


FOR DEPARTMENTAL USE ONLY



ANDHRA PRADESH & TELANGANA

DECISION KIT FOR DEPARTMENTAL OFFICERS

A COMPILATION OF CASE LAWS



INCOME TAX DEPARTMENT
ANDHRA PRADESH & TELANGANA
2019



सत्यमेव जयते

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Foreword

I am glad to note that a 'Decision Kit for Departmental Officers' is brought out for the use of the Officers of the Department. This is compiled by Shri Y.V.S.T.Sai, I.R.S., Commissioner of Income Tax, Hyderabad.

I would like to place on record my special appreciation for the initiative taken by Shri Y.V.S.T.Sai, Commissioner of Income Tax, Hyderabad and the Members of the Editorial Committee under the Chairmanship of Shri Atul Pranay, I.R.S., Chief Commissioner of Income Tax, Hyderabad.

I hope this compilation book would serve as a ready reference and handy tool to the Officers of the Department in their core functions.

[N. SANKARAN]

Hyderabad
Date: 26-08-2019

Pr. Chief Commissioner of Income Tax,
Andhra Pradesh & Telangana.

PREFACE

నీ పాద కమల సేవయు, నీ పాదార్చకులతోడి నెయ్యము,
నితాంతాపార భూత దయయును, తాపస మందార నాకు దయసేయగదె

*O Almighty! The Source of pleasure to the Sages,
Bestow upon me the opportunity to serve your lotus feet,
To befriend your devotees and to develop kindness
towards all creation*

- Pothana, Bhagavatham (Telugu)

As it is oft stated, necessity is the mother of invention. This mundane compilation of case laws is out come of my necessity to represent before the Hon'ble ITAT. Our normal experience is that we come across citations mostly not in favour of Revenue. This compilation is aimed to bridge the gap and also act as a ready reference for the officers of the Department. Most of the decisions cited are in favour of Revenue or material for consideration while framing assessments. Attempt is made to include recent decisions. The compilation is neither authoritative nor exhaustive and there could be many decisions which are important but do not find place in the compilation. The compilation is meant only as a ready reference and would not provide omnibus solutions.

The format of citations is mostly as adopted by Taxmann.com and due credit would go to them in this regard. I would also like to state that the compilation does not reflect the views of the Department and if there are any errors, they are mine.

I am thankful to the Pr CCIT, Andhra Pradesh & Telangana and CCIT, Hyderabad for readily accepting the idea of circulation of this compilation. Also, I owe my thanks to Shri Ramesh Singh, ITI, who typed part of the compilation in the initial stages. Last but not the least, I am indebted to my wife Smt Vijaya Lakshmi, who provides constant silent support and allows me to work through the nights.

Date: 24-08-2019
Hyderabad

Y V S T Sai

S.N.	CASE	CITATION	SECTION	GIST / IMPORTANT POINT FOR CONSIDERATION
1	G. Venkataswamy Naidu & Co	[1959] 35 ITR 594 (SC)	2(13), 28	Characters of "Adventure in the nature of trade" : Even an isolated and single transaction may be an adventure in the nature of trade if some of essential features of trade are present in such a transaction. The character of a transaction depends on relevant facts and circumstances and there is no abstract rule, principle or test which is universal
2	Gousia Begum	[2012] 18 taxmann.com 152 (Hyderabad)/ [2012] 50 SOT 28 (Hyderabad)(URO)	2(14), 45	Agricultural Land within 8 kms of bigger municipality would not be exempt u/s 2(14) merely because it is within the limits of a smaller municipality adjacent to the bigger municipality : Land situated in Rajendra Nagar municipality would not be agricultural land u/s 2(14) merely because Rajendra Nagar is not a notified municipality, when the land is within 8 Kms of the municipal limits of Hyderabad
3	Sarifabibi Mohmed Ibrahim	[1993] 70 Taxman 301 (SC)/[1993] 204 ITR 631 (SC)/[1993] 114 CTR 467 (SC)	2(14), 45	Supreme Court laid down various tests for determination of nature of land as agricultural or not
4	D.S. Karunakar Reddy	[2011] ITA Nos. 752 to 757/ Hyd/2011 dated 30/11/2011	2(14), 45	Entry in revenue records is not conclusive proof of the fact that the land is agricultural in the absence of evidence that the land is put to agricultural use

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5	Andhra Networks Ltd	[2015] 57 taxmann. com 115 (Hyderabad - Trib.)/[2015] 68 SOT 304 (Hyderabad - Trib.)/[2015] 167 TTJ 496 (Hyderabad - Trib.)	2(14), 2(47), 45	When assessee entered into consortium agreement, passed on bundle of rights to the consortium and permitted mortgage, there is transfer u/s 2(47)
6	Laxmidevi Ratani	[2005] 147 Taxman 642 (Madhya Pradesh)/[2008] 296 ITR 363 (Madhya Pradesh)/[2005] 198 CTR 336 (Madhya Pradesh)	2(14), 2(47), 45	Giving up of right to claim specific performance by an assessee to get conveyance of immovable property, in lieu of receiving consideration, would result in extinguishment of right in property and it would thereby attract rigour of section 2(14), read with section 2(47)
7	Bolla Ramaiah	[1988] 39 Taxman 345 (Andhra Pradesh)/[1988] 174 ITR 154 (Andhra Pradesh)/[1988] 74 CTR 64 (Andhra Pradesh)	2(14), 45, 47(viii)	The lands situated either within the Municipal limits or within 8 kilometers of a notified Municipality fall within the exception to exception and constitute Capital Assets even when they are agricultural lands
8	Officer-in-Charge (Court of Wards) (Begumpet Palace case)	[1976] 105 ITR 133 (SC)	2(14), 2(ea) of WT	Entry in revenue records is not conclusive proof: Mere fact that property was classified in revenue records as agricultural land was not conclusive and such entries could raise only rebuttable presumption
9	Ahmed G.H. Ariff	[1970] 76 ITR 471 (SC)	2(14), 2(ea) of WT	"Property" is a term of the widest import and subject to any limitation which the context may require, it signifies every possible interest which a person can clearly hold or enjoy

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10	Devineni Avinash	[2018] 100 taxmann. com 75 (AP & Telangana)		2(14), 2(ea) of WT Act	When the land was reflected as capital asset in the books of the assessee, merely because the assessee entered into JDA with a builder and no development took place after execution of the agreement, the land would be asset u/s 2(ea) of WT Act
11	Jindal M. D .	[1986] 28 Taxman 509 (Calcutta)/ [1987] 164 ITR 28 (Calcutta)/[1987] 59 CTR 78 (Calcutta)		2(22)(e)	Arranged transaction to be ignored: In view of Tribunal's finding that said agreement was just an arranged affair, half of value of said iron rods was to be treated as deemed dividend under section 2(22)(e) in hands of assessee
12	Tarulata Shyam	[1977] 108 ITR 345 (SC)		2(22)(e)	Provisions of deemed dividend are invoked even if the advance or loan is subsequently repaid in its entirety during relevant previous year in which it is taken
13	Star chemicals P Ltd.	[1994] 72 Taxman 279 (Bombay)/ [1993] 203 ITR 11 (Bombay)/[1993] 114 CTR 185 (Bombay)		2(22)(e)	Appropriation is part of accumulated profit: Appropriations made to development rebate reserve account in accounts of subsidiary company were accumulated profits of said company for purpose of determining amount of dividend under section 2(22)(e) in hands of assessee
14	Badiani P.K.	[1976] 105 ITR 642 (SC)		2(22)(e)	Accumulated profits means profits in the commercial sense and not profits liable to tax as Income under the Act, that is profits made in the real and true sense of the term

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15	Bajaj Auto Holdings Ltd	[2005] 95 ITD 356 (Mumbai)/[2005] 96 TTJ 856 (Mumbai)	2(22)(e)	The word 'advance' has wide connotations and it means any money advanced to any person
16	Fidelity Business Services India (P) Ltd	[2018] 95 taxmann.com 253 (Karnataka)/[2018] 257 Taxman 266 (Karnataka)	2(22)(e)	Buyback of shares at abnormal price could be point of enquiry: Where assessee bought back shares from its holding company at Mauritius at an abnormally high price, Tribunal was perfectly justified in directing an enquiry into fair market value of shares of assessee-company which could have an implication of taxability under section 2(22)(e)
17	National Travel Services	[2018] 89 taxmann.com 332 (SC)/[2018] 253 Taxman 243 (SC)/[2018] 401 ITR 154 (SC)/[2018] 300 CTR 582 (SC)	2(22)(e)	Beneficial and not registered shareholder: To attract section 2(22)(e), a 'shareholder' has only to be a person who is beneficial owner of shares; he need not necessarily be a registered shareholder; matter referred to CJI
18	V.E.A. Annamalai Chettiar	[1956] AIR 1956 SC 12	2(22)(e)	Intentions and circumstances are important and not mere recitals in document: Whether a transaction is a transaction of loan or deposit does not depend merely on the terms of the document but has got to be judged from the intention of the parties and all the circumstances of the case

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19	Sunil Chopra	[2011] 12 taxmann. com 496 (Delhi)/ [2011] 201 Taxman 316 (Delhi)/[2011] 242 CTR 498 (Delhi)	2(22)(e)	Make Believe arrangement to be ignored: It could not be believed that an agreement was executed on 18-9-2003 and payment was made, but possession of property was to be handed over after more than five years, even though property continued to be reflected in balance sheet of assessee after two years of agreement.
20	Meera & Co	[1997] 91 Taxman 219 (SC)/[1997] 224 ITR 635 (SC)/[1997] 139 CTR 442 (SC)	2(31)	BOI: When several individuals are found to have joined together for the purpose of making profit, the group of individuals may be conveniently described as 'a body of individuals'. The business was inherited. But the fact that the business had been continued by the widow on her own behalf as well as on behalf of the minor sons goes to show that there is an organised activity jointly carried on to produce income.
21	Gowli Buddanna	[1966] 60 ITR 293 (SC)	2(31)	Sole Surviving coparcener can be HUF: the sole male surviving coparcener of the Hindu joint family, his widowed mother and sisters constitute a Hindu undivided family
22	Thamma Venkata Subbamma (By Legal Representative) Vs Thamma Rattamma	[1987] 168 ITR 760 (SC)	2(31)	Coparcenary: The essence of a coparcenary under the Mitakshara school of Hindu law is community of interest and unity of possession. A member of a joint Hindu family has no definite share in the coparcener property, but he has an undivided interest in the property which is

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				liable to be enlarged by deaths and diminished by births in the family. An interest in the coparcenary property accrues to a son from the date of his birth. His interest will be equal to that of his father. An individual member of the joint Hindu family has no definite share in the coparcenary property. By an alienation of his undivided interest in the coparcenary property, a coparcener cannot deprive the other coparceners of their right to the property.
23	Nitai Chandra Naskar And Anr. vs Srimati Champaklata Debi And Ors	[1917] 51 Ind Cas 104 of Calcutta High Court dated 16 March, 1917	2(47)	Test for "Sale": Sale is a transfer of ownership in exchange for a price paid or promised or part paid and part promised. The true test is, what is the intention of the parties to the transaction. If the intention is that title should pass immediately even though the consideration has not been paid, the title passes; that is, the failure to pay the consideration for a conveyance does not defeat the conveyance, except where there is an agreement that it should take effect only if the consideration is first paid
24	Carlton Hotel P Ltd	[2017] 88 taxmann.com 257 (Allahabad)/ [2017] 399 ITR 611 (Allahabad)	2(47), 45	Sham partnership: Where value of land contributed by assessee in stock of firm was much higher as against its negligible profit sharing in firm, entire transaction of contribution to partnership was a sham, and an attempt to device a method to avoid capital gain tax on transfer of land to firm

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25	Anarkali Sarabhai	[1997] 90 Taxman 509 (SC)/[1997] 224 ITR 422 (SC)/[1997] 138 CTR 253 (SC)	2(47), 45	Redemption of preference shares amounts to 'sale, exchange or relinquishment of asset' within meaning of section 2(47)(i)
26	Suraj Lamp & Industries P Ltd.	[2011] 14 taxmann. com 103 (SC)/[2011] 202 Taxman 607 (SC)/[2012] 340 ITR 1 (SC)	2(47), 54 of TP Act	GPA/Sale agreement is not a valid mode of transfer: Transactions of nature of General Power of Attorney Sales ('GPA Sales') or Sale Agreement/General Power of Attorney/Will transfers do not convey title and do not amount to transfer, nor can they be recognized as valid mode of transfer of immovable property
27	Ch. Atchiaiah	[1996] 84 Taxman 630 (SC)/[1996] 218 ITR 239 (SC)/[1996] 130 CTR 404 (SC)	4(1)	Right person has to be taxed: Assessing Officer can and must tax that person alone who is liable to be taxed according to law with respect to a particular income and merely because a wrong person is taxed with respect to a particular income, Assessing Officer is not precluded from taxing right person with respect to that income
28	Adity Birla Power Co Ltd	[2011] 2011-TIOL-286-ITAT-MUM	4, 28	Collusive transaction: If assessee develops a new product line for itself but sells the same to a sister concern without any mark-up on the ground that there was no taker for such a product in the market, it can still be said that it is a collusive transaction to reduce tax liability

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29	Wipro Ltd	[2014] 50 taxmann.com 421 (Karnataka)/[2014] 227 Taxman 244 (Karnataka) (MAG)	4	Arrangement should be real: A tax payer is entitled to arrange his affairs in a manner so as to keep his tax liability as low as possible but arrangement should be real and genuine and not a 'sham' or make-believe. SLP filed by assessee pending before Supreme Court in Civil Appeal No(s). 1169-1170/2015.
30	Adityapur Industrial Area Development Authority	[2006] 153 Taxman 107 (SC)/[2006] 283 ITR 97 (SC)/[2006] 202 CTR 464 (SC)	4	Industrial Area Development Authority is not covered under Article 289: Exemption under article 289(1) was not available to assessee as it was a distinct legal entity and its income could not be said to be income of State so as to be exempted from Union taxation
31	Bangalore Club	[2013] 29 taxmann.com 29 (SC)/[2013] 212 Taxman 566 (SC)/[2013] 350 ITR 509 (SC)/[2013] 255 CTR 465 (SC)	4	Interest on bank deposits not covered under Mutuality: Interest earned by assessee-club on fixed deposits from its member banks would not be exempt from tax on basis of doctrine of mutuality
32	N.V. Narendranath	[1969] 74 ITR 190 (SC)	4, 3 of WT	Ancestral Property: When a coparcener having wife, minor daughters and no son receives his share of joint family property on partition, such property in hand of coparcener belongs to his Hindu Undivided Family

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33	Andhra Pradesh State Civil Supplies Corporation Ltd	[1984] 17 Taxman 167 (Andhra Pradesh)/[1984] 148 ITR 497 (Andhra Pradesh)/[1984] 38 CTR 376 (Andhra Pradesh)	4, Article 289	No exemption to Instrumentality of State. PSU not covered under Article 289: Exemption under article 289(1) is available only to a State and not to an instrumentality of State. Even when no part of funds of company would be employed in purchase or in loans upon security of company's share and all income of company would belong to price equalisation/stabilisation fund of state government and the company would be wholly owned by State government, income would not be exempt.
34	Andhra Pradesh State Road Transport Corporation	[1964] 52 ITR 524 (SC)	4, Article 289	No exemption to Instrumentality of State even if it wholly owned PSU of State: Though the assessee is a State Controlled Corporation, all the relevant provisions of the Road Transport Corporation Act, 1950 emphatically brought out the separate personality of the Corporation and proceeded on the basis that the trading activity was run by the corporation and the profit and loss that would be made as a result of the trading activity would be the profit and loss of the corporation. There is no provision in the 1950 Act which has attempted to lift the veil from the face of the corporation and thereby enable the shareholders to claim that despite the form which the organisation has taken, it is the shareholders who run the trade and who can claim the income coming from it as their own.

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35	Shelly Products	[2003] 129 Taxman 271 (SC)/[2003] 261 ITR 367 (SC)/[2003] 181 CTR 564 (SC)		4, 143(3), 244A	No refund of tax paid on returned income: If on failure or inability of authorities to frame a regular assessment after earlier assessment is set aside or nullified, tax deposited by an assessee by way of advance tax or self-assessment tax, or tax deducted at source is not liable to be refunded.
36	Keshav Mills Ltd	[1953] 23 ITR 230 (SC)		5	An amount cannot be “deemed to be received” merely by the volition or sweet will of an individual. The “receipt” of income refers to the first occasion when the recipient gets the money under his own control.
37	Makarand Gadre	[2008] 21 SOT 454 (Hyderabad)		6	Stress on ‘presence of the assessee’ in India and not ‘absence’ from India: An individual who has not been resident in India within the meaning of section 6(1) for less than 9 years out of 10 preceding years, does not satisfy the statutory criteria laid down for treating the individual as ‘not ordinarily resident’. An assessee, who is a resident of India and goes abroad and is not a resident in India for two years during the preceding period of 10 years, does not also satisfy the said condition of not being a resident of India for 9 out of 10 years. Moreover, the second limb of section 6(6)(a) describes that if an individual has not been in India for 730 days or more, he shall be treated as ‘not ordinarily resident’.

