schools and colleges. Therefore, if education is considered to mean training and developing the skill, knowledge, mind and character of students, then the activity of the assessee can be termed to be coming within the expression 'education' as used in section 2(15). Moreover, the provision contained under section 10(23C)(iiiad) used the words 'Any University or other Educational Institution' solely for educational purpose and not for the purpose of profit. If the activities of the assessee as enumerated in the aims and objects are considered, then it has to be considered as other educational institution existing solely for educational purpose and without profit motive. Therefore, considered in the aforecited prespective, the assessee would be eligible for exemption under section 10(23C)(iiiad). Further, from the facts and materials placed on record, it is very much evident that from its inception assessee has been claiming exemption and the department has also accepted such claim of the assessee in successive assessment years. Therefore, when the department has over the years

accepted the assessee's claim of exemption under section 10(23C)(iiiad), there is no reason why a different view should be taken in the impugned assessment year. Though, principles of *res judicata* do not apply to tax proceedings as each assessment year is a independent unit, but as held by the Supreme Court in the case of *Radhasoami Satsang* v. *CIT* [1992] 193 ITR 321 where a fundamental aspect permeating through the different assessment years has been found as a fact one way or the other and parties have allowed that position to be sustained by not challenging the order, it would not at all be appropriate to allow the position to change in a subsequent year. **Assistant Director of Income-tax, (Exemptions)-I, Hyderabad *v.*Hyderabad Study Circle**