

**Jaipur Golden Transport:** DHC in an interesting fact of business restructuring whereby assessee changed its business model (by replacing its franchisee based business with commission based agreement), while dismissing revenue's appeal, has upheld ITAT order thereby affirming/observing that:

- a. As noted by the Tribunal nothing has been brought on record to show that the franchisee agreement under which the assessee was conducting the business of transportation for the State of Delhi, Uttar Pradesh, Madhya Pradesh and Rajasthan had not been curtailed w.e.f. 01.04.2000. **There is no evidence to show, once again, as found by the authorities below, that post 01.04.2000 the assessee has been earning income except by way of commission, from bookings made with respect to Delhi and Uttar Pradesh.**
- b. **The CIT(A) rightly rejected the basis on which the Assessing officer had arrived at the addition of Rs 2.34 crores based on what the Assessing Officer thought it was the future income which the assessee had foregone for transfer of its business pertaining to Delhi and Uttar Pradesh. The rationale given by the CIT(A) was that the Assessing Officer could not have taxed as income that which did not accrue to the assessee but which could have been earned though as a matter of fact was not earned.**
- c. Unless it was demonstrated that this was a case of concealment of income there could not have been any addition made on a supposition that the assessee ought to have earned the income as quantified by the Assessing Officer. **The Assessing Officer cannot determine what is expedient for the purposes of the conduct of business.**