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38	Maruti Udyog Ltd	[2009] 34 SOT 480 (Delhi)/[2010] 130 TTJ 66 (Delhi)		9	Place of accrual: The statutory test for determining the place of their accrual is not the place where the services for which the payments are being made, are rendered but the place where the services are utilised
39	Steffen, Robertson & Kirsten Consulting Engineers & Scientists	[1997] 95 Taxman 598 (AAR)/[1998] 230 ITR 206 (AAR)/ [1998] 144 CTR 90 AAR		9	Statutory test for place of accrual: Irrespective of place where services are rendered, amounts to be received by applicant should be deemed to accrue or arise in India since a statutory test for determining place of accrual of income is place where service is utilized
40	Ansaldo Energia SPA	[2009] 178 Taxman 57 (Madras)/ [2009] 310 ITR 237 (Madras)/[2009] 222 CTR 55 (Madras)		9	Business Connection and Composite Contracts: The term 'business connection' is too wide to admit any precise definition. It includes close, real, intimate relationship and commonness of interest between the non-resident and the Indian person and where there is control of management or finances or substantial holding of equity shares or sharing of profits by the non-resident or the Indian person, such requirement is fulfilled. The fact that the contract is composite is also favourable to Revenue. ASPL being a mere facade, existence of close relationship between the foreign person and the Indian operations is established as all responsibility from the beginning to the end rested on the assessee; that there was an intimate, real and

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				continuous relationship with the subsidiary company; and that the price of the other contracts was loaded on to contract No. I,
41	K. Lakshmanan & Co.	[1999] 239 ITR 597 SC, JT 1998 (8) SC 424, (1998) 9 SCC 537	10(1)	Marketable or fit for sale agricultural produce: Even though for the purpose of making agricultural produce marketable or fit for sale, some process may have to be undertaken, it does not contemplate the sale of an item or a commodity which is different from what is cultivated and processed. Mulberry leaves cannot be sold in the market and they can only be fed to the silkworms. The agricultural produce of the cultivator will be mulberry leaves and by no stretch of imagination can the silkworms, and certainly not the silk cocoons be agricultural produce
42	Dilip Kumar and Co and Others	[2018] CA No 3327 of 2007 of Supreme Court dated 30/07/2018	10, Chapter VIA	Strict Interpretation of exemption provisions and benefit of ambiguity to be in favour of Revenue: Exemption notification should be interpreted strictly; the burden of proving applicability would be on the assessee to show that his case comes within the parameters of the exemption clause or exemption notification. When there is ambiguity in exemption notification which is subject to strict interpretation, the benefit of such ambiguity cannot be claimed by the subject/assessee and it must be interpreted in favour of the revenue

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43	P.H.I. Seeds (P) Ltd	[2018] 96 taxmann. com 493 (Delhi - Trib.)/[2018] 192 TTJ 412 (Delhi - Trib.)	10(1), 2(1A)	Contract farming without own cultivation is not exempt: Where assessee entered into lease and service agreement with farmers for cultivation of seeds on their own land, since farmers had to ensure watering, fertility and suitability of land, mere supervision by assessee without carrying out basic operation for cultivation of land would give rise to business income in hands of assessee and not agricultural income
44	Namdhari Seeds (P) Ltd	[2011] 16 taxmann. com 83 (Karnataka)/ [2011] 203 Taxman 565 (Karnataka)/ [2012] 341 ITR 342 (Karnataka)	10(1), 2(1A)	Seed Production agreements with farmers: Where assessee-company, engaged in production of hybrid seeds, entered into agreement with farmers for production of open hybrid seeds on their land for its own benefit income arising to assessee from sale of hybrid seeds grown by farmers would not be agricultural income
45	Pioneer Overseas Corporation	[2010] 37 SOT 404 (Delhi)/[2010] 131 TTJ 409 (Delhi)	10(1), 2(1A)	R&D activity on hybrid seeds and leading to production of parent seeds is not exempt: Research activity and sale of parent seeds by assessee-company were inter-linked, inter-lacing and inter-dependent. Research activity carried out by branch office in India in course of developing and producing hybrid breeder seeds was to be considered for purpose of determining income accruing

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				to assessee-company in India, and quantum was to be ascertained on basis of profit of head office attributable to branch office in India.
46	Oxford University Press	[2001] 115 Taxman 69 (SC)/[2001] 247 ITR 658 (SC)/[2001] 165 CTR 629 (SC)	10(22)	“Existing solely for educational purposes and not for purposes of profit”: The Legislature has made it clear that it intends to exempt the income of institutions established solely for the educational purposes and not for commercial activities. Such a provision is meant to encourage institutions (including University) engaged in educational activities and it is not intended to benefit institutions engaged in commercial activities with the intention of earning profit.
47	American Hotel and Lodging Association Educational Institute	[2007] 158 Taxman 146 (Delhi)/[2007] 289 ITR 46 (Delhi)/ [2006] 206 CTR 601 (Delhi)	10(23C)	The amount generated by the assessee in India was its income. Any income generated by it might be income generated for and on behalf of the head office. Nevertheless it was the income of the assessee. The assessee’s contention, that the third proviso to section 10(23C)(vi) does not mention that the income generated is required to be applied in India and that, in fact, the words ‘in India’ are totally missing and the revenue had unnecessarily imported these into section 10(23C)(vi) and the third proviso, could not be accepted. The fact of the matter is that exemption from payment of tax is being granted in India. It would

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					appear irrational if exemption from tax is granted in India, so that the amount can be applied outside India
48	Valliammai Society	[2010] 327 ITR 337 (Madras)/[2010] 232 CTR 121 (Madras)		10(23C)(vi), 11	Improper explanation of receipts and cancellation of registration: Where receipts by petitioner were not properly explained creating a presumption that conduct of petitioner-institution was not worthy enough for purpose of continuation of exemption. As long as the petitioner failed to explain to the satisfaction of the authority that the presumption drawn by the authority for deciding against the petitioner was wrong or on the basis of surmises, it was not possible to accept the contention of the petitioner that the petitioner-society should be presumed to be an institution existing solely for educational purposes for the purpose of conferring benefits under section 10(23c)(vi).
49	Securities Exchange Board of India Vs Rakhi Trading Pvt Ltd	[2018] CA No: 1969 of 2011 dated 08/02/2018 of Supreme Court		10(38)	Manipulative Synchronized Trading: There is prior meeting of minds involving synchronization of buy and sell order and not negotiated deals as per the board's circular. The impugned transactions are manipulative/deceptive device to create a desired loss and/or profit. Such synchronized trading is violative of transparent norms of trading in securities.

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50	Bharat R. Agarwal	[2019] ITA Nos.1650 & 1651/PUN/15 of ITAT, Pune Bench dated 04/01/2019	10(38)	PIL is a penny stock company and the assessee obtained only accommodation entries in the garb of short term gain from transfer of shares of PIL, for which an appropriate addition has rightly been made
51	Pankaj Agarwal & Sons (HUF)	[2018] ITA No.1413/CHNY/2018 of ITAT, Chennai dated 06/12/2018	10(38)	SRK Industries (penny stock) - Cross-examination: Ld. AR could not successfully controvert any of the findings of the Ld. Revenue Authorities before us which are against the assessees. Instead the Ld.AR has only come out with the plea that the assessees were not provided with opportunity of cross-examining the witness, the investigation report was not furnished and proper opportunity was not provided of being heard. However we find that all these arguments raised by the Ld.AR before us were never alleged before the Ld.Revenue Authorities when the matter was before them. In this situation we do not have any other option but to confirm the orders
52	Sanjay Bimalchand Jain	[2018] 89 taxmann.com 196 (Bombay)	10(38)	Abnormal returns in short term from penny stocks - Syncom & Skyzoom: Where assessee had purchased shares of penny stocks companies at lesser amount and within a year sold such shares at much higher amount and assessee had not tendered cogent evidence to explain as to how shares in an unknown company had jumped to

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				such higher amount in no time and also failed to provide details of person who purchased said shares, said transactions were attempt to hedge undisclosed income as Long term Capital gain (Shares of Syncom Marketing Pvt. Ltd. and of Skyzoom Distributors Pvt. Ltd purchased through Global Stock Securities Ltd and sold through Ashish Stock Broking Ltd. Both companies merged with Khoobsoorat Ltd, Kolakta)
53	M.K. Rajeshwari	[2018] 99 taxmann.com 339 (Bangalore - Trib.)	10(38)	Abnormal rise in share price, meagre financial worth of penny stock -MARL: Where assessee claimed exemption under section 10(38) in respect of capital gain arising from sale of shares, in view of fact that financial worth of said company was meagre and, moreover, there was abnormal rise in price of shares, it could be concluded that assessee introduced her own unaccounted money in garb of long term capital gain and, thus, claim raised by her was to be rejected (Shares of MARL)
54	Bhoruka Engg. Industries Ltd	[2012] 20 taxmann.com 105 (Bangalore)/[2011] 9 ITR(T) 75 (Bangalore)	10(38)	Collusive transactions with sister concern: Sale of land by sister concern (part of closely held group of assessee) to assessee at nominal value and within a year assessee sold shares in the said sister concern to third party. It was held that assessee had evaded payment of tax on sale of short-term capital asset of landed property and, as such,

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				surplus arising on sale of shares was to be treated as short-term capital gains liable for taxation
55	Shamim Imtiaz Hingora & Others	[2019] ITA No. 1875 to 1878/PUN/2018 of ITAT, Pune Bench dated 01/03/2019	10(38)	Important points for verification - Penny stock - Mishika Finance: Shares of Mishika Finance purchased and sold to Tohee Trading & Agencies Pvt. Ltd, which is delisted long ago. Remanded back to CIT(A) for verification of (i) the nature of the shares transactions; (ii) make-believe nature of paper work; (iii) Camouflage the bogus nature; and, (iv) the relevance of human probabilities etc
56	Udit Kalra	[2019] ITA 220/2019 & CM No. 10774/2019 of Delhi High Court dated 08/03/2019	10(38)	Penny stock - Kappac Pharma Ltd - Intriguing factor is though the company (Kappac Pharma Ltd) had meagre resources and reported consistent losses there was astronomical growth of the value of company's shares and this naturally excited the suspicions of the Revenue. The company was even directed by SEBI to be delisted from the stock exchange. Addition made by Revenue. Having regard to these circumstances and principally on the ground that the findings are entirely of fact, it was held that no substantial question of law arises.
57	Sanat Kumar	[2019] ITA No.1881/Del./2018 of ITAT, Delhi dated	10(38)	Shares of Cressanda Solution Ltd has been duly investigated by Department of Revenue Intelligence (DRI) and found that the same is a bogus company engaged in

S.N.	CASE	CITATION	SECTION	GIST / IMPORTANT POINT FOR CONSIDERATION
				arranging for bogus LTCG. Trading of shares suspended by BSE for certain period. Even balance sheet of the company could not be produced. Director of the company confessed that one Deepak Patwari is the operator. Amalgamated with another company to hike the share price abnormally. Addition confirmed
58	Purviben Snehalbhai Panchhigar	[2019] 101 taxmann.com 393 (Gujarat)/ [2018] 409 ITR 124 (Gujarat)	10(38), 147	Penny stock - Turbo Tech - reopening upheld - Assessee filed return claiming exemption of LTCG from sale of shares of "T" company. In view of fact that said return was accepted under section 143(1) without scrutiny, AO was justified in initiating reassessment proceedings on basis of information received from Investigation Wing that company 'T' was a shell company and shares of said company were basically used for providing bogus claim of long-term or short-term capital gain.
59	Regency Creations Ltd.	[2012] 27 taxmann.com 322 (Delhi)/ [2012] 211 Taxman 152 (Delhi)(MAG.)/ [2013] 353 ITR 326 (Delhi)/[2013] 255 CTR 63 (Delhi)	10B	STPI approval is not valid for exemption u/s 10B: Eligibility of a 100 per cent EOU for deduction under section 10B is that it should be approved by Central Govt. through appropriate authority constituted under section 14 of Industries (Development and Regulation) Act; and if a 100 percent EOU is only approved by Director, STPI it would not be a valid approval

S.N.	CASE	CITATION	SECTION	GIST / IMPORTANT POINT FOR CONSIDERATION
60	M.A. Namazie Endowment	[1988] 38 Taxman 126 (Madras)/[1988] 174 ITR 58 (Madras)/ [1988] 69 CTR 117 (Madras)	11	The Muslim Wakf Act had no impact on character of trust in question for purposes of the Act and, therefore, assessee would not be entitled to exemption under section 11
61	State Bank of India	[1987] 32 Taxman 619 (Bombay)/ [1988] 169 ITR 298 (Bombay)/[1987] 63 CTR 19 Bombay	11	Income is to be applied for charitable or religious purposes in India to claim exemption: For two institutions for which the corpus was held by the assessee, it was difficult to accept that the condition was satisfied particularly when one institution was in India and the other was outside India. Hence, the dividend income was not exempt under section 11(1)(a).
62	Trustees of H.E.H. The Nizam's Pilgrimage Money Trust	[2000] 111 Taxman 228 (SC)/[2000] 243 ITR 676 (SC)/[2000] 160 CTR 242 (SC)	11	Objects outside India: Where all objects and purposes of trust were intended to be performed outside India, neither resolution of trustees nor civil court allowing trust income to be utilised for charitable and religious purposes within territory of India, could alter that position, and, therefore, assessee-trust could not claim exemption under section 5(1)(i) of the WT Act
63	H.E.H. Nizam's Religious Endowment Trust	[1966] 1966 AIR 1007, 1966 SCR (2) 384	11	Trust for religious and charitable objects some within taxable territories and some outside: Exemption not available. Only income from the property wholly or in part held in trust actually applied or set apart for application for future spending on religious or charitable purposes within the

S.N.	CASE	CITATION		SECTION	GIST / IMPORTANT POINT FOR CONSIDERATION
					taxable territories is exempted from inclusion in the total income
64	India Brand Equity Foundation	[2012] 23 taxmann. com 323 (Delhi)/ [2012] 53 SOT 506 (Delhi)		11	Amount spent outside India for participating in a fair held outside India cannot be treated as application of income of trust for purpose of section 11(1)(a)
65	National Association of Software and Services Companies	[2012] 21 taxmann. com 213 (Delhi)/ [2012] 208 Taxman 178 (Delhi)/[2012] 345 ITR 362 (Delhi)/ [2012] 253 CTR 33 (Delhi)		11	Expenditure incurred by a charitable trust outside India in connection with certain activities organized abroad, cannot be considered as application of income of trust in India for charitable purposes
66	T.M.A.Pai Foundation	[2002] Writ Petition (civil) 317 of 1993 dated 31/10/2002 Supreme Court		11	Object should not be to make a profit, inasmuch as education is essentially charitable in nature: Since the object of setting up an educational institution is by definition “charitable”, it is clear that an educational institution cannot charge such a fee as is not required for the purpose of fulfilling that object. To put it differently, in the establishment of an educational institution, the object should not be to make a profit, inasmuch as education is essentially charitable in nature. There can, however, be a reasonable revenue surplus, which may be generated by the educational institution for the purpose of development of education and expansion of the institution (paragraph 57).

S.N.	CASE	CITATION	SECTION	GIST / IMPORTANT POINT FOR CONSIDERATION
67	J.B. Education Society	[2015] 55 taxmann. com 322 (Hyderabad - Trib.)/[2013] 28 ITR(T) 284 (Hyderabad - Trib.)/ [2014] 159 TTJ 236 (Hyderabad - Trib.)	11	Receipt of Unaccounted capitation fee: Where assessee-educational society received capitation fees in cash without recording same in books of account and moreover it was carrying on activities in a commercial manner, assessee was rightly denied exemption under section 11
68	A.P. State Civil Supplies Corpn. Ltd	[2008] 21 SOT 481 (Hyderabad)	11, 13	Section 11 is always subject to limitations and restrictions provided u/s 13: Since assessee corporation was a joint promoter, investment made by corporation with joint venture company cannot have any other characteristic other than investment in shares. There was a clear violation of provisions of section 13(1)(d) and assessee was not entitled to exemption under section 11
69	Action for Welfare & Awakening in Rural Environment (AWARE)	[2003] 130 Taxman 82 (Andhra Pradesh)/ [2003] 263 ITR 13 (Andhra Pradesh)/ [2003] 183 CTR 631 (Andhra Pradesh)	11, 13	Violation of provisions of section 13(1)(c)(ii), read with sections 13(2)(b) and 13(3)(cc) - Diversion and misutilization of funds: Fixed deposits in name of assessee worth Rs. 16 lakhs were pledged as security with bank enabling one R, one of members of the assessee, to avail loan. Transaction of purchase of lands was routed through an AOP in which all members were directors and employees of assessee. Assessee advanced an amount of Rs. 2 lakhs to AOP. Held that funds of assessee were diverted and

S.N.	CASE	CITATION		SECTION	GIST / IMPORTANT POINT FOR CONSIDERATION
					misutilised and assessee not entitled for exemption u/s 11
70	Hyderabad Stock Exchange Ltd	[2011] 10 taxmann.com 132 (Hyderabad)/ [2011] 46 SOT 1 (Hyderabad)		11, 13	Benefit to Members and not for general public: When a stock exchange carries out any activity for sole benefit of its members or ex-members or employees or ex-employees or their dependants and not for benefit of general public which is distinguished from class or community consisting of its members, employees or ex-employees or their dependants and connections, it would not be entitled for exemption under section 11
71	Vidyananda Educational Society	[2014] 47 taxmann.com 242 (Hyderabad - Trib.)/[2014] 64 SOT 176 (Hyderabad - Trib.)(URO)		11, 32	No depreciation when entire cost of asset is claimed as application of income for charitable purpose
72	Allahabad Agricultural Institute	[2007] 163 Taxman 67 (Allahabad)/ [2007] 291 ITR 116 (Allahabad)/ [2007] 211 CTR 26 (Allahabad)		12A	No intimation to CIT on alteration of objects: Where objects of trust have been altered wholesome after grant of registration and intimation of alteration has not been given to Commissioner, registration, which was granted on basis of a particular representation, held out by assessee, no longer survives or holds good
73	Sri Dashmesh Academy Trust	[2018] 100 taxmann.com 373 (Chandigarh - Trib.)/ [2019] 174 ITD 527 (Chandigarh - Trib.)		12A	Reasonable apprehension of CIT about misuse: Where Commissioner (Exemptions) had a valid and reasonable apprehension that in case of dissolution, properties of

S.N.	CASE	CITATION	SECTION	GIST / IMPORTANT POINT FOR CONSIDERATION
				trust created and constituted out of 100 per cent grants given by Government, may be distributed amongst private individual members of trust, application of trust for registration under section 12A had been rightly rejected
74	Board of Control for Cricket in India	[2012] 22 taxmann. com 29 (Mumbai)/ [2012] 19 ITR(T) 91 (Mumbai)/ [2012] 136 ITD 301 (Mumbai)	12A, 11, 13	No automatic benefits under sections 11 and 13 for altered objects unless said changes are vetted by Revenue authorities
75	Gowri Ashram	[2013] 36 taxmann. com 15 (Madras)/ [2013] 217 Taxman 97 (Madras)/ [2013] 356 ITR 328 (Madras)	12AA	Trust for benefit of particular community: Where assessee-society was formed with an object to provide accommodation and facilities for performance of marriages and other auspicious functions to members of a particular community, viz., Telugu Beri Vysia Community, it could not be regarded as society formed with a charitable purpose within meaning of section 2(15)
76	Jagannath Gupta Family Trust	[2019] 102 taxmann. com 34 (SC)/[2019] 262 Taxman 313 (SC)/[2019] 411 ITR 235 (SC)	12AA	Receipt of bogus donation: Where registration of assessee trust under section 12AA was cancelled for receiving a bogus donation but High Court by impugned order restored registration holding that one bogus donation would not establish that activities of trust were not genuine, it was held by Supreme Court that the reason assigned by High Court was erroneous and ran contrary to plain language of section 12AA(3)

S.N.	CASE	CITATION		SECTION	GIST / IMPORTANT POINT FOR CONSIDERATION
77	Sree Anjaneya Medical Trust	[2016] 67 taxmann.com 230 (Kerala)/ [2016] 239 Taxman 229 (Kerala)/[2016] 382 ITR 399 (Kerala)		12AA	Scope of verification at the time of Registration: While granting registration to a trust, authority is empowered to examine only genuineness of trust and its activities and during assessment only eligibility in terms of sections 10, 11 and 12 is to be verified as to whether or not what was professed was indeed in Deed of trust. SLP against this decision is admitted by Supreme Court as reported in [2016] 74 taxmann.com 243 (SC)/ [2016] 243 Taxman 142 (SC)
78	Yamuna Expressway Industrial Development Authority	[2017] 81 taxmann.com 208 (Allahabad)		12AA	Industrial development by Statutory Body is activity of general public utility: A statutory body, constituted for performing functions of industrial development in terms of section 6 of Uttar Pradesh Industrial Development Act, 1976, could be regarded as carrying on activity of general public utility and, thus, its claim for registration under section 12AA
79	Norka Roots	[2018] 89 taxmann.com 181 (Kerala)/ [2018] 401 ITR 224 (Kerala)		12AA	Only part of funds received from Government used for charitable purpose and other income not used: Where assessee-trust formed for promotion of interest of non-resident keralites received income from certification, bank interest etc. which was not spent for charitable purpose, mere fact that a part of funds received from Government

S.N.	CASE	CITATION	SECTION	GIST / IMPORTANT POINT FOR CONSIDERATION
				was utilised for charitable activities, same would not make assessee eligible for registration u/s 12AA
80	Savior Charitable Trust	[2013] 35 taxmann.com 295 (Punjab & Haryana)/[2013] 216 Taxman 91 (Punjab & Haryana)(MAG.)	12AA	Failure to furnish complete details regarding donors would result in denial of registration as a charitable trust
81	Self Employers Service Society	[2000] 113 Taxman 703 (Kerala)/[2001] 247 ITR 18 (Kerala)/ [2000] 164 CTR 449 (Kerala)	12AA	No charitable work and only generation of income for members: Petitioner-society had not done any charitable work during relevant period and its activities were only for purpose of generating income for its members. In such a case, rejection of application could hardly be termed as illegal or arbitrary
82	Urban Development Authority	[2018] 93 taxmann.com 449 (Karnataka)/[2018] 256 Taxman 237 (Karnataka)	12AA	Pendency of appeal against instant application seeking exemption would not be basis to quash notices for reassessment of income of earlier years
83	Agarwal Sabha	[2014] 45 taxmann.com 273 (Allahabad)/ [2014] 223 Taxman 353 (Allahabad)/ [2014] 365 ITR 244 (Allahabad)/ [2014] 271 CTR 704 (Allahabad)	12AA	Benefit of only one community: Where dominant object underlying constitution of trust was for benefit of only Agarwal community, application for registration under section 12AA should be dismissed
84	A Y Broadcast Foundation	[2012] 21 taxmann.com 533 (Kerala)/ [2012] 246 CTR 301 (Kerala)	12AA	Broadcasting is not eligible for exemption: Where assessee was formed for production of television and radio programmes for purpose of telecasting and broadcasting, such activities could not be held

S.N.	CASE	CITATION	SECTION	GIST / IMPORTANT POINT FOR CONSIDERATION
				as charitable purpose covered by section 2(15)
85	A R Trust	[2017] 86 taxmann. com 6 (Allahabad)/ [2017] 251 Taxman 397 (Allahabad)/ [2018] 402 ITR 161 (Allahabad)	12AA	Satisfaction is that of Commissioner and not that of Tribunal: Tribunal has no jurisdiction in law to direct for registration of trust without there being satisfaction recorded by registering authority as contemplated by section 12AA
86	Sri Visa Vадnagar Vanik Samaj	[2018] ITA No. 1699/H/2014 of ITAT Hyderabad dated 28/02/2018	12AA	For One Samaj only: The families of 'SAMAJ' cannot be considered as section of general public and they are limited to particular group and not for general public
87	Dawoodi Bohara Jamat	[2014] 43 taxmann. com 243 (SC)/[2014] 222 Taxman 228 (SC) (MAG)/[2014] 364 ITR 31 (SC)/[2014] 268 CTR 1 (SC)	12AA	Mixed objects to be tested on the touch stone of section 13: Where assessee trust is formed with both religious and charitable objects, in terms of section 13(1)(b), its claim for registration under section 12AA can be denied only in a case when such objects are carried out for benefit of a particular religious community or caste. The objects of the trust exhibit the dual tenor of religious and charitable purposes and activities. Section 11 shelters such trust with composite objects to claim exemption from tax as a religious and charitable trust subject to provisions of section 13. where the income of a trust is eligible for exemption under section 11, the eligibility for claiming exemption ought to be tested on the touchstone of the provisions of section 13

S.N.	CASE	CITATION	SECTION	GIST / IMPORTANT POINT FOR CONSIDERATION
88	Tellicherry Minority Welfare Trust	[2014] 45 taxmann. com 395 (Kerala)/ [2014] 223 Taxman 160 (Kerala)(MAG.)/ [2014] 364 ITR 472 (Kerala)	12AA	Trust established for benefit of a particular religious minority to be denied registration
89	Maxopp Investment Ltd	[2018] 91 taxmann. com 154 (SC)/[2018] 254 Taxman 325 (SC)/[2018] 402 ITR 640 (SC)/[2018] 301 CTR 489 (SC)	14A	Dominant purpose not relevant: Dominant purpose for which investment into shares is made by assessee may not be relevant as section 14A applies irrespective of whether shares are held to gain control or as stock-in-trade
90	T.K. Ginarajan	[2013] 36 taxmann. com 583 (SC)/[2013] 217 Taxman 323 (SC)/[2013] 356 ITR 618 (SC)/[2013] 261 CTR 121 (SC)	16	Deduction not covered u/s 16 not permissible from incentive bonus: Assessee, a Development Officer of LIC, received incentive bonus prior to 1-4-1989 and claimed deduction of 40 per cent of same stating that he had incurred expenditure to extent of 40 per cent of incentive bonus for canvassing business. Assessee was entitled only for permissible deductions under section 16
91	Prodip Kumar Bothra	[2012] 18 taxmann. com 177 (Calcutta)/ [2012] 205 Taxman 19 (Calcutta)/ [2011] 244 CTR 366 (Calcutta)	22	Assessee was a co-owner of property occupied by firm in which he was a partner . He cannot not avail exemption under section 22

S.N.	CASE	CITATION	SECTION	GIST / IMPORTANT POINT FOR CONSIDERATION
92	Avantor Performance Materials India Ltd	[2016] 66 taxmann.com 183 (Himachal Pradesh)/[2016] 237 Taxman 603 (Himachal Pradesh)/ [2016] 383 ITR 685 (Himachal Pradesh)/ [2016] 282 CTR 494 (Himachal Pradesh)	28	Amount received on termination of share purchase agreement: Compensation received in connection with termination of share purchase agreement to be taxed as revenue receipt
93	Gillanders Arbuthnot & co Ltd	[1964] 53 ITR 283 (SC)	28	Amount received on cancellation of agency: Cancellation of contract of agency did not affect profit-making structure of assessee, nor did it involve a loss of an enduring trading asset. It merely deprived assessee of a trading avenue, leaving it free to devote its energies after cancellation to carry on rest of business, compensation in question did not represent price paid for loss of a capital asset
94	Ansal Properties & Industries	[2018] 98 taxmann.com 398 (Delhi)/ [2018] 259 Taxman 103 (Delhi)	28 and 45	Security deposit with no refund clause: Assessee claimed that consideration received from transfer of property under development agreement was only security deposit which was to be returned on completion of project and it did not offer it for tax, since there was no provision in agreement enabling buyer to refund any part of sale consideration and further buyer treated amount paid to assessee as stock-in-trade, addition on account of amount of sale consideration received by assessee was justified

S.N.	CASE	CITATION	SECTION	GIST / IMPORTANT POINT FOR CONSIDERATION
95	R.L. Kasliwal	[1994] 77 Taxman 58 (Rajasthan)/ [1994] 207 ITR 208 (Rajasthan)/ [1994] 120 CTR 56 (Rajasthan)	28(iv)	Residential premises of firm used by Partner: When a firm allowed use of residential premises to a partner, the ITO can include the value of the perquisite in the income of the assessee under section 28(iv) of the Act if it arises from business or profession. In the instant case, benefit arose from the business carried on by the firm.
96	Priyanka Chopra	[2018] 89 taxmann. com 286 (Mumbai - Trib.)/[2018] 169 ITD 1 (Mumbai - Trib.)/ [2018] 192 TTJ 343 (Mumbai - Trib.)	28(iv)	Receiving car on brand promotion though agreement does not provide for it: Assessee, a film actress, had done promotional activity on being brand ambassador of NDTV Toyota Greenathon campaign and had clearly promoted brand Toyota. Receipt of Toyota car as gift in this connection had rightly been added in her hands as perquisites under section 28(iv)
97	Soda Silicate & Chemical Works	[1989] 46 Taxman 33 (Punjab & Haryana)/ [1989] 179 ITR 588 (Punjab & Haryana)	28(i)	Loss from Chit: To run a chit fund was not assessee's business. It secured a chit at a discount of Rs. 14,398 and in respect of this amount it sought deduction while computing its net assessable income. Tribunal was right in law in disallowing assessee's claim
98	Poona Electric Supply Co. Ltd	[1965] 57 ITR 521 (SC)	28	Income-tax is a tax on the real income: The profits arrived at on commercial principles is to be taxed subject to the provisions of the Income-tax Act. There is a clear-cut distinction between deductions made for ascertaining the profits

S.N.	CASE	CITATION	SECTION	GIST / IMPORTANT POINT FOR CONSIDERATION
				and distributions made out of profits. Another distinction that shall be borne in mind is that between the real and the statutory profits, i.e., between the commercial profits and statutory profits. The latter are statutorily fixed for a specified purpose.
99	Chennai Properties & Investments Ltd	[2015] 56 taxmann. com 456 (SC)/[2015] 231 Taxman 336 (SC)/[2015] 373 ITR 673 (SC)/[2015] 277 CTR 185 (SC)	28, 22	Letting out property is business income when the main object is to acquire properties: Where in terms of memorandum of association, main object of assessee-company was to acquire properties and earn income by letting out same, said income was to be brought to tax as business income and not as income from house property
100	S.C. Kothari	[1971] 82 ITR 794 (SC)	28(i), 73	Expenditure incurred in illegal business cannot be allowed as deduction from income of legal business. Illegal and legal businesses are separate for taxation: If the business is illegal neither the profits earned nor the losses incurred would be enforceable in law. But, that does not take the profits out of the taxing statute. But no set-off of loss from illegal business could be allowed under first proviso to section 24(1) of 1922 Act against income from valid speculative contracts

S.N.	CASE	CITATION	SECTION	GIST / IMPORTANT POINT FOR CONSIDERATION
101	Arkema Peroxides India (P.) Ltd	[2013] 31 taxmann. com 4 (Chennai - Trib.)/ [2012] 20 ITR(T) 225 (Chennai-Trib.)/ [2013] 56 SOT 64 (Chennai - Trib.) (URO)	32	No depreciation on non-compete fee: Depreciation is not allowable on non-compete fee paid as consideration to other party for giving up their right to carry on business for a period of five years
102	Oriental Coal Co. Ltd	[1994] 76 Taxman 240 (Calcutta)/ [1994] 206 ITR 682 (Calcutta)/ [1994] 120 CTR 202 (Calcutta)	32	Owner and user necessary to claim depreciation: Section 32(1) lays down two conditions to be satisfied by an assessee before claiming any depreciation. These two conditions are, firstly, that the plant and machinery must be owned by the assessee and, secondly, the plant and machinery must be used for the purpose of business of the assessee. A lock-out was an act of the assessee in suspending the business operations. The allowance of depreciation may not depend on the actual working of the machinery but no depreciation is allowable if the assets are not used at all for the business of the assessee in the relevant previous year.
103	Jiwaji Rao Sugar Co. Ltd	[1969] 71 ITR 319 (Madhya Pradesh)	32	Actual use and not keeping ready for use: Depreciation should result as a consequence of a machinery being actually used or employed in earning of income and it is not material whether or not machinery was kept ready to use so long as it was not actually used in earning of income

S.N.	CASE	CITATION	SECTION	GIST / IMPORTANT POINT FOR CONSIDERATION
104	J.K. Transport	[1998] 96 Taxman 152 (Madhya Pradesh)/[1998] 231 ITR 798 (Madhya Pradesh)/[1998] 150 CTR 264 (Madhya Pradesh)	32	Assets not to put to use: where examination of documents relating to body-building of new trucks purchased by assessee showed that they were not actually used in accounting year or part thereof, no depreciation could be allowed on such trucks
105	GVK Jaipur Expressway Ltd	[2018] 100 taxmann.com 95 (Raj.)	32	Depreciation on public road is admissible as building. SLP against this decision was dismissed by Supreme Court as reported in [2018] 100 taxmann.com 96 (SC)/ [2018] 259 Taxman 429 (SC). It may be mentioned that the position is different now as amortization is allowed as per Circular 9/2014
106	Peerless General Finance & Investment Co. Ltd	[2016] 73 taxmann.com 258 (SC)	32	Unabsorbed depreciation remaining as on 01-04-1997 can be set off only against business income from A.Y 1998-99: In view of amendment made in sub-section (2) of section 32 by Finance (No. 2) Act, 1996, with effect from 1-4-1997, unabsorbed depreciation as on 1-4-1997 could be set off against income from any head for immediate assessment year following 1-4-1997 and thereafter if there still was any unabsorbed depreciation same could be set off only against business income for a period of eight assessment years
107	Amin Machinery (P.) Ltd	[2008] 114 ITD 413 (Ahmedabad)/ [2007] 111 TTJ 892 (Ahmedabad)	32	When a company was incorporated through conversion of a partnership firm, carry forward of depreciation under section 32(2) could only be in

S.N.	CASE	CITATION	SECTION	GIST / IMPORTANT POINT FOR CONSIDERATION
				hands of partnership firm: The law under section 78 envisages succession of business, but precludes the carry forward of unabsorbed business loss, except where the same is by way of inheritance. A statutory devolution cannot amount to inheritance, which, by definition, can only be to and by individuals. Another essential feature of inheritance is that it is purely a natural phenomenon.
108	North Karnataka Expressway Ltd	[2014] 51 taxmann.com 214 (Bombay)/ [2015] 228 Taxman 20 (Bombay)(MAG.)/ [2015] 372 ITR 145 (Bombay)/ [2014] 272 CTR 225 (Bombay)	32	No Depreciation on Toll Highway to BOT operator: The assessee, infrastructure development company constructed a road on Build, Operate and Transfer (BOT) basis on land owned by Government. Assessee is not entitled to claim depreciation on toll road so constructed and operated as it is not the owner of the road.
109	West Gujarat Expressway Ltd	[2017] 82taxmann.com 224(Bombay)/ [2017] 390 ITR 398 (Bombay)	32	No depreciation on toll roads which were not owned by assessee
110	Guzdar Kajora Coal Mines Ltd	[1972] 85 ITR 599 (SC)	32	Fictitious price put to assets enables AO to ascertain correct value: if circumstances exist showing that fictitious price has been put on assets or there is fraud or collusion between vendor and vendee and there has been inflation or deflation of value for ulterior purposes, it is open to income-tax authorities to

S.N.	CASE	CITATION	SECTION	GIST / IMPORTANT POINT FOR CONSIDERATION
				refuse to accept price mentioned in deed or alleged by assessee and to ascertain the actual original cost
111	United Breweries Ltd	[2016] 76 taxmann.com 103 (Bangalore - Trib.)	32	No depreciation on goodwill arising out of amalgamation: By virtue of 5th proviso to section 32(1), assessee being amalgamated company could not claim or be allowed to claim depreciation on assets acquired in scheme of amalgamation more than depreciation that was allowable to amalgamating company
112	Kanaka Mahalakshmi Cooperative Bank Ltd	[2018] 97 taxmann.com 638 (Visakhapatnam - Trib.)	32	When no payment made for acquisition, there is no goodwill: Assessee bank had not paid any consideration towards acquisition of another bank and also had not shown any depreciation towards goodwill or commercial rights. In such case, it could not be considered that assessee had acquired goodwill or commercial rights of said bank and, thus, assessee would not be eligible for depreciation on goodwill under section 32
113	Toyo Engineering India Ltd	[2013] 33 taxmann.com 560 (Mumbai - Trib.)/[2012] 18 ITR(T) 159 (Mumbai - Trib.)	32	No depreciation could be allowed on goodwill where very purchase of goodwill was not proved by assessee
114	Hoogly Mills Co. Ltd	[2006] 157 Taxman 347 (SC)/[2006] 287 ITR 333 (SC)/[2006] 206 CTR 301 (SC)	32	The gratuity liability taken over by the assessee did not fall under any of those categories specified in section 32. Hence, no depreciation

S.N.	CASE	CITATION	SECTION	GIST / IMPORTANT POINT FOR CONSIDERATION
				could be claimed in respect of the gratuity liability even if it was regarded as capital expenditure. The gratuity liability is neither a building, machinery, plant or furniture nor is an intangible asset of the kind mentioned in section 32(1)(ii). Depreciation cannot be allowed on land because that too is not mentioned in section 32, the assessee was not entitled to any depreciation on the value of land in respect of concern purchased by it.
115	Dharti Dredging & Infrastructure Ltd.	[2013] 31 taxmann. com 273 (Hyderabad - Trib.)/[2013] 24 ITR(T) 538 (Hyderabad - Trib.)/ [2013] 57 SOT 31 (Hyderabad - Trib.)	32, 37	No depreciation if ownership not Proven: Assessee was engaged in business of dredging. For assessment year 2008-09 it claimed depreciation on two dredgers stating that it had purchased same during financial year 2007-08. Since record showed that assessee was not owner of dredgers either wholly or partly, it was not entitled to claim depreciation
116	Excelex Biopolymers Pvt Ltd	[2018] ITA No. 1110/Del/2013 of ITAT, Delhi dated 01/03/2018	32(1)(ii) and 37	Depreciation not allowable on non-competee fee
117	Sharp Business System	[2012] 27 taxmann. com 50 (Delhi)/ [2012] 211 Taxman 576 (Delhi)/[2012] 254 CTR 233 (Delhi)	32(1)(iii), 37	No depreciation on non-competee fee and also not allowable u/s 37 as the same is capital expenditure: Amount paid as non-competee fee does not qualify for depreciation under section 32(1)(ii). Non-competee fee paid by assessee to its erstwhile partner as consideration

S.N.	CASE	CITATION		SECTION	GIST / IMPORTANT POINT FOR CONSIDERATION
					for not setting up any business of similar nature for a period of seven years amounted to capital expenditure and, thus, same was not allowable under section 37(1)
118	Electronics Corpn. of India Ltd	[2012] 28 taxmann.com 280 (Hyderabad)/ [2014] 29 ITR(T) 637 (Hyderabad)/ [2013]140 ITD 221 (Hyderabad)/ [2013] 155 TTJ 748 (Hyderabad) [2012] 28 taxmann.com 280 (Hyderabad)/ [2014] 29 ITR(T) 637 (Hyderabad)/[2013]		35(2AB)	R&D expenditure which is approved by DSIR would only be eligible for weighted deduction
119	HBL Nife Power Systems Ltd	[2012] 20 taxmann.com 120 (Hyderabad)/ [2010] 134 TTJ 641 (Hyderabad)		35D	35D not applicable when there is no public subscription: Where issue of share capital was not for public subscription and such shares were issued for complying with SEBI guidelines with regard to proportion of promoters holding as against total capital base, expenditure incurred in connection with such issue of shares was not eligible for deduction under section 35D
120	Anita G	[1999] 107 Taxman 99 (Andhra Pradesh)		36(1)(iii)	Device to reduce tax liability: When entire set of transactions was a device to reduce tax liability of several taxable entities, disallowance of interest on monies

S.N.	CASE	CITATION	SECTION	GIST / IMPORTANT POINT FOR CONSIDERATION
				borrowed by assessee from her husband is justified and there is no question of law.
121	Harrisons Malayalam Ltd	[2012] 25 taxmann.com 546 (Kerala)/ [2012] 210 Taxman 115 (Kerala)	36(1)(iii)	Disallowance is justified when interest free loans are granted to subsidiaries out of interest bearing loans taken from outside companies
122	Unifac Management Services India Pvt Ltd	[2018] 100 taxmann.com 244 (Madras)/ [2019] 260 Taxman 60 (Madras)/ [2018] 409 ITR 225 (Madras)	36(1)(va)	Scope of section 43B and section 36(1)(va) are different: In view of 36(1)(va), both contributions, viz., 'employees' and 'employers' cannot be brought under same scope and ambit of section 43B to claim deduction
123	Nasik Breeding & Research Farm Ltd	[2001] 77 ITD 581 (Pune)	36(1)(vi)	36(1)(vi) is applicable to animals held as 'capital assets' and would be inapplicable to birds
124	State Bank of Patiala	[2005] 143 Taxman 196 (Punjab & Haryana)/[2005] 272 ITR 54 (Punjab & Haryana)/[2005] 198 CTR 407 (Punjab & Haryana)	36(1)(viiia)	Making of provision for bad and doubtful debt in account books for equal amount is necessary to claim deduction u/s 36(1)(viiia)
125	Southern Technologies Ltd	[2010] 187 Taxman 346 (SC)/[2010] 320 ITR 577 (SC)/[2010] 228 CTR 440 (SC)	36(1)(vii), 37	Provisions as per directions of RBI have nothing to do for computation of liability under the Income Tax Act. Provision barred u/s 36(1)(iii) cannot be claimed u/s 37: NBFCs Prudential Norms as per RBI directions deal only with presentation of NPA provisions in balance sheet of a NBFC and they have nothing to do with computation or taxability of

S.N.	CASE	CITATION	SECTION	GIST / IMPORTANT POINT FOR CONSIDERATION
				provisions for NPAs under Income-tax Act. When provision for doubtful debt is expressly excluded u/s 36(1) (vii), such a provision cannot be claimed as a deduction u/s on 37 even on basis of 'real income theory'
126	Mamta Enterprises	[2004] 135 Taxman 393 (Karnataka)/ [2004] 266 ITR 356 (Karnataka)/ [2004] 187 CTR 414 (Karnataka)	37	Compounding fee paid to Municipality for violation of building plan not allowable as expenditure u/s 37: Claim for deduction made by assessee had to be considered in light of Explanation to section 37(1) and not with reference to provisions in Corporation Act
127	Nahar Spinning Mills Ltd	[2014] 49 taxmann. com 565 (Punjab & Haryana)/[2014] 226 Taxman 364 (Punjab & Haryana)	37	Compounding fee paid to Municipality for violation of building plan not allowable as expenditure u/s 37: It is in the nature of penalty
128	Maddi Venkataraman & Co. (P.) Ltd	[1998] 96 Taxman 643 (SC)/[1998] 229 ITR 534 (SC)/[1998] 144 CTR 214 (SC)	37	Expenditure incurred for FERA violation: Expenses tainted with illegality could not be allowed as business expenditure.
129	Sushil Gupta	[2019] 102 taxmann. com 409 (Bombay)/ [2019] 262 Taxman 41 (Bombay)/ [2019] 411 ITR 678 (Bombay)	37	Fine for illegality in import: Fine or penalty for redemption of goods for irregularities or illegalities committed in process of importing goods is not an allowable deduction
130	Haji Aziz and Abdul Shakoor Bros	[1961] 41 ITR 350 (SC)	37	Penalty for a breach of law can not be said to be an amount wholly and exclusively laid for purpose of business

S.N.	CASE	CITATION	SECTION	GIST / IMPORTANT POINT FOR CONSIDERATION
131	Garden Silk Weaving Factory	[1994] 74 Taxman 600 (Gujarat)/ [1994] 207 ITR 394 (Gujarat)/[1994] 122 CTR 43 (Gujarat)	37	Penalty paid in importing goods in excess of licensed entitlement does not represent loss suffered in commercial transaction and not allowable as business expenditure
132	Mylan Laboratories Ltd	[2014] 46 taxmann.com 76 (Hyderabad - Trib.)	37	Depreciation cannot be allowed on non-compete fee (paragraph 52 of the decision)
133	Rotork Controls India P Ltd	[2009] 180 Taxman 422 (SC)/[2009] 314 ITR 62 (SC)/[2009] 223 CTR 425 (SC)	37	For provision to be allowable there must be present obligation from past events: For a provision to qualify for recognition, there must be a present obligation arising from past events, settlement of which is expected to result in an outflow of resources and in respect of which a reliable estimate of amount of obligation is possible
134	Aditya Birla Power Co Ltd	[2010] 4 ITR(T) 658 (Mumbai)	37	Expenditure is developing business of associate concerns to be claimed on pro rata basis: Expenditure on developing business of associate concerns shown as 'advances recoverable' by assessee was to be treated as work-in-progress; as and when, and if a project did come to a financial closure and revenue was realised by assessee, necessary expenditure would be allocated on a pro rata basis depending on volume of revenue and other financial parameters

S.N.	CASE	CITATION	SECTION	GIST / IMPORTANT POINT FOR CONSIDERATION
135	Madras Industrial Investment Corporation Ltd	[1997] 91 Taxman 340 (SC)/[1997] 225 ITR 802 (SC)/[1997] 139 CTR 555 (SC)	37	Discount on debentures allowable as an expenditure on proportionate basis spread over period for which debentures would remain outstanding
136	Indian Metal & Metallurgical Corporation	[1964] 51 ITR 240 (MAD.)	37	Claim for deduction in respect of an anticipated, uncertain or contingent liability is not permissible.
137	Hyundai Motors India Ltd	[2015] 62 taxmann.com 42 (Chennai - Trib.) (TM)/[2015] 155 ITD 1 (Chennai - Trib.) (TRIB.)/[2016] 176 TTJ 456 (Chennai - Trib.) (TM)	37	Expenditure on gift of cars to Police Department: Expenditure not eligible expenditure u/s 37(1) as it was not incidental to carrying on business and there was no commercial expediency
138	Singareni Collieries Company Ltd	[1997] 90 Taxman 185 (Andhra Pradesh)/[1996] 221 ITR 48 (Andhra Pradesh)	37	Expenditure on rehabilitation of orphans in cyclone relief: Tribunal's findings the expenditure is not only conceived as philanthropic measure but also as a business proposition, gave rise to a referable question of law.
139	Aditya Minerals (P.) Ltd.	[1999] 106 Taxman 337 (SC)/[1999] 239 ITR 817 (SC)/[1999] 156 CTR 97 (SC)	37	Lease payment to acquire mine is capital expenditure even when the payment is on monthly basis
140	Pingle Industries Ltd	[1960] 40 ITR 67 (SC)	37	Periodic payment for a contract to excavate stones was neither rent nor royalty but a lump sum payment in installments for acquiring a capital asset of enduring benefit

S.N.	CASE	CITATION		SECTION	GIST / IMPORTANT POINT FOR CONSIDERATION
141	Chintalapudi Ranganayakulu	[1964] 51 ITR 276 (Andhra Pradesh)		37	Payments to land owners for mining lease: Assessee, engaged in business of extracting iron ore and selling it, entered into mining lease agreement with land-owners. Payments made under that agreement on account of right to enter upon land, brokerage and crop compensation to land owners were not an allowable business expenditure
142	R.B. Seth Moolchand Suganchand	[1972] 86 ITR 647 (SC)		37	Prospecting licence fee paid for one year for initiating business is an expenditure of capital nature
143	Nitrex Chemicals India Ltd	[2015] 62 taxmann. com 284 (Delhi - Trib.)		37	Payment of non-compete fee resulted in enduring benefit to assessee and as it was capital in nature, it could not be allowed as revenue expenditure
144	GKN Driveline India Ltd	[2017] 88 taxmann. com 208 (Delhi)/ [2018] 252 Taxman 297 (Delhi)		37	Payment made by assessee for smooth transfer of factory as part of agreement for purchase of assets and liabilities of a newly set up factory was clearly for an enduring benefit and not just towards non-compete obligation. Hence, not allowable as revenue expenditure
145	FFE Minerals India (P) Ltd	[2018] 98 taxmann. com 170 (Madras)		37	Liquidated damages paid for delay in delivery of machinery did not crystallize in relevant year and hence not allowable, in view of fact that there had been only discussions and negotiations for arriving at amount of liquidated damages

S.N.	CASE	CITATION	SECTION	GIST / IMPORTANT POINT FOR CONSIDERATION
146	Micro Land Ltd	[2012] 18 taxmann. com 80 (Karnataka)/ [2012] 204 Taxman 174 (Karnataka) (Mag.)/[2012] 347 ITR 613 (Karnataka)	37	Deduction allowable only in respect of expenditure which is actually incurred or laid out in present and not an expenditure which is a future contingent expenditure which may arise or may not
147	Thermax Babcock & Wilcox Ltd	[2001] 79 ITD 63 (Pune) (TM)/[2001] 72 TTJ 827 (Pune) (TM)	37	When liability under warranty clause in contract did not accrue during relevant accounting years, merely because provision had been made as per accounting standards or that it was in consonance with established commercial principles, it could not be allowed under Income-tax law
148	Kanoria Chemicals & Industries Ltd	[1995] 78 Taxman 455 (Calcutta)	37	Expenditure incurred in connection with starting new project which became abortive could not be allowed as revenue expenditure
149	Brooke Bond India Ltd	[1997] 91 Taxman 26 (SC)/[1997] 225 ITR 798 (SC)/[1997] 140 CTR 598 (SC)	37	Expenditure on issue of shares to increase capital: Expenditure incurred on issuing share to increase its share capital by a company is in the nature of capital expenditure as it is directly related to expansion of capital base, though it would help in the business of the company and may also help in the profit making
150	MIL controls Ltd.	[2012] 20 taxmann. com 813 (Kerala)/ [2012] 206 Taxman 125 (Kerala)(MAG.)/ [2012] 340 ITR 190 (Kerala)	37	Standard of Proof in case of related company: If payee was a related company belonging to same group, standard of proof required for allowing claim was more than what was required in other cases

S.N.	CASE	CITATION		SECTION	GIST / IMPORTANT POINT FOR CONSIDERATION
151	Andhra Pradesh Beverages Corporation Ltd	[2014] 46 taxmann.com 91 (Hyderabad - Trib.)		37, 4, Article 289	Payment of privilege fee made by assessee, a wholesale distributor of alcoholic products, to State Government in terms of section 23A of Excise Act, 1968, was merely an application of income and, thus, it could not be allowed as business expenditure under section 37(1). The corporation is also not State under Article 289(1)
152	P V S Memorial Hospital Ltd	[2015] 60 taxmann.com 69 (Kerala)/ [2015] 234 Taxman 46 (Kerala)/[2016] 380 ITR284 (Kerala)/ [2015] 280 CTR 511 (Kerala)		40(a)(ia)	Deduction under a wrong provision of law will not save an assessee from section 40(a)(ia). Payment made by assessee-hospital to other hospital for performing various professional services in assessee's hospital would be covered under section 194J
153	K. Venkataraju Vemagiri	[2013] 34 taxmann.com 92 (Visakhapatnam - Trib.)/[2013] 58 SOT 33 (Visakhapatnam - Trib.)(URO)		40(a)(ia), 144	Disallowance u/s 40(a)(ia) is independent of estimation of income after rejection of books as it is related to non-compliance of provisions of the Act
154	Attar Singh Gurmukh Singh	[1991] 59 Taxman 11 (SC)/[1991] 191 ITR 667 (SC)/[1991] 97 CTR 251 (SC)		40A(3)	Expenditure includes all outgoings: Section 40A(3), read with rule 6DD, can not be said to be intended to restrict business activities. The word 'expenditure' is not defined in the Act and it is a word of wide import. Section 40A(3) refers to all the outgoings.

S.N.	CASE	CITATION	SECTION	GIST / IMPORTANT POINT FOR CONSIDERATION
155	Dattatray Poultry Breeding Farm (P.) Ltd	[2018] 95 taxmann.com 130 (Ahmedabad - Trib.)/ [2018] 171 ITD 615 (Ahmedabad - Trib.)	41(1)	Mere reflection of liability in books of accounts without proof would amount to cessation of liability: When outstanding sundry creditors for are shown for several years but assessee failed to produce such creditors and furnish correct address of all creditors, their PAN numbers and confirmations, Assessing Officer was justified in holding that there was cessation of liability and merely because liabilities were shown in books of account by assessee and not written back, such liabilities could not be held to be subsisting liability
156	Rama Steel Rolling Mills & Gen Engg works	[2013] 35 taxmann.com 262 (Rajasthan)	41(1)	Payment shown as liability but not paid due to dispute for long years: Assessee purchased goods from one 'T' and did not pay due to dispute. The amount was shown as liability for years but not proved. It is assessable as income of assessee under section 41(1)
157	Gujtron Electronics P Ltd.	[2017] 83 taxmann.com 389 (Gujarat)/ [2017] 249 Taxman 443 (Gujarat)/ [2017] 39 7ITR 462 (Gujarat)	41(1)	Deposits from customers lying unpaid for several years: Assessee company collected a huge sum of advance from its customers under a sales promotion scheme and the scheme was terminated several years ago but the advances were shown as liability. As there was absolutely no correspondence with the customers with respect to the deposits, there was cessation of liability and the amount was to be added as income.

S.N.	CASE	CITATION	SECTION	GIST / IMPORTANT POINT FOR CONSIDERATION
158	T V Sundaram Iyengar & Sos Ltd.	[1996] 88 Taxman 429 (SC)/[1996] 222 ITR 344 (SC)/[1996] 136 CTR 444 (SC)	41(1), 28	Change of character from capital to revenue of a receipt due to limitation or statutory/contractual right: An amount received in the course of trading transaction, may not be taxable in year of receipt as being of capital character but it changes its character when it becomes assessee's own money because of limitation or by any other statutory or contractual right. In such a case, the amount should be treated as income of assessee.
159	Sabithamani V	[2017] 79 taxmann. com 203 (Chennai - Trib.)/[2017] 163 ITD 478 (Chennai - Trib.)	43(1), 32	Transaction to reduce tax liability: If old windmill was purchased at enhanced price and the aggregate of depreciation claimed by previous and present owners is much higher than original cost, the purpose of transfer was for reduction of tax liability and hence, cost in hands of assessee to be reduced.
160	S. Pathy, HUF	[2006] 100 ITD 53 (Chennai)/[2006] 105 TJJ 1043 (Chennai)	43(3), 28(i)	Horses are stock-in-trade in the business of an assessee who is carrying on activity of maintenance of horses with object of earning income by letting out and sale of horses in a systematic and organized manner over a period of time
161	Premier Industries (India) Ltd	[2018] 100 taxmann. com 337 (Indore - Trib.)/[2019] 174 ITD 415 (Indore - Trib.)	43(5)	Hedging loss cannot be allowed under proviso to section 43(5) without proof: In the absence of specific details to show that assessee had entered into a contract for hedging of forward trading of its

S.N.	CASE	CITATION	SECTION	GIST / IMPORTANT POINT FOR CONSIDERATION
				goods to guard against loss through price fluctuation which might arise from contracts for delivery of goods, hedging loss arising from alleged contracts did not fall under proviso (a) of section 43(5)
162	L.G. Balakrishnan	[2003] 129 Taxman 854 (Madras)/ [2002] 176 CTR 394 (Madras)	43(3)	Birds being “livestock” cannot be treated as capital assets due to amendment of definition of “plant” u/s 43(3) w.e.f 01/04/1962 through Finance Act, 1995 and they have to be valued as part of stock-in-trade
163	Exide Industries Ltd	SLP (Civil) No. 22889/2008	43B(f)	SLP pending against the decision of Calcutta High Court which struck down section 43B(f). Supreme Court directed that assessee would, during the pendency of this Civil Appeal, pay tax as if Section 43B(f) is on the Statute Book but at the same time it would be entitled to make a claim in its returns.
164	Vikas Solvextracts P Ltd	[2018] 89 taxmann. com 197 (Kolkata - Trib.)/[2018] 168 ITD 692 (Kolkata - Trib.)/ [2018] 192 TTJ 591 (Kolkata - Trib.)	45(2)	Section 45(2) would not apply to transactions wherein land is transferred to developer and LTCG is offered on the gains on sale of flats received: Assessee transferred its land to a developer for development of land into a residential complex and let out flats it got from developer and offered rental income to tax. The assessee subsequently, sold those flats through developer and offered consideration as long-term capital gain. Therefore, it was not a case

S.N.	CASE	CITATION	SECTION	GIST / IMPORTANT POINT FOR CONSIDERATION
				where the land was after converting it into stock-in-trade of business and section 45(2) would not apply
165	RST, In re	[2012] 19 taxmann. com 215 (AAR - NewDelhi)/[2012] 206 Taxman 477 (AAR - NewDelhi)/ [2012] 348 ITR 368 (AAR - NewDelhi)/ [2012] 249 CTR 113 (AAR - NewDelhi)	46A	Gains arising from buy-back of shares to be taxed u/s 46A r/w section 48: Resort to section 45 is neither warranted nor is it exempt in view of section 47(iv). Also, the amount received is subject to TDS
166	Saifee Jubiee High School & Madressa Yusufiyan Society	[2018] ITA No. 2301/ Ahd/2014 With CO No. 298/Ahd/14 of ITAT, Ahmedabad dated 16/03/2018	50C, 11	Sale Price approved by Charity Commissioner is to be adopted in case of a Trust governed by Public Trust Act and 50C is not applicable: In case of a Trust governed by Public Trust Act, the sale price approved by Charity Commissioner has to be adopted in the sale deed and the same is to be treated as the FMV and section 50C would not apply
167	Daulatram	[1990] 51 Taxman 248 (Andhra Pradesh)/[1990] 181 ITR 119 (Andhra Pradesh)/[1990] 90 CTR 152 (Andhra Pradesh)	55A	AO is competent to make reference u/s 55 A to Valuation Officer to ascertain cost of construction of a building and it is not right to say that such a reference can be made only in respect of capital gains alone
168	Jogat Mohan Kapur	[1995] 82 Taxman 1 (Calcutta)/ [1995] 211 ITR 721 (Calcutta)/ [1995] 125 CTR 428 (Calcutta)	55A	Application of consumer price index in reverse manner to compute the value of land for earlier years to reopen WT assessments was irrational and acting on the basis of totally extraneous factor

S.N.	CASE	CITATION	SECTION	GIST / IMPORTANT POINT FOR CONSIDERATION
169	Emil Webber	[1978] 114 ITR 515 (Bombay) confirmed in [1993] 67 Taxman 532 (SC)/[1993] 200 ITR 483 (SC)/[1993] 110 CTR 257 (SC)	56	Perquisites not falling under 'business' or 'salary' can be taxed under head "Other Sources". Amount paid by way of tax on salary received by the assessee is income of the assessee.
170	National Thermal Power	[1988] 24 ITD 1 (Delhi) (SB)	56	Interest on deposits received during pre-commencement period taxable u/s 56: Interest received on short-term deposits during construction period of setting up of business constitutes income from other sources and cannot be deducted from cost of construction. The question of funds being surplus is not dependent upon the ultimate utilisation of the funds. This is a concept of the short run. The funds are surplus in the sense when there are funds in excess of the immediate requirements. The source of interest income earned from short term deposits taken from scheduled banks was the contract with the banks to advance the money on interest which was a conscious decision taken by the assessee. Apart from the accountancy practice the question of taxability of the income is an entirely different issue and it depends on the provisions of the income-tax law. Interest on short-term bank deposits is from an independent source not directly related to the construction work

S.N.	CASE	CITATION	SECTION	GIST / IMPORTANT POINT FOR CONSIDERATION
171	Tuticorin Alkali Chemicals & Fertilizers Ltd.	[1997] 93 Taxman 502 (SC)/[1997] 227 ITR 172 (SC)/[1997] 141 CTR 387 (SC)	56	Interest on deposits in pre-commencement period is taxable u/s 56 and business loss cannot be set-off: Interest earned on short-term investment of funds borrowed for setting-up of factory during construction of factory before commencement of business has to be assessed as income from other sources and it would not go to reduce interest on borrowed amount which would be capitalized. Also, such interest income cannot set off against loss of the company
172	Thermal Powertech Corporation India Ltd.	[2017] 81 taxmann. com 168 (Hyderabad - Trib.)/[2017] 164 ITD 449 (Hyderabad - Trib.)/[2017] 188 TTJ 462 (Hyderabad - Trib.)	56	When assessee deposited unutilised borrowed funds in short term fixed deposits during construction of power plant, interest earned on those deposits was to be taxed as income from other sources
173	Rassi Cement Ltd.	[1998] 100 Taxman 568 (Andhra Pradesh)/[1998] 232 ITR 554 (Andhra Pradesh)/[1999] 153 CTR 140 (Andhra Pradesh)	56	Interest earned by assessee on surplus funds deposited in banks during installation of assessee-company had to be taken as income from other sources and could not be treated as a part of capital structure
174	Sponge Iron India Pvt. Ltd.	[1993] 67 Taxman 437 (Andhra Pradesh)/[1993] 201 ITR 770 (Andhra Pradesh)/[1993] 111 CTR 67 (Andhra Pradesh)	56, 57	Interest on deposits earned in pre-commencement period is not business income and deduction for administrative expenses etc is also not permissible: When the assessee's business has not commenced, assessee's interest income could not be treated as business income and

S.N.	CASE	CITATION	SECTION	GIST / IMPORTANT POINT FOR CONSIDERATION
				the assessee was not entitled to the deduction of the administrative expenses, exploration and mining expenses from out of its interest income
175	Consolidated Fibers and Chemicals Ltd.	[2005] 146 Taxman 14 (Calcutta)/ [2005] 273 ITR 353 (Calcutta)/ [2005] 195 CTR 605 (Calcutta)	56, 57	Interest from surplus funds out of share capital and borrowings kept in short-term deposits was taxable as income from other sources during the period when the assessee did not commence business. The purpose of the borrowing was for the purpose of construction of the project and the interest would have been paid even if it would not have been invested. Therefore, the interest could not be said to have been laid out or expended for the purpose of earning the income, particularly when the interest paid was eligible for being capitalised, the expenditure that had been incurred being in the nature of capital expenditure and would not be within the purview of Section 57(iii)
176	Kakinada SEZ (P.) Ltd	[2013] 31 taxmann. com 165 (Hyderabad - Trib.)/[2013] 141 ITD 635 (Hyderabad - Trib.)	56, 57	When loans taken for business purposes were invested in fixed deposits, interest paid on borrowed funds cannot be deducted u/s 57 from interest income on the deposits
177	Jay Metal Industries P Ltd	[2017] 84 taxmann. com 11 (Delhi)/ [2017] 249 Taxman 450 (Delhi)/[2017] 396 ITR 194 (Delhi)	56, 22	In composite letting of building together with fixtures, furnitures etc, rental income was to be assessed as income from other sources

S.N.	CASE	CITATION	SECTION	GIST / IMPORTANT POINT FOR CONSIDERATION
178	Sultan Brothers P Ltd	[1964] 51 ITR 353 (SC)	56, 22	In case of inseparable letting of building, P&M and furniture, rental income is taxable u/s 56
179	Autokast Ltd.	[2001] 116 Taxman 244 (SC)/[2001] 248 ITR 110 (SC)/[2001] 165 CTR 16 (SC)	56, 4	Interest on short term deposits during construction period would not go to reduce overall cost of the project .
180	J.B. Roy	[2012] 26 taxmann. com 235 (Delhi)/ [2013] 212 Taxman 591 (Delhi)/[2014] 265 CTR 505 (Delhi)	57	Colourable activity of transferring funds amongst group concerns and claiming interest on borrowed funds: Assessee, a director of several companies of 'S' group, borrowed money from some companies of the group to buy shares of some other companies of the group. This activity involved transfer of funds and interest was paid on borrowed funds. As the activity is colourable, the claim of deduction of interest was rejected.
181	Trustees of H.E.H. the Nizam's Jewellery for Family Trust	[2001] 117 Taxman 665 (Andhra Pradesh)/[2001] 250 ITR 632 (Andhra Pradesh)/[2001] 170 CTR 172 (Andhra Pradesh)	57(iii)	It was impermissible to allow expenditure incurred by way of interest on such borrowal as deduction under section 57(iii) from interest earned on fixed deposits on whose security loan was taken
182	Mohini Thapar	[1972] 83 ITR 208 (SC)	64	The assets transferred was the gift of the cash amounts made by the assessee to his wife. The transfers were direct transfers. But those assets, were invested either in shares or otherwise. Hence, the incomes realised either as dividends from shares or as interest from

S.N.	CASE	CITATION	SECTION	GIST / IMPORTANT POINT FOR CONSIDERATION
				deposits were income indirectly received in respect of the transfer of cash directly made. The income derived by the assessee's wife was rightly included in the assessee's total income under section 16(13)(a)(iii).
183	Yadu Hari Dalmia	[1980] 4 Taxman 525 (Delhi)/[1980] 126 ITR 48 (Delhi)/ [1980] 17 CTR 234 (Delhi)	68	Addition on unproved expenditure could be made and sections 68 to 69D are only clarificatory: Even otherwise an addition can be made towards income from undisclosed sources in respect, inter alia, of amounts of expenditure which the assessee is found to have actually incurred but not satisfactorily explained
184	V C Shukla Vs CBI	[1998] 3 SCC 410	68	Regularly Kept book does not mean that an entry must necessarily be made in the book of account at or about the time the related transaction takes place so as to enable the book to pass the test of 'regularly kept'. But even correct and authentic entries in books of account cannot without independent evidence of their trustworthiness , fix a liability upon a person
185	A. Govindarajulu Mudaliar	[1958] 34 ITR 807 (SC)	68	Section 68 casts liability on assessee: The assessee has to prove satisfactorily the source and nature of certain amounts of cash received during the accounting year and if not, the ITO is entitled to draw the inference that the receipts are of an

S.N.	CASE	CITATION		SECTION	GIST / IMPORTANT POINT FOR CONSIDERATION
					assessable nature. The decision also indicates that there is no need for the ITO to prove the source of the receipts
186	Independent Media Pvt Ltd	[2012] 25 taxmann. com 276 (Delhi)/ [2012] 210 Taxman 14 (Delhi)(MAG.)		68	AO is not under any duty to show the source: For making addition under section 68, AO would not be under any duty to further show or establish that monies emanated from coffers of assessee-company
187	Nova Promoters & Finlease Pvt Ltd	[2012] 18 taxmann. com 217 (Delhi)/ [2012] 206 Taxman 207 (Delhi)/[2012] 342 ITR 169 (Delhi)/ [2012] 252 CTR 187 (Delhi)		68	Value of Affidavits and whether cross-examination is necessary for their rejection: In the face of overwhelming material on record to negate the claim of genuineness of the transactions and to doubt the veracity of the transactions, affidavits need not be accepted as reliable In such a case it cannot be said that the affidavits can be rejected only after cross examination.
188	Seema Jain	[2018] 96 taxmann. com 307 (Delhi)/ [2018] 257 Taxman 380 (Delhi)/[2018] 406 ITR 411 (Delhi)		68	Addition on loan stands when lender company did not have tangible or intangible fixed assets, it declared a meagre income of few thousand rupees and thus it was not in a position to advance huge loan to assessee
189	Selvi J Jayalalitha	[2017] 78 taxmann. com 161 (SC)/[2017] 392 ITR 97 (SC)		68	Income Tax Returns are not conclusive proof of creditworthiness: Income-tax returns and orders would not ipso facto either conclusively prove or disprove the charge of disproportionate assets and can at

S.N.	CASE	CITATION	SECTION	GIST / IMPORTANT POINT FOR CONSIDERATION
				best be pieces of evidence which have to be evaluated along with other materials on record
190	N.R. Portfolio (P.) Ltd	[2014] 42 taxmann. com 339 (Delhi)/ [2014] 222 Taxman 157 (Delhi)(MAG)/ [2014] 264 CTR 258 (Delhi)	68	Evasive and Transient approach before AO & Parameters for Creditworthiness and genuineness of Share money: Nature of relationship between parties, object, terms and quantum of investment, types of investor, creditworthiness of recipient, etc. Assessee-company adopted non-cooperative attitude before Assessing Officer once they came to know about directed enquiry and investigation being made. Evasive and transient approach before Assessing Officer was limpid and perspicuous and, therefore, addition made in respect of impugned amount was to be upheld
191	K.I International	[2017] ITA Nos 897 & 898/Mds/2017 of ITAT, Chennai dated 24/08/2017	68	Features of shell companies described: Based on replies and available data, all the companies involved are basically investment companies existing only in paper, no activity as such, practically no fixed assets, filed their returns showing meagre income and lack creditworthiness. Further, most of the companies received share application money at a huge premium to its face value or shown sale of bogus investments of unquoted equity shares, the directors of above named companies are also directors in

S.N.	CASE	CITATION		SECTION	GIST / IMPORTANT POINT FOR CONSIDERATION
					<p>many other companies where on an average directorship is in 13 companies (130/10). The apparent strength of returns of income filed with RoC, Income Tax Department and opening of bogus bank accounts from bogus addresses and subsequent transactions through banking channels has emboldened the entry operators and the beneficiary entities to embark upon such a complex, fraudulent and fictitious process involving a huge number of companies and other entities. The subsequent retraction by the operator is nothing but an afterthought and more so, the entire process is fictitious and fraudulent</p>
192	Greenview Restaurant	[2003] 133 Taxman 432 (Gauhati)/ [2003] 263 ITR 169 (Gauhati)/[2003] 185 CTR 651 (Gauhati)		68	<p>Delay in retraction and allegation of coercion: From facts, it was clear that there was a delay on the part of the appellant and its partner in retracting the statements recorded. No attempt was made on behalf of the appellant to prove the allegation of inducement, threat or coercion through the witnesses. Having regard to the materials on record, the appellant had failed to establish that the statements of its partner had been recorded in the course of the search by using coercion, threat or inducement.</p>

S.N.	CASE	CITATION	SECTION	GIST / IMPORTANT POINT FOR CONSIDERATION
193	Vinaylene Textile Industries	[2018] ITA No: 3240/Mum/2017 of ITAT, Mumbai dated 23/02/2018	68	The background of bogus accommodation entry cannot be ignored by putting on blinkers and only looking at the documents being submitted.
194	Shaan Construction P Ltd	[2018] ITA No. 4520/Del/ 2009 and 613/Del/ 2013 dated 28/03/2018	68	Device to introduce unaccounted money through shell companies: The whole exercise carried out by the assessee is simply a device to introduce unaccounted money through various shell companies in the form of share capital at a premium. The manner of issue of the shares through these companies, the manner of providing confirmation on the letter pad, the manner of maintaining the annual accounts and the manner of submitting the bank accounts on the letter pad or on a computerized print out to give it a semblance of originality to defraud the revenue, proves much more than what is under challenge before us. It shows the whole picture how the accommodation entries are routed through shell companies as share capital to evade the taxes. The whole facade created by assessee shows the real purpose of introducing the unaccounted money of the assessee without payment of taxes.

S.N.	CASE	CITATION	SECTION	GIST / IMPORTANT POINT FOR CONSIDERATION
195	GS Tiwari & Co	[2014] 41 taxmann. com 17 (Allahabad)/ [2014] 220 Taxman 111 (Allahabad) (MAG.)/[2013] 357 ITR 651 (Allahabad)	68	Addition u/s 68 can be made apart from estimation of business income: In an appropriate case, Assessing Officer can make addition in respect of both cash credits under section 68 as well as business income estimated by him u/s 44AD after rejecting unreliable books of account maintained by assessee
196	Kale Khan Mohammad Hanif	[1963] 50 ITR 1 (SC)	68	Cash credits in question could be assessed to tax as income from undisclosed sources in addition to business income computed by estimate
197	Maduri Rajaiahgari Kistaiah	[1979] 120 ITR 294 (AP)	68	When assessee fails to establish that the unexplained cash credits are referable to business income separate addition u/s 68 is warranted apart from estimation of business income: Assessee's consistent plea was that cash credits were genuine loans. No stand was taken that unexplained cash credits were referable to business income which was determined on estimate basis. In such a situation, addition of unexplained cash credits as income from other sources by ITO was valid
198	Mir Mazharuddin	[2013] 35 taxmann. com 541 (Hyderabad - Trib.)/[2013] 22 ITR(T) 314 (Hyderabad - Trib.)/ [2013] 59 SOT 9 (Hyderabad - Trib.) (URO)	68	Addition under section 68 is permissible where Assessing Officer estimated business income

S.N.	CASE	CITATION	SECTION	GIST / IMPORTANT POINT FOR CONSIDERATION
199	Ametak Auto Ltd	[2011] 12 taxmann. com 102 (Punjab & Haryana)/[2011] 200 Taxman 184 (Punjab & Haryana)(MAG.)/ [2011] 237 CTR 205 (Punjab & Haryana) 2010-TIOL-805-HC-P&H-IT	68	Mere fact of following procedure would not make deposits genuine: Mere fact that procedure under Section 58A of the Companies Act was followed, cannot be conclusive of genuineness of the deposits. The statutory procedure under the Companies Act is merely intended to safeguard the interest of the depositor. The Assessing Officer gave due opportunity to the assessee to prove identity and creditworthiness of the depositors as well as the genuineness of the transaction. No effort was made by the assessee to discharge the burden statutorily placed on it in that regard.
200	Ultra Modern Exports (P.) Ltd	[2013] 40 taxmann. com 458 (Delhi)/ [2014] 220 Taxman 165 (Delhi)(MAG.)	68	Mere filing of IT returns and back account particulars would not be enough, when the notices sent by AO were returned unserved: Notices sent by AO to share applicants were returned unserved. However, assessee still managed to secure documents such as their income tax returns as well as bank account particulars, in such circumstances, Assessing Officer was justified in drawing adverse inference and adding amount in question to assessee's taxable income under section 68

S.N.	CASE	CITATION	SECTION	GIST / IMPORTANT POINT FOR CONSIDERATION
201	Synergy Finlease (P) Ltd	[2019] 105 taxmann. com 208 (Delhi - Trib.)/[2019] 177 ITD 160 (Delhi - Trib.	68	In view of fact that share applicant companies had very meagre income, they lack creditworthiness for making huge investments and genuineness of transactions were also not established from documentary evidences shown by assessee. Addition under section 68 in respect of share capital was justified
202	Frostair (P.) Ltd	[2012] 26 taxmann. com 11 (Delhi)/ [2012] 210 Taxman 221 (Delhi)(MAG.)	68	When details furnished by assessee about share applicants were incorrect, addition under section 68 was proper: The Assessing Officer went into great lengths to verify the genuineness of these transactions. He issued summons to the share applicants and only 9 could be served; none actually responded through their authorized or principal officer. Even during remand, 16 of the 18 notices to the share applicants could not be served. The Assessing Officer also examined the bank accounts of the share applicants from which the share application amounts were subscribed. He noticed a regularity, a pattern, in the methodology of infusing cash into the accounts, and within a short while afterwards, withdrawing sums to pay for the shares. The PAN/GIR numbers of the share applicants furnished by the assessee were not found to be correct, upon verification from the concerned Income tax Officers

S.N.	CASE	CITATION	SECTION	GIST / IMPORTANT POINT FOR CONSIDERATION
				of the ward (s) in question. The assessee was given opportunity to produce the share applicants' principal officers, but he did not do so. The share applicants' addresses too were incorrect.
203	Novdaya Castle Pvt. Ltd.	[2014] 50 taxmann.com 110 (Delhi)/ [2014] 226 Taxman 190 (Delhi)(Mag.)/ [2014] 367 ITR 306 (Delhi)	68	Certificate of incorporation, PAN, etc., are relevant for purpose of identification, but have their limitation when there is evidence and material to show that subscriber was a paper company and not a genuine investor. in case of private limited companies, generally persons known to directors or shareholders, directly or indirectly, buy or subscribe to shares and, therefore, an assessee cannot simply furnish some details and remain quiet when summons issued to shareholders remain un-served and uncomplied; their reluctance and hiding may reflect on genuineness of transaction and creditworthiness of creditors. SLP against the decision is dismissed by Supreme Court as reported in 56 taxmann.com 18 (SC)
204	Raghava Reddy P V	[1956] 29 ITR 942 (AP)	68	Mere credit entry would not be discharge of burden of proof cast on the assessee. Otherwise a clever assessee can always throw the burden of proof on the income-tax authorities by making a credit entry in the name of a third party either real or pseudonymous.

S.N.	CASE	CITATION	SECTION	GIST / IMPORTANT POINT FOR CONSIDERATION
205	P. Mohanakala	[2007] 161 Taxman 169 (SC)/[2007] 291 ITR 278 (SC)/[2007] 210 CTR 20 (SC)	68	Burden on the assessee to rebut the evidence and inference of AO: It is true that even after rejecting the explanation given by the assessee if found unacceptable, the crucial aspect whether on the facts and circumstances of the case it should be inferred the sums credited in the books of the assessee constituted income of the previous year must receive the consideration of the authorities provided the assessee rebut the evidence and the inference drawn to reject the explanation offered as unsatisfactory. The burden in this regard was on the assessee. No such attempt has been made before any authority.
206	Cornerstone Property Investments P Ltd.	[2018] ITA No. 665/Bang/2017 of ITAT, Bangalore dated 09/02/2018	68	The Department is not remediless and is free to proceed to reopen the individual assessment of such alleged bogus shareholders in accordance with the law.
207	Dhanalaxmi Steel Re-rolling Mills	[1997] 93 Taxman 561 (Andhra Pradesh)/[1997] 228 ITR 780 (Andhra Pradesh)	68	Finding of fact is to be based on cumulative effect of all facts and normally cannot be disturbed: Section 68 does not stop at advancing the explanation about the nature and source of any sum found credited in the books. The Assessing Officer is also required to be satisfied about the explanation offered by the assessee. When the law has given to the Assessing Officer discretion and it is his satisfaction upon which

S.N.	CASE	CITATION	SECTION	GIST / IMPORTANT POINT FOR CONSIDERATION
				genuineness has to be decided, his inference on basis of facts. Findings on question of pure fact arrived at by the Tribunal are not to be disturbed by the High Court on reference unless it appears that there was no evidence before the Tribunal upon which they, as reasonable men, could come to the conclusion to which they had come and that is so even though the High Court would, on evidence, have come to conclusion entirely different from that of the Tribunal. When a conclusion has been reached on appreciation of facts, whether that is sound or not, must be determined not by considering the weight to be attached to each single fact in isolation, but by assessing the cumulative effect of all the facts in their setting as a whole.
208	Krishnaveni Ammal	[1986] 158 ITR 826 (Madras)/[1984] 38 CTR 331 (Madras)	68	If best evidence is not placed before Court, an adverse inference can be drawn as against person who ought to have produced it. In case of non-furnishing of documentary evidence of corroborative value which is within reach of assessee, judicial body cannot act on such interested testimony of assessee alone.
209	NDR Promoters Pvt. Ltd.	[2019] 102 taxmann.com 182 (Delhi)/ [2019] 261 Taxman 270 (Delhi)/[2019] 410 ITR 379 (Delhi)	68	Investor companies maintained by one person and paper companies: In respect of amount received as share capital from several companies, in view of fact that all of these companies were maintained by

S.N.	CASE	CITATION	SECTION	GIST / IMPORTANT POINT FOR CONSIDERATION
				one person who was engaged in providing accommodation entries through paper companies and all such companies were located at same address, impugned addition was justified
210	Rasun Exports Pvt Ltd	[2009] ITA/1185/H/09 of ITAT, Hyderabad dated 11 September, 2009	68	Decision in case of Lovely Exports is not a binding precedent under Article 141: The observations of Hon'ble Supreme Court while deciding the special leave petition in the case of M/s Lovely Exports (2009) (319 ITR 5 St.) cannot be considered to be law decided which has a binding precedence under Article 141 of the Constitution of India. Such observations are true on the fact of the respective case and cannot be applied across the board even when the facts in other cases are all together different. One has to see the surrounding circumstances while deciding the issue like this as observed by the Supreme Court in the case of Smt. Sumati Dayal Vs. CIT (214 ITR 801) (SC) and CIT Vs. Durga Prasad More (82 ITR 540) (SC).
211	NRA Iron & Steel Pvt. Ltd.	[2019] 103 taxmann.com 48 (SC)/[2019] 262 Taxman 74 (SC)/ [2019] 412 ITR 161 (SC)	68	Supreme Court laid down guidelines on manner of making additions u/s 68. Where assessee received share capital/premium, however there was failure of assessee to establish creditworthiness of investor companies, Assessing Officer was justified in passing assessment order

S.N.	CASE	CITATION	SECTION	GIST / IMPORTANT POINT FOR CONSIDERATION
				making additions under section 68 for share capital / premium received by assessee company
212	R.B Mittal	[2000] 112 Taxman 480 (Andhra Pradesh)/[2000] 246 ITR 283 (Andhra Pradesh)/[2001] 165 CTR 366 (Andhra Pradesh)	68	Where assessee had not discharged burden relating to capacity of his creditors to advance money and genuineness of transaction and Tribunal, after elaborate consideration of entire evidence, held that loans claimed to have been advanced by certain parties, were not genuine, no question of law could be said to arise from Tribunal's order
213	C. P. Adam	[1976] 105 ITR 465 (KER.)	68	Cross Examination: When assessee made no attempts to produce witnesses whom he wanted to cross-examine, ITO could not be said to have acted unreasonably or in violation of principles of natural justice
214	Durga Prasad More	[1971] 82 ITR 540 (SC)	68	Human Probability test: SC upheld the decision of ITAT which disbelieved the story, prima facie, a fantastic story. It is a story that does not accord with human probabilities.
215	Sumati Dayal	[1995] 80 Taxman 89 (SC)/[1995] 214 ITR 801 (SC)/[1995] 125 CTR 124 (SC)	68	Human Probability test: The majority opinion after considering surrounding circumstances and applying the test of human probabilities has rightly concluded that the appellant's claim about the amount being her winning from races is not genuine.

S.N.	CASE	CITATION	SECTION	GIST / IMPORTANT POINT FOR CONSIDERATION
216	N. Tarika Property Invest. (P.) Ltd	[2013] 40 taxmann.com 525 (Delhi)	68	False Evidence and PAN cannot solely divulge the real identity: Where false evidence had been adduced by assessee to give colour of genuineness to bogus entries through bank accounts and deposits which were mostly by cash, Assessing Officer was justified in making addition under section 68. PANs are issued without de facto verification, these cannot solely divulge real identity of individual SLP against the decision was dismissed by Supreme Court as reported in [2014] 51 taxmann.com 387 (SC)/[2014] 227 Taxman 373 (SC)
217	Pavankumar M Sanghvi	[2017] 81 taxmann.com 308 (Ahmedabad - Trib.)/[2017] 59 ITR(T) 389 (Ahmedabad - Trib.)/[2017] 165 ITD 260 (Ahmedabad - Trib.)/[2017] 187 TTJ 32 [2018] (Ahmedabad - Trib.) confirmed by High Court as reported in 90 taxmann.com 386 (Gujarat)/[2018] 404 ITR 601 (Gujarat)/[2018] 301 CTR 265 (Gujarat) and SLP dismissed by Supreme Court as reported in 97 taxmann.com 398 (SC)	68	Facts of the case cannot be considered in isolation with the ground realities. Modus operandi of shell companies explained: Loan transactions would not become genuine merely because assessee filed loan confirmations, copies of ledger account and other supporting evidences to justify transactions at the end of assessment proceedings. The facts of the case cannot be considered in isolation with the ground realities. It will, therefore, be useful to understand as to how the shell entities function, and then compare these characteristics with the facts of the case and in the light of well settled legal principles. A shell entity is generally an entity without any significant trading,

S.N.	CASE	CITATION		SECTION	GIST / IMPORTANT POINT FOR CONSIDERATION
					<p>manufacturing or service activity, or with high volume low margin transactions- to give it colour of a normal business entity, used as a vehicle for various financial manoeuvres. A shell entity, by itself, is not an illegal entity but it is their act of abatement of, and being part of, financial manoeuvring to legitimise illicit monies and evade taxes, that takes it actions beyond what is legally permissible. These entities have every semblance of a genuine business- its legal ownership by persons in existence, statutory documentation as necessary for a legitimate business and a documentation trail as a legitimate transaction would normally follow. The only thing which sets it apart from a genuine business entity is lack of genuineness in its actual operations. The operations carried out by these entities, are only to facilitate financial manoeuvring for the benefit of its clients, or, with that predominant underlying objective, to give the colour of genuineness to these entities. These shell entities, which are routinely used to launder unaccounted monies, are a fact of life, and as much a part of the underbelly of the financial world, as many other evils. Even a layman, much less a Member of this specialized Tribunal, cannot be oblivious of these ground realities</p>

S.N.	CASE	CITATION	SECTION	GIST / IMPORTANT POINT FOR CONSIDERATION
218	United Metal & Wire Industries	[2019] ITA No. 7336/Mum/2016 of ITAT, Mumbai dated 01/03/2019	68	Praveen Agarwal group accommodation entries: Mere receipt of loan through banking channel or furnishing confirmations is not sufficient enough to discharge the onus cast upon u/s 68, when the parties himself admitted that they are engaged in providing accommodation entries.
219	Saanika Industries Pvt. Ltd.	[2017] ITA No. 207/Ahd/2016 of ITAT, Ahmedabad dated 02/03/2017	68	Accommodation entries from Manohar Lal Nanglia group operators: Along with evidences, surrounding circumstances, human probability and intentional acts are also to be taken note off while accepting the identity, creditworthiness and genuineness of the share applicants. Mere reliance on PAN, IT returns, bank statement and confirmations is not enough when the financial statement of these parties speak in itself that they are paper companies. If it has been genuine transaction, the assessee could have easily produced the new investors who own substantial portion of equity. The investors could have come along with all the financial documents and could have clarified about their intention to make investment in the equity shares of the company because every investor wants to earn income from investment in the form of dividend as well as expects appreciation in the valuation of shares with the

S.N.	CASE	CITATION		SECTION	GIST / IMPORTANT POINT FOR CONSIDERATION
					growth of business. On the contrary, there is complete failure to produce proof of genuineness.
220	Sreelekha Banerjee	[1963] 49 ITR 112 (SC)		68	It is the assessee that has to prove that an entry in the books of accounts does not bear the character of income. At that stage the Department is required to prove nothing: If there is an entry in the account books of the assessee which shows the receipt of a sum on conversion of high denomination notes tendered for conversion by the assessee himself, it is necessary for the assessee to establish, if asked, what the source of that money is and to prove that it does not bear the nature of income. The department is not at this stage required to prove anything.
221	Devi Prasad Vishwanath	[1969] 72 ITR 194 (SC)		68	AO is not under burden to show the source: When there is an unexplained cash credit it is open to ITO to hold that it is income of assessee and no further burden lies on ITO to show that income is from any particular source. It is for the assessee to prove that even if the cash credit represents income it is income from a source which has already been taxed. There is nothing in law which prevents the ITO in an appropriate case in taxing both the cash credit and the business income estimated by him after rejecting unreliable books of account

S.N.	CASE	CITATION	SECTION	GIST / IMPORTANT POINT FOR CONSIDERATION
222	Divyashakti Granites Ltd	[2013] ITA No. 367/ Hyd/2012 of ITAT, Hyderabad dated 13/12/2013	68, 10B	Exemption u/s 10B is not available against additions u/s 68/69: The assessee's business is carrying on of export activities in granite slabs and not dealing in unexplained credits. Being so, the assessee is not entitled for deduction u/s. 10B of the Act on account of additions made u/s. 68/69 of the Act.
223	P. Rama Devi	[2017] 88 taxmann. com 818 (Hyderabad - Trib.)/[2017] 54 ITR(T) 30 (Hyderabad - Trib.)	69	Mere bank account copy would not indicate purchase of jewellery: merely because the assessee placed before the Assessing Officer a bank account copy, indicating the payment to jewellers, it would not indicate that it was only towards purchase of gold jewellery. There could be some other transaction with the said jeweller other than purchase of jewellery.
224	Surendra M. Khandhar	[2001] 76 ITD 121 (Mumbai)/[2001] 71 TTJ 366 (Mumbai)	69	Filing of additional evidence obtained by the Department after assessment is necessary to test the veracity of the evidence filed before ITAT: Before the AO, the assessee did not produce any material to prove that certain amounts standing in seized bank accounts did not belong to him and filed and at the instance of Tribunal gave particulars and details of persons and concerns who, according to assessee, were owner of those accounts. Department sought to produce additional evidence, which was admittedly obtained after assessment, to prove that those

S.N.	CASE	CITATION	SECTION	GIST / IMPORTANT POINT FOR CONSIDERATION
				amounts really belonged to assessee. Additional evidence had become necessary only in response to particulars of concerns furnished by assessee and, to test veracity of admission during search and subsequent retraction. So far as the working of the peak was concerned, it was again for the assessee to prove that the withdrawals were not utilised for other expenses or investments and were available for making subsequent deposits in the said bank accounts and benefit of peak could be given only when the recycling of funds was proved
225	K. Chinnathamban	[2007] 162 Taxman 459 (SC)/[2007] 292 ITR 682 (SC)/[2007] 211 CTR 86 (SC)	69A	Burden of Proof - The onus of proving the source of deposit primarily rests on the person in whose name the deposit appears in various banks
226	M.L. Sachdeva	[2014] 45 taxmann.com 224 (Punjab & Haryana)/[2014] 224 Taxman 170 (Punjab & Haryana)(MAG.)	69A	Attempt to create capital through bogus claim of sale of Jewellery: The addition was upheld because the make believe story of the assessee was not plausible on following factors: (i) Late Walaya Ram Sachdeva (assessee is his L/R) kept his beloved jewellery for 50 years and just before his death travelled 1000 Kms to sell the same to a young man of 22 years without disclosing this fact to any one; (ii) The buyer also died and how the assessee came into the possession of his affidavit is not clear; (iii) The alleged concern of the buyer was

S.N.	CASE	CITATION		SECTION	GIST / IMPORTANT POINT FOR CONSIDERATION
					<p>not at the given address (iv) The valuer who claims to have seen the jewellery and issued valuation certificate did not maintain any record and even the certificate is not serially numbered and (v) all the documents including sale invoices and affidavits were apparently concocted because the assessee might be expecting enquiry by Department and (vi) it appears to be the handiwork of an entry operator. The High Court stated that the story does not appeal to it as a plausible one and it is of the that it is an attempt to create capital without paying any tax and it is not a genuine claim.</p>
227	Pooja Ajmani	[2019] 106 taxmann. com 65 (Delhi - Trib.)/[2019] 177 ITD 127 (Delhi - Trib.)		69A	<p>Documents submitted as evidences to prove the genuineness of transaction are themselves found to serve as smokescreen to cover up the true nature of the transactions in the facts and circumstances of the case as it is revealed that purchase and sale of shares are arranged transactions to create bogus profit in the garb of tax exempt long-terra capital gain by well organised network of entry providers with the sole motive to sell such entries to enable the beneficiary to account for the undisclosed income for a consideration or commission. The share transactions leading to long-term capital gains by the assessee are sham transaction entered into for the purpose of evading tax.</p>

S.N.	CASE	CITATION	SECTION	GIST / IMPORTANT POINT FOR CONSIDERATION
228	Sanjay Oilcake Industries	[2009] 316 ITR 274 (Guj)	69C	Sellers not traceable: Additions were made on account of inflated purchase price as alleged sellers were not traceable. Though payments had been made by account-payee cheques, entire amounts so deposited had been withdrawn by bearer cheques. In such case, addition was justified
229	Bright future gems	[2017] 88 taxmann.com 476 (Rajasthan)/ [2017] 392 ITR 580 (Rajasthan)	69C	Mere Vouchers or import export challans of customs clearance not enough: Merely vouchers or import export challans or challans of customs clearance would not prove physical delivery of material. Assessee failed to produce foreign seller and also to explain purchases and day-to-day quantitative tally of goods consumed. Purchase were rightly treated to be bogus
230	Narender Kumar Gupta	[2015] 55 taxmann.com 371 (Punjab & Haryana)	69C	Tribunal cannot delete addition u/s 69C and estimate the income: Where Assessing Officer made addition to assessee's income under section 69C in respect of bogus purchases, in view of failure of assessee to even prove existence of suppliers, Tribunal could not delete impugned addition and direct Assessing Officer to assess income at net profit rate of 6 per cent
231	VBC Jewellery	[2019] ITA/2304 and 2305/ Chny/18 of ITAT, Chennai dated 29/01/2019	69C	Cheques issued for purchases and cash received back: Unverified purchases had to be added back to income when it had been admitted in the statements recorded by

S.N.	CASE	CITATION	SECTION	GIST / IMPORTANT POINT FOR CONSIDERATION
				the investigation wing, Mumbai that cheques were issued by the beneficiary parties against the bogus sale bills issued by the benami concerns of Bhanwarlal Jain and Rajesh Bhanwarlal Jain. Subsequently, cash was returned back to these beneficiary parties through Angadias after deducting commission of the same by Bhanwarlal Jain and Rajesh Bhanwarlal Jain. Since the onus in the instant case, squarely lay on the assessee to prove the genuineness of purchase of diamonds said to have been made from M/s. Sun Diam was not proved
232	N.K. Industries Ltd.	[2016] 72 taxmann.com 289 (Gujarat)/ [2017] 292 CTR 354 (Gujarat)	69C	In case of bogus purchases, the entire amount has to be added: Taxing only 25% of these bogus claim goes against the principles of Sections 68 and 69C of the Income Tax Act. The entire purchases shown on the basis of fictitious invoices have been debited in the trading account since the transaction has been found to be bogus. SLP against this decision was dismissed by Supreme Court as reported in 84 taxmann.com 195 (SC)
233	Nitin Rasiklal Sanghavi	[2019] ITA/2304 and 2305/Ahd/17 of ITAT, Ahmedabad dated 08/03/2019	69C	Description of Shell Entities: This is a case where Rajendra Jain Group of operators are involved. A shell entity is generally an entity without any significant trading, manufacturing or service activity, or with high volume low margin

S.N.	CASE	CITATION		SECTION	GIST / IMPORTANT POINT FOR CONSIDERATION
					<p>transactions to give it colour of a normal business entity, used as a vehicle for various financial manoeuvres. A shell entity, by itself, is not an illegal entity but it is their act of abatement of, and being part of, financial manoeuvring to legitimise illicit monies and evade taxes, that takes it actions beyond what is legally permissible. These entities have every semblance of a genuine business- its legal ownership by persons in existence, statutory documentation as necessary for a legitimate business and a documentation trail as a legitimate transaction would normally follow. The only thing which sets it apart from a genuine business entity is lack of genuineness in its actual operations. The operations carried out by these entities, are only to facilitate financial manoeuvring for the benefit of its clients, or, with that predominant underlying objective, to give the colour of genuineness to these entities. These shell entities, which are routinely used to launder unaccounted monies, are a fact of life, and as much a part of the underbelly of the financial world, as many other evils. Even a layman, much less a Member of this specialized Tribunal, cannot be oblivious of these ground realities.</p>

S.N.	CASE	CITATION		SECTION	GIST / IMPORTANT POINT FOR CONSIDERATION
234	Pradeep Kumar Biyani	[2019] 101 taxmann.com 130 (Guj.)		69C	Low GP and absence of stock register: Apart from confessional statement of assessee's brother, it is noted that gross profit declared by assessee was much lesser than profit in said line of business. Also, the assessee had failed to provide stock register despite several opportunities. Addition u/s 69C is justified. SLP against the decision dismissed by Supreme Court in 101 taxmann.com 131 (SC)
235	Shanti Swarup Jain	[2015] 55 taxmann.com 378 (Allahabad)/ [2015] 230 Taxman 533 (Allahabad)		69C	Alleged seller admits that he was running dummy business: The assessee-firm, engaged in business of zips for shoes etc, showed certain purchases made from 'G' Enterprises. The proprietor of 'G' Enterprises admitted that he was running a dummy business. Addition u/s 69C was justified.
236	Kalyani Medical Stores	[2017] 80 taxmann.com 158 (Calcutta)/ [2016] 386 ITR 387 (Calcutta)		69C	On failure of assessee to prove cash purchases by producing purchase bills and stock register, said amount was to be added to assessee's income as income from undisclosed sources
237	Soman Sum Citi	[2017] ITA/2960/Mum/16 of ITAT Mumbai dated 23/10/2017		69C	Right of cross examination is not absolute in the instant case as the primary onus is not discharged by the assessee. No prejudice is caused to the assessee by non granting of opportunity of cross examination by the authorities below

S.N.	CASE	CITATION	SECTION	GIST / IMPORTANT POINT FOR CONSIDERATION
238	Sun Steel Industries P Ltd	[2018] ITA/531/ Kol/16 of ITAT, Kolakata dated 19/02/2018	69C	<p>Mere proof of existence is not enough. Actual rendering of service is to be proved by showing that the sub-contractors had the necessary expertise and capacity:</p> <p>Even though the existence of these companies are proved beyond doubt, with proper paper work carried out, the assessee had not proved the actual rendering of services. Admittedly, all the alleged sub-contractors were only trading in shares and investment companies. The assessee was not able to prove with cogent material as to whether these companies possess necessary expertise and infrastructure to render the foundation services to the assessee. More importantly these services were alleged to have been rendered in Shillong whereas, these parties are located in Kolkata. From the perusal of their balance sheet, it is evident that they do not have any branch in Shillong or any other infrastructure to render foundation services/specialized services to the assessee. Their profit and loss account contains payment of labour charges to the tune Rs 80000/- to Rs 90000/- and payment of salary of Rs. 6 lacs approximately. Hence, it is proved beyond doubt that those parties had not rendered any services to the assessee even by way of outsourcing of the said jobs to outsiders who are stationed in Shillong. All the six companies had</p>

S.N.	CASE	CITATION	SECTION	GIST / IMPORTANT POINT FOR CONSIDERATION
				similar types of income and similarly types of expenses reflected in their profit and loss account. None of the companies have sufficient fixed assets to prove the existence of necessary infrastructure for rendering such technical services. From the aforesaid facts, it is made very clear that these parties had merely acted as a conduit to reduce the profits of the assessee company and show meager income in their returns and claim refund of TDS.
239	Vijay Jain	[2019] 107 taxmann. com 313 (Madhya Pradesh)	69, 68 – 69D	A statement is to be believed as a whole and not in piecemeal as one part suits to the assessee and other part does not suits to the assessee: The findings of Revenue are based on the agreement of purchase of land and asper statement by another person. Revenue did not commit any error on relying his statement.
240	Abhinandan Investment Ltd	[2015] 63 taxmann. com 263 (Delhi)/ [2016] 282 CTR 466 (Delhi)	72	Contrived loss through colourable device: Contrived loss claimed by the assessee through colourable device of renunciation of rights is not allowable
241	Gem India Mfg Co	[2001] 117 Taxman 368 (SC)/[2001] 249 ITR 307 (SC)/[2002] 172 CTR 615 (SC)	80I	Though the raw and uncut diamond was subjected to a process of cutting and polishing which yielded polished diamond, but that is not to say that the polished diamond was a new article or thing which was the result of manufacture or production.

S.N.	CASE	CITATION	SECTION	GIST / IMPORTANT POINT FOR CONSIDERATION
242	Annapurna Builders	[2011] ITA No: 1177/ Hyd/2011 of ITAT, Hyderabad dated 10/10/2011	80IA(4)	Income from letting out of units Industrial Park is business income
243	Janapriya Properties Pvt Ltd	[2012] ITA No: 1577 & 1594/Hyd/2012 of ITAT, Hyderabad dated 18/06/2012	80IA(4)	Income from letting out of units Industrial Park is business income
244	Ultratech Cement Ltd.	[2017] 81 taxmann. com 74 (Bombay)/ [2018] 408 ITR 500 (Bombay)/ [2017] 298 CTR 437 (Bombay)	80IA	Additional ground claiming deduction u/s 80-IA is not permissible when necessary evidence that assessee was entitled to the claim was not on record and assessee had no reason to satisfy appellate authority that the ground was bona fide and could not have been raised earlier for good reasons
245	Plastiblends India Pvt Ltd	[2017] 86 taxmann. com 137 (SC)/[2017] 251 Taxman 188 (SC)/[2017] 398 ITR 568 (SC)/[2017] 298 CTR 281 (SC)	80IA	80IA is a self contained code in itself. 80-IA not only contains substantive but procedural provisions for computation of special deduction.
246	Synco Industries Ltd	[2008] 168 Taxman 224 (SC)/[2008] 299 ITR 444 (SC)/[2008] 215 CTR 385 (SC)	80IA	If GTI is 'nil' after adjustment of losses of earlier years, no deduction under Chapter VIA: Non obstante clause appearing in section 80-I(6) is applicable only to quantum of deduction, whereas gross total income under section 80B(5), which is also referred to in section 80-I(1), is required to be computed in manner provided under Act which presupposes that gross total income shall be arrived at after adjusting

S.N.	CASE	CITATION	SECTION	GIST / IMPORTANT POINT FOR CONSIDERATION
				losses of other division against profits derived from an industrial undertaking
247	Micro Labs Ltd	[2015] 64 taxmann. com 199 (SC)/[2016] 237 Taxman 74 (SC)/ [2016] 380 ITR 1 (SC)/[2016] 283 CTR 9 (SC)	80IA, 80HHC	Simultaneous deduction u/s 80IA/80IB and 80HHC on same profits: Division bench of Supreme Court referred matter to larger bench as there was difference of opinion as to whether assessee could claim simultaneous deductions under section 80-IA/ 80-IB and 80HHC on same profits
248	EBR Enterprises	[2019] 107 taxmann. com 220 (Bombay)/ [2019] 415 ITR 139 (Bombay)	80IA, 80IB	Filing of claim in return of income filed before due date is necessary to claim deduction u/s 80IA/80IB: Sub-section (5) of section 80A mandates that if the assessee fails to make a claim in his return of income for any deduction under the provisions specified therein, the same would not be granted to the assessee. This condition for restriction is not relatable to the Assessing Officer or the Income Tax Authority. This condition attaches to the claim of the assessee and has to be implemented by the Assessing Officer, Commissioner or the Appellate Tribunal as the case may be. Even the High Court in exercise of Writ Jurisdiction under article 226 of the Constitution of India would not issue directions contrary to statutory provisions. (Comments: It may be mentioned here that 80AC also mandates filing of return before due date specified u/s 139(1))

S.N.	CASE	CITATION	SECTION	GIST / IMPORTANT POINT FOR CONSIDERATION
249	Jai Steel (India) Jodhpur	[2013] 36 taxmann. com 523 (Rajasthan)/ [2013] 219 Taxman 223 (Rajasthan)/ [2013] 259 CTR 281 (Rajasthan)	80IA, 132	No claim can be made for deduction u/s 80IA for the first time in search assessment: The proceedings under section 153A are analogous to proceedings under section 147 to the extent that those proceedings are for the benefit of the revenue and not of the assessee. The assessee cannot be permitted to convert the reassessment proceedings as his appeal or revision in disguise and seek relief in respect of items not earlier claimed in the original return.
250	Hindustan Mint & Agro Products (P) Ltd	[2010] 1 ITR(T) 433 (Delhi)	80IB, 80HHC	Deduction under sections 80HHC and 80-IB cannot be allowed on gross total income separately
251	Liberty India	[2009] 183 Taxman 349 (SC)/[2009] 317 ITR 218 (SC)/[2009] 225 CTR 233 (SC)	80IB	Analysing the concept of remission of duty drawback and DEPB, it is evident that the remission of duty is on account of the statutory/policy provisions in the Customs Act/Scheme(s) framed by the Government of India. In the circumstances, the profits derived by way of such incentives do not fall within the expression “profits derived from industrial undertaking” in section 80-IB.
252	Fortuna Foundation Engineers & Consultants (P.) Ltd	[2017] 81 taxmann. com 189 (Allahabad)/ [2017] 297 CTR 409 (Allahabad)	80IB(10)	Approval to housing project is not applicable to plots available after date of approval. Completion certificate is a must for claiming deduction: Completion certificate was filed on 21-10-2009. No evidence has been brought on

S.N.	CASE	CITATION		SECTION	GIST / IMPORTANT POINT FOR CONSIDERATION
					record to show that project was completed on or before 31-3-2008 or that officials of the Development Authority made inspection of construction and verified completion of project. Application was submitted by the assessee on 27-3-2008 in the name of a dead person. The application was non est in law
253	Sainath Estates P Ltd.	[2013] 32 taxmann. com 7 (Hyderabad - Trib.)/[2013] 26 ITR(T) 155 (Hyderabad - Trib.)/ [2013] 142 ITD 370 (Hyderabad - Trib.)/ [2013] 155 TTJ 39 (Hyderabad - Trib.)		80IB(10)	Claim of deduction 80-IB(10) is not allowable when the assessee did not furnish completion certificate issued by local authority certifying completion of housing project
254	Global Reality	[2015] 62 taxmann. com 204 (Madhya Pradesh)/[2015] 234 Taxman 677 (Madhya Pradesh)/ [2015] 379 ITR 107 (Madhya Pradesh)/ [2015] 280 CTR 558 (Madhya Pradesh)		80IB(10)	Completion certificate issued after cut-off date mentioning that the project was completed before the cut-off date is not acceptable: Completion certificate of housing project of assessee was issued after cut off date by Local Authority but mentioned date of completion of project before cut off date, same could not fulfil condition specified in section 80-IB (10) (a) read with explanation (ii) thereunder.
255	Citizen Cooperative Society Ltd	[2017] 84 taxmann. com 114 (SC)/[2017] 250 Taxman 78 (SC)/ [2017] 397 ITR 1 (SC)/ [2017] 297 CTR 225 (SC)		80P	The assessee society was engaged in activity of finance business and was also engaged in activity of granting loans to general public as well, it could not be termed as co-operative

S.N.	CASE	CITATION	SECTION	GIST / IMPORTANT POINT FOR CONSIDERATION
				society meant only for its members and providing credit facilities to its members. The assessee is not entitled to deduction under section 80P. Review Petition on the order of SC dismissed as reported in [2017] 88 taxmann.com 279 (SC)/[2018] 252 Taxman 374 (SC)/[2018] 301 CTR 396 (SC).
256	Nestle India Ltd	[2011] 11 taxmann.com 106 (Delhi)/ [2011] 199 Taxman 321 (Delhi)(MAG.)/ [2011] 337 ITR 103 (Delhi)	92C	It is within power of IT authorities to examine reasonableness and genuineness of any payment, viz., royalty etc., even if assessee has obtained permission from RBI regarding same. RBI is only concerned with the foreign exchange and, therefore, would look into the matter from that point of view
257	Nuance Transcription Services India (P.) Ltd	[2017] 88 taxmann.com 321 (Bengaluru - Trib.)	92C	Transaction of receivables from AE is international transaction
258	Evalueserve.com (P.) Ltd	[2017] 82 taxmann.com 139 (Delhi - Trib.)/[2017] 58 ITR(T) 208 (Delhi - Trib.)/[2017] 187 TTJ 331 (Delhi - Trib.)	92C	Exclusion of two comparables sought for by assessee in second round of proceeding before Tribunal after 11 years of filing return, was unjustified
259	L.G. Electronics India (P.) Ltd	[2013] 29 taxmann.com 300 (Delhi - Trib.) (SB)/[2013] 22 ITR(T) 1 (Delhi - Trib.) (SB)/[2013] 140 ITD 41 (Delhi - Trib.) (SB)/ [2013] 152 TTJ 273 (Delhi - Trib.) (SB)	92C	TP adjustment in relation to advertisement, marketing and sales promotion expenses incurred by assessee for creating or improving marketing intangible for and on behalf of foreign AE is permissible

S.N.	CASE	CITATION		SECTION	GIST / IMPORTANT POINT FOR CONSIDERATION
260	Claas India (P) Ltd	[2015] 62 taxmann. com 173 (Delhi - Trib.)		92C	Adjustment on capacity utilization has to be made in profit margin of comparables and not that of assessee: In case of differences between comparables and assessee, then effect of such differences should be ironed out by making suitable adjustment to operating profit margin of comparables and not that of assessee.
261	Cheil India (P) Ltd	[2014] 46 taxmann. com 90 (Delhi - Trib.)		92C	When there were delays in receiving substantial payments from AEs, DRP taking strength from safe harbour rule, rightly directed Assessing Officer/TPO that interest was to be computed on basis of SBI base rate as on 30 June of relevant previous year plus 150 basis point
262	Aztec Software & Technology Services Ltd	[2007] 162 Taxman 119 (Bangalore) (SB)/[2007] 107 ITD 141 (Bangalore) (SB)/[2007] 15 SOT 49 (Bangalore) (SB)/[2007] 109 TTJ 892 (Bangalore) (SB)		92C	AO need not demonstrate prima-facie that there is tax avoidance before making reference to TPO. AO not required record his opinion/reason before seeking previous approval of CIT to make reference to TPO
263	Advice America Software Development Centre (P) Ltd.	[2018] 94 taxmann. com 179 (Bangalore - Trib.)		92C	Developing software products for clients would also be in the nature of rendering software developing services. The fact that the assessee mainly caters to SWD services in banking industry cannot be the basis to hold that another company which is into 3 clusters is not functionally comparable. Persistent

S.N.	CASE	CITATION	SECTION	GIST / IMPORTANT POINT FOR CONSIDERATION
				Systems Ltd and L&T Infotech Services were held to be comparables in SWD sector
264	FIS Global Business India P. Ltd.	[2018] 94 taxmann.com 314 (Delhi - Trib.)	92C	High or low turnover is not a criteria for excluding an otherwise comparable company
265	Thyssenkrupp Industries India (P) Ltd.	[2013] 33 taxmann.com 107 (Mumbai - Trib.)/[2013] 25 ITR(T) 243 (Mumbai - Trib.)/[2013] 154 TTJ 689 (Mumbai - Trib.)	92C	Provision for doubtful debts cannot be considered as operating cost
266	Knorr-Bremse India P Ltd.	[2015] 63 taxmann.com 186 (Punjab & Haryana)/[2016] 236 Taxman 318 (Punjab & Haryana)/[2016] 380 ITR 307 (Punjab & Haryana)/[2016] 282 CTR 44 (Punjab & Haryana)	92C	A transaction is at an arm's length price or not is not dependent on whether transaction results in an increase in assessee's profit. Several transactions between 'two or more' AEs can form a single composite transaction if they are closely linked transactions
267	SAP Labs India Pvt. Lt	[2018] 92 taxmann.com 412 (Bengaluru - Trib.)	92C	Turnover cannot be relevant criteria to decide comparability unless it is demonstrated that turnover has got an impact on profitability of a concern
268	General Motors India P Ltd.	[2013] 37 taxmann.com 403 (Ahmedabad - Trib.)/[2013] 27 ITR(T) 373 (Ahmedabad - Trib.)/[2014] 146 ITD 559 (Ahmedabad - Trib.)	92C	For analysing international transactions, less complex party to controlled transactions should be tested party, in respect of which more reliable data is available.

S.N.	CASE	CITATION		SECTION	GIST / IMPORTANT POINT FOR CONSIDERATION
269	Patni computer Systems Ltd.	[2013] 33 taxmann. com 3 (Bombay)/ [2013] 215 Taxman 108 (Bombay)		92C	Loss suffered by assessee by allowing excess period of credit to AE without charging interest would be part of international transaction, in view of amendment to section 92(b)(1) with effect from 1-4-2002
270	Sony India Pvt. Ltd.	[2006] 157 Taxman 125 (Delhi)/[2007] 288 ITR 52 (Delhi)/ [2006] 206 CTR 157 (Delhi)		92C	There is no requirement on AO to first form a considered opinion in a manner indicated in section 92C(3) before reference to TPO. It will suffice if Assessing Officer forms a prima facie opinion that it is necessary and expedient to make such a reference. One possible reason for absence of such a requirement of formation of a prior considered opinion by Assessing Officer is that TPO is expected to perform same exercise.
271	GE Money Financial Servies P Ltd.	[2016] 69 taxmann. com 420 (Delhi - Trib.)/[2016] 179 TTJ 588 (Delhi - Trib.)		92C	For determining arm's length price, tested party should be least complex of transacting parties for which data is available for comparability analysis
272	Prolifics Corpn Ltd.	[2015] 55 taxmann. com 226 (Hyderabad - Trib.)/[2015] 68 SOT 104 (Hyderabad - Trib.)(URO)		92C	Transaction of providing corporate guarantee involves service rendered to AE and, therefore, provisions of transfer pricing can be invoked in respect of such a transaction
273	Societe Generate Global Solution Centre Pvt. Ltd.	[2016] 69 taxmann. com 336 (Bangalore Trib)		92C	Turnover cannot be relevant criteria in a service sector where fixed overheads are nominal and the cost of service is in direct proportion to the services rendered

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274	Nivea India P Ltd.	[2017] 85 taxmann. com 260 (Mumbai - Trib.)/[2017] 189 TTJ 422 (Mumbai - Trib.)		92C	Whole intent and purpose of transfer pricing provision is first to select most appropriate comparable/tested party and thereafter, by applying most appropriate method to determine arm's length price(ALP). If overseas AE was least complex entity, the same can be taken as a tested party
275	AT & T Global Network Services (India) (P) Ltd.	[2017] 86 taxmann. com 158 (Delhi - Trib.)		92C	ALP of payments for support services of AE to the assessee in rendering high-speed internet services to the clients could not be taken as 'nil'. In order to determine ALP of royalty payment for use of brand name of AE, terms of licence agreement and period during which royalty was paid need to be looked into
276	Carlyle India Advisors	[2019] 104 taxmann. com 332 (Mumbai - Trib.)		92C	Filter like employee cost filter cannot be applied only to one or two companies but to entire set of companies in search process. Otherwise, it is bound to lead to distorted results
277	Toyota Kirloskar Auto Parts (P) Ltd.	[2014] 52 taxmann. com 171 (Bangalore - Trib.)/[2015] 152 ITD 148 (Bangalore - Trib.)		92C	If royalty was exclusively towards use of know-how in manufacturing process undertaken by assessee and was not in any way interlinked with other international transactions, arm's length price of such royalty could be determined independently

S.N.	CASE	CITATION		SECTION	GIST / IMPORTANT POINT FOR CONSIDERATION
278	Sutherland Healthcare Solutions Ltd	[2017] 77 taxmann. com 352 (ITAT Hyd)		92C	A foreign company can be taken as a tested party provided assessee makes sure that necessary relevant information about tested party and sufficient data in relation to comparables is furnished to tax administration
279	Scancafe Digital Solutions P Ltd	[2017] ITA No. 502/ Bang/2015 of ITAT, Bangalore dated 12/04/2017		92C	Turnover cannot be relevant criteria in a service sector where fixed overheads are nominal and the cost of service is in direct proportion to the services rendered (paragraph 17 of the decision).
280	Mylan Laboratories Ltd.	[2015] 63 taxmann. com 179 (Hyderabad - Trib.)/[2015] 155 ITD 1123 (Hyderabad -Trib.)		92C	Transaction of providing corporate guarantee involves service rendered to AE and, therefore, provisions of transfer pricing can be invoked in respect of such a transaction
281	Price Water House	[2016] 76 taxmann. com 221 (Calcutta)/ [2017] 245 Taxman 1 (Calcutta)/ [2017] 390 ITR 356 (Calcutta)/ [2017] 291 CTR 121 (Calcutta)		92C	Section 92CA(1) does not require Assessing Officer to first come to a definite finding that there is an 'international transaction' within meaning of section 92B before referring matter to TPO
282	Mercedes Benz Research & Development India P Ltd.	[2018] 95 taxmann. com 134 (Bengaluru - Trib)		92C	As there was no internal CUP which could be relied on in order to accept CUP method, analysis undertaken by assessee was not only faulty, but devoid of any data and, thus, TNMM was most appropriate method. Persistent Systems Ltd is held to be comparable in SDS sector

S.N.	CASE	CITATION		SECTION	GIST / IMPORTANT POINT FOR CONSIDERATION
283	Dresser – Rand India (P) Ltd.	[2011] 13 taxmann. com 82 (Mumbai)/ [2012] 13 ITR(T) 422 (Mumbai)/[2012] 53 SOT173 (Mumbai)/ [2011] 141 TTJ 385 (Mumbai)		92C	In evaluating ALP of a service, it is wholly irrelevant as to whether assessee benefits from it or not; real question is as to whether price of this service is what an independent enterprise would have paid for same
284	Cargill India Pvt Ltd	[2018] 89 taxmann. com 446 (Delhi – Trib.)		92C	Margin of different activities have to be separately calculated and compared with margin of comparable enterprises having similar functions and risk profile
285	Zaheer Mauritius	[2014] 47 taxmann. com 247 (Delhi)/ [2015] 230 Taxman 342 (Delhi)/[2014] 270 CTR 244 (Delhi)		92C	A Compulsorily Convertible Debenture indisputably creates and recognizes the existence of a debt and till it is discharged, either by payment or by conversion, the debenture would essentially represent a debt
286	Chryscapital Investment Advisors (India) P Ltd.	[2015] 56 taxmann. com 417 (Delhi)/ [2015] 232 Taxman 20 (Delhi)/[2015] 376 ITR 183 (Delhi)/ [2015] 277 CTR 137 (Delhi)		92C	Comparables discharging broadly similar functions cannot be excluded merely on the basis of high profits or turnover, unless material differences on account of the said factors is established
287	Television Eighteen India Ltd	[2013] 37 taxmann. com 143 (Delhi - Trib.)/[2014] 146 ITD 326 (Delhi - Trib.)		92C	When assessee, a media company being a marketing agent of a channel, also undertook channel promotion activities, a mark up was required to be added for rendering such specific services

S.N.	CASE	CITATION		SECTION	GIST / IMPORTANT POINT FOR CONSIDERATION
288	TVS Motor Company Ltd	[2017] 77 taxmann. com 105 (Chennai - Trib.)		92C	When assessee incurred AMP expenses abroad for brand promotion of its AE, since legal and economic ownership of said brand was exploited by AE, expenses in question had to be reimbursed along with certain markup
289	Kirby Business Systems India Ltd	[2014] 52 taxmann. com 409 (Hyderabad - Trib.)		92C	In a cost sharing exercise in implementing ERP systems in group which involved services by assessee company, mark up was warranted under TP provisions
290	DRHL India Service (P) Ltd.	[2019] 102 taxmann. com 334 (Bengaluru - Trib.)		92C	Claims of franchise commission to holding company without proof to establish nature of services rendered by said company would lead to addition on account of shortfall in ALP
291	Volvo India (P) Ltd.	[2018] 89 taxmann. com 79 (Bengaluru - Trib.)		92C	When assessee failed to show evidence in support of rendering of management services by AE, TPO was justified in determining ALP at nil
292	Professional Access Software Development (P.) Ltd	[2017] 79 taxmann. com 25 (Chennai - Trib.)		92C	The outstanding receivables from AE is financial result of international transactions concluded by the assessee and therefore, the income effect arising, if any, to that outstanding receivables is very much relevant aspect of ALP.
293	Bechtel India Pvt. Ltd.	[2017] 85 taxmann. com 121 (Delhi - Trib.)		92C	Interest on delayed realization of receivables is a separate international Transaction. It has nothing to do with operations of assessee-company involving debt free funds

S.N.	CASE	CITATION		SECTION	GIST / IMPORTANT POINT FOR CONSIDERATION
294	Logix Microsystems Ltd.	[2010] 8 ITR(T) 525 (Bangalore)/ [2010] 42 SOT 525 (Bangalore)/ [2010] 136 TTJ 366 (Bangalore)		92C	Outstanding receivables was financial result of international transaction with AE and income effect arising, if any, to that outstanding receivables was very much a relevant aspect of ALP
295	Techbooks International P Ltd.	[2015] 63 taxmann. com 114 (Delhi Trib)		92C	Delay over and above the normal period of realization in an uncontrolled situation, should be considered as a separate international transaction in terms of clause (c) of Explanation to section 92B
296	JCB India Ltd	[2016] 69 taxmann. com 383 (Delhi - Trib.)		92C	Payment of royalty is an independent transaction and applying TNMM on entity level could not be accepted. ALP to be determined separately under CUP method. Where assessee-company paid royalty to its AE for use of technology of a machine belonging to AE, TPO was required to simply determine ALP of international transaction of 'payment of royalty' unconcerned with fact, if any benefit accrued to deductibility of said amount under section 37(1) assessee and thereafter, it was for Assessing Officer to decide
297	Saipem India Projects Ltd	[2017] 81 taxmann. com 180 (Chennai - Trib.)		92C	Idle capacity adjustment is not possible when assessee is unable to prove that idle capacity in service industry was not an across industry feature or demonstrate its capacity hours working using a reliable method

S.N.	CASE	CITATION		SECTION	GIST / IMPORTANT POINT FOR CONSIDERATION
298	UCB India (P.) Ltd	[2009] 121 ITD 131 (Mumbai)/[2009] 30 SOT 95 (Mumbai)/ [2009] 124 TTJ 289 (Mumbai)		92C	CUP method is most direct method for determining arm's length price and under this method, price at which controlled transaction is carried out is compared to price obtained in comparable uncontrolled transaction
299	Cargill Foods India Ltd	[2015] 57 taxmann.com 330 (Pune - Trib.)/[2015] 69 SOT 40 (Pune - Trib.) (URO)		92C	If it is possible to identify and locate a comparable uncontrolled transaction, CUP method would be most reliable measure of arm's length price in relation to tested international transaction
300	Qualcomm India (P.) Ltd	[2013] 37 taxmann.com 17 (Delhi - Trib.)/[2013] 144 ITD 448 (Delhi - Trib.)/ [2013] 155 TTJ 23 (Delhi - Trib.)		92C	Fluctuation in operating margin <i>per se</i> cannot be exception as carved out in proviso to rule 10(B)(4) for using multi year data in specific situation
301	ADP (P.) Ltd	[2011] 10 taxmann.com 160 (Hyderabad)/ [2012] 15 ITR(T) 203 (Hyderabad)/ [2011] 45 SOT 172 (Hyderabad)/ [2012] 144 TTJ 520 (Hyderabad)		92C	Data of subsequent period cannot be considered for comparison while determining arm's length price
302	Gemplus India (P.) Ltd	[2010] 3 taxmann.com 755 (Bangalore - Trib.)		92C	It was very imperative on part of assessee to establish before TPO that payments were made commensurate to volume and quality of services and such costs were comparable. In case no details were available on record in respect

S.N.	CASE	CITATION		SECTION	GIST / IMPORTANT POINT FOR CONSIDERATION
					of nature of services rendered by AE, adjustment to ALP is called for
303	Microsoft India (R&D) (P.) Ltd	[2018] 97 taxmann. com 360 (Delhi - Trib.)		92C	Under Parent Subsidiary Agreement, assessee acted as a R&D service provider and parent Microsoft-USA supplied related intangibles and ownership right on outcome of research, vested with Microsoft-USA. In such case. assessee was a contract R&D service provider to Microsoft-USA
304	Sara Lee TTK Ltd	[2016] 76 taxmann. com 74 (Mumbai - Trib.)/[2016] 182 TTJ 122 (Mumbai - Trib.)		92C	RBI approval in respect of rate of royalty paid to AE is not determinative of ALP and it cannot be considered to be a valid CUP
305	Headstrong Services India (P) Ltd	[2016] 66 taxmann. com 185 (Delhi - Trib.)/[2016] 158 ITD 717 (Delhi - Trib.)/ [2016] 176 TTJ 665 (Delhi - Trib.)		92C	In computing ALP, it is impermissible to substitute actual profit earned by assessee from an international transaction with any other profit base, i.e., either by considering actual profits for earlier years or by taking into account projected profits of subsequent years
306	Cushman and Wakefield (India) Pvt. Ltd.	[2014] 46 taxmann. com 317 (Delhi)/ [2014] 367 ITR 730 (Delhi)/[2014] 269 CTR 16 (Delhi)		92CA, 37	Jurisdictions of Assessing Officer under section 37 and TPO under section 92CA are distinct and therefore, a referral made by Assessing Officer to TPO for limited purpose of determining ALP does not take away power of Assessing Officer to determine as to whether payment made by assessee to its AE for services rendered was basically an expenditure incurred for purpose

S.N.	CASE	CITATION	SECTION	GIST / IMPORTANT POINT FOR CONSIDERATION
				of business so as to allow same under section 37(1)
307	T. Rajkumar	[2016] 68 taxmann.com 182 (Madras)/ [2016] 239 Taxman 283 (Madras)/ [2016] 383 ITR 385 (Madras)/[2016] 286 CTR 28 (Madras)	94A	Section 94A is constitutional; notification issued under section 94A notifying cyprus was also constitutionally valid and cyprus was notified under section 94A
308	Bidhu Bhusan Sarkar	[1967] 63 ITR 278 (SC)	127	An order of transfer can be validly made even if there be no proceedings pending for assessment of tax and the purpose of the transfer may simply be that all future proceedings are to take place before the officer to whom the case of the assessee is transferred.
309	Pooran Mal	[1974] 93 ITR 505 (SC)	132	Even assuming that the search and seizure were in contravention of the provisions of section 132, still the material seized was liable to be used subject to law before the income-tax authorities against the person from whose custody it was seized
310	Narayan Bhagwantrao Gosavi Balajiwale v. Gopal Vinayak Gosavi	[1960] AIR 1960 SC 100	132(4)	An admission is the best evidence that an opposite party can rely upon and though not conclusive, yet could be decisive of the matter unless successfully withdrawn or proved erroneous
311	Avadh Kishore Das v. Ram Gopal	[1979] AIR 1979 SC 861	132(4)	Evidentiary admissions are not conclusive proof of the facts admitted and may be explained or shown to be wrong, but they

S.N.	CASE	CITATION	SECTION	GIST / IMPORTANT POINT FOR CONSIDERATION
				do raise an estoppel and shift the burden of proof on to the person making them
312	Hotel Kiran	[2002] 82 ITD 453 (Pune)/[2002] 77 TTJ 87 (Pune)	132(4)	When statement under section 132(4) was voluntarily made and there was no coercion or threat whatsoever and contents of statement were clear and unambiguous, same would be binding on assessee even if it was subsequently retracted
313	Kermex Micro Systems (India) Ltd	[2014] 47 taxmann.com 375 (Andhra Pradesh)/[2015] 230 Taxman 168 (Andhra Pradesh)/[2014] 362 ITR 13 (Andhra Pradesh)	132(4), 143(3)	When addition to assessee's income was on the basis of voluntary statement made by managing director of company that certain amount represented unexplained expenditure and assessee had not made any attempt to explain before Commissioner (Appeals) suggesting not to accept admission of its managing director, addition could not have been deleted addition merely on basis of lawyer's argument that aforesaid admission was recorded under mistaken belief of fact and law
314	Kishor Kumar B	[2014] 52 taxmann.com 449 (Madras)/ [2015] 229 Taxman 614 (Madras)/ [2015] 273 CTR 468 (Madras)	132(4), 153A	Where assessee himself stated about his undisclosed income in sworn statement recorded during search, addition could be made on basis of admission without scrutinizing documents. SLP against the decision is dismissed by Supreme Court as reported in [2015] 62 taxmann.com 215 (SC)/ [2015] 234 Taxman 771 (SC)

S.N.	CASE	CITATION	SECTION	GIST / IMPORTANT POINT FOR CONSIDERATION
315	Surendra M. Khandhar	[2010] 321 ITR 254 (Bombay)/ [2009] 224 CTR 409 (Bombay)	132(4A), 292C	Where Xerox copy of document seized from assessee was not denied the same showed advancement of certain sums to one 'C' and two signatories of said document were also not denied by assessee and as the document was seized from assessee's control, presumption under section 132(4A) and 292C was clearly applicable
316	Karnataka Bank Ltd	[2002] 123 Taxman 219 (SC)/[2002] 255 ITR 508 (SC)/[2002] 175 CTR 405 (SC)	133(6)	It is not necessary that any inquiry should have commenced with the issuance of notice or otherwise before section 133(6) could have been invoked. It is with the view to collect information that power is given under section 133(6) to issue notice, inter alia, requiring a banking company to furnish information in respect of such points or matters as may be useful or relevant.
317	Lalji Haridas Vs State of Maharashtra	[1964] 52 ITR 423 (SC)	136	When the ITO exercises his powers under section 37(1), (2) and (3) of 1922 Act the proceedings held by him are judicial proceedings. Therefore, the false statement alleged to have been made by respondent No. 2 was made by him during the course of a judicial proceeding within the meaning of section 193 of the Indian Penal Code. There can be little doubt that if a person offers an insult to a public servant sitting in a judicial proceeding, or causes interruption to him while he is so sitting at any stage of the judicial proceeding,

S.N.	CASE	CITATION		SECTION	GIST / IMPORTANT POINT FOR CONSIDERATION
					the complaint has to proceed from the public servant himself. Section 190 of Code of Criminal Procedure requires that the magistrate to whom a complaint has been made should take cognizance of the said complaint.
318	Orissa Rural Housing Development Corpn Ltd	[2012] 17 taxmann. com 186 (Orissa)/ [2012] 204 Taxman 673 (Orissa)/ [2012] 343 ITR 316 (Orissa)/[2012] 247 CTR 137 (Orissa)		139	Assessee cannot revise return of income by way of filing a revised statement of income after filing original return other than by way of filing revised return as contemplated under section 139(5)
319	Nanjappa Textiles	[1983] 15 Taxman 309 (Madras)/ [1985] 153 ITR 109 (Madras)		139	No assessee can be expected to file a return before the ITO and ultimately tell him that the return must be ignored except in cases where the ITO has lost his power to act on it. There is no warrant in the statute for encouraging an assessee to indulge in this kind of fun of filing within a statutory period a return duly followed by a statement that the ITO cannot act on it
320	Dhampur Sugar Mills Ltd.	[1973] 90 ITR 236 (Allahabad)		139	When an assessee files a revised returns, he in fact admits that the original return filed by him was not correct or complete and substitutes the same by a revised return which according to him is correct and complete. Effective return for purposes of assessment is return which is ultimately filed by an assessee on basis of which he wants his income to be assessed

S.N.	CASE	CITATION	SECTION	GIST / IMPORTANT POINT FOR CONSIDERATION
321	Amit Basu	[2017] 87 taxmann. com 314 (Rajasthan)/ [2018] 252 Taxman 341 (Rajasthan)	139	In case, where on Commissioner (Appeals)'s rejection of claim under section 10BA, assessee filed revised return, when in pending appeal, Tribunal allowed said claim, assessee can not withdraw the revised return
322	U.P. Rajya Vidyut Utpadan Nigam Ltd	[1993] 202 ITR 93 (Allahabad)/ [1993] 114 CTR 115 (Allahabad)	139, 144	Return is defective when filed on the basis of provisional P&L Account and tax audit report and without statutory audit. As it is not a case of escapement, scrutiny proceedings to be completed u/s 142 and 144 and not u/s 148
323	Maruti Suzuki (India) Ltd	[2019] 107 taxmann. com 375 (SC)	143(2)	Substantive Illegality: Issuance of jurisdictional notice and assessment order thereafter passed in name of non-existing company is a substantive illegality and not mere procedural infirmity. Assessment would not be valid
324	Gurjargravures P Ltd.	[1978] 111 ITR 1 (SC)	143(3)	If, an item of income noticed by the ITO but not examined by him from the point of view of its taxability or nontaxability cannot be said to have been considered by him, it is not possible to hold that the ITO examining a portion of the profits from the point of view of its taxability only, should be deemed to have also considered the question of its non-taxability.

S.N.	CASE	CITATION	SECTION	GIST / IMPORTANT POINT FOR CONSIDERATION
325	M. Pirai Choodi	[2012] 20 taxmann. com 733 (SC)/[2011] 334 ITR 262 (SC)/ [2011] 245 CTR 233 (SC)	143(3)	Order passed without opportunity: High Court should not have set aside the entire assessment order. At the highest, the High Court should have directed the Assessing Officer to grant an opportunity to the assessee to cross-examine the concerned witness.
326	Binod Kumar Agarwala	[2018] 94 taxmann. com 422 (Calcutta)/ [2018] 257 Taxman 58 (Calcutta)/ [2019] 411 ITR 493 (Calcutta)/ [2018] 303 CTR 406 (Calcutta)	143(3), 43B	Two sets of financial statements: The contention that to suit a person's purposes before one authority or the other, different pictures as to the financial position of such person or any entity under the control of such person may be presented is not acceptable. This is a question larger than any legal issue under the Income Tax Act and is a matter of public policy. It is inconceivable that a person may approach a bank by inflating the value of his assets and a few months down the line he can deflate the value of the assets, so to say, while queuing up to pay tax. When the assessee presented the financial position of the assessee as in the balance sheet of July 18, 2005, the assessee could no longer resile from such position. It was then open to the Assessing Officer and the income tax authorities to pin the assessee down on the basis of the assessee's representation contained in the earlier balance sheet.

S.N.	CASE	CITATION	SECTION	GIST / IMPORTANT POINT FOR CONSIDERATION
327	Harmukhrai Dulichand	[1927] 3 ITC 198 (Calcutta)	144	Persons who deliberately make default in producing their accounts when asked to do so under clause (4) of section 22 should be treated as defaulters and ITO should make assessment to best of his judgment. It is idle and absurd for a person who has books of account and deliberately withholds them to complain of not being treated in a judicial manner.
328	Standard Mercantile Co	[1985] 23 Taxman 452 (Patna)/[1986] 157 ITR 139 (Patna)/[1985] 49 CTR 139 (Patna)	144	Since best judgment assessment could not be a wild assessment, the authorities had no option but to proceed substantially on the materials supplied by the assessee. The department had to act under a handicap. The handicap of the department could not be used in favour of the assessee.
329	Kachwala Gems	[2007] 158 Taxman 71 (SC)/[2007] 288 ITR 10 (SC)/[2006] 206 CTR 585 (SC)	144	Estimation of GP by rejecting books is permissible when the assessee had not maintained and kept any quantitative details/stock register for goods traded in by it, there was no evidence on record or document to verify the basis of valuation of closing stock shown by the assessee and the GP rate declared by the assessee during the assessment year did not match the result declared by the assessee itself in previous assessment years.
330	Rayala Corpn. (P) Ltd	[1996] 87 Taxman 8 (Madras)/[1995] 215 ITR 883 (Madras)	144	ITAT cannot consider additional evidence filed before it determined whether the ITO has committed any error in his judgment under section

S.N.	CASE	CITATION	SECTION	GIST / IMPORTANT POINT FOR CONSIDERATION
				144. The issue can be decided only on basis of material gathered by him and not on basis of materials that are latter produced by assessee before appellate authorities.
331	H.M. Esufali H.M. Abdulali	[1973] 90 ITR 271 (SC)/1973 AIR 2266/1973 SCR (3)1005	144	<p>In a case of established concealment, estimation can be made for the entire period based on evidence for part period: It was open to the Sales Tax Officer to infer that the assessee had large-scale dealings outside his accounts, in case where initially, the assessee disowned seized bill book and the entries therein but later admitted that the bill book was his and also the dealing outside the books for 19 days. It is obvious that he was maintaining false accounts to evade payment of sales-tax. In such a situation, it was not possible for the Sales Tax Officer to find out precisely the turnover suppressed. He could only make an estimate of the suppressed turnover on the basis of the material before him. So long as the estimate made by him is not arbitrary and has nexus with facts discovered, the same cannot be questioned. In the very nature of things the estimate made may be an overestimate or an underestimate. But, that is no ground for interfering with his 'best judgment'.</p>

S.N.	CASE	CITATION		SECTION	GIST / IMPORTANT POINT FOR CONSIDERATION
332	Dr. S. Surendranath Reddy	[2000] 72 ITD 205 (Hyderabad)/ [2000] 68 TTJ 384 (Hyderabad)		144	In a case where a regular pattern of suppression is established, lawful presumption is that there is suppression for whole of assessment year but subject to adjustment of special factors
333	Chowringhee Sales Bureau	[1973] 87 ITR 542 (SC)		145	As the amount of sales tax was received by the appellant in its character as an auctioneer, the amount should be held to form part of its trading or business receipts.
334	Coimbatore Spinning & Weaving Co	[1974]95 ITR 375 (Mad)		145	Cognizance to illegal practice and sub-standard morality is not permissible: On the contention of the assessee that Tribunal should have taken judicial notice of the practice followed by the business houses of declaring larger stocks to the banks purely for the purpose of getting higher loans or overdraft facilities, the Hon'ble High Court was not convinced that any such practice is shown to exist or that it has been recognised in the commercial circles or by courts. Even assuming that such a practice exists the Tribunal was not expected to take judicial notice of such sub-standard morality on the part of the assessee so as to enable them to go back on their own sworn statements given to the banks as to the stocks held and hypothecated by them to the banks. In a case like this where the assessee is confronted with his own sworn statements which show a different state of affairs than the

S.N.	CASE	CITATION		SECTION	GIST / IMPORTANT POINT FOR CONSIDERATION
					one shown in his own books of account, heavy burden lies on the assessee to disprove the statements filed before Bank.
335	British Paints India Ltd	[1991] 54 Taxman 499 (SC)/[1991] 188 ITR 44 (SC)/[1991] 91 CTR 108 (SC)		145	AO is not bound to accept the system of account regularly employed by the assessee even when the correctness of the same was not questioned in the past. It is not only the right but the duty of the Assessing Officer to consider whether or not the books disclose the true state of accounts and the correct income can be deduced therefrom.
336	Kedarnath Jute Mfg. Co. Ltd	[1971] 82 ITR 363 (SC)		145, 37	Existence or absence of entries in the books of account is not decisive or conclusive in claiming a deduction. Whether a deduction is allowable or not depends on the relevant provision of law.
337	Nickunj Eximp Enterprises (P.) Ltd	[2014] 48 taxmann. com 20 (Bombay)/ [2015] 229 Taxman 99 (Bombay)/ [2014] 270 CTR 494 (Bombay)		147	Tangible material from Survey: When there is specific information found in a survey that the assessee recorded bogus purchases, completed assessment can be reopened even after expiry of four years from the end of relevant assessment year based on bogus invoices issued by supplier.
338	Peass Industrial Engineers (P.) Ltd	[2016] 76 taxmann. com 106 (Gujarat)		147	Tangible information from Investigation Wing: If tangible material in form of specific information received by Investigation Wing that assessee had been beneficiary of bogus transactions is available, notice for reassessment is justified

S.N.	CASE	CITATION	SECTION	GIST / IMPORTANT POINT FOR CONSIDERATION
339	Greater Mohali Area Development Authority	[2018] 93 taxmann. com 441 (Punjab & Haryana)	147	True and full disclosure: When there was information that the assessee received external development charges from Land Developers, Colonizers, Builders etc, reopening of assessment evn after expiry of four years from end of relevant assessment year is valid because the assessee showed the amounts as liability in balance sheet instead of offering the income to tax and there was no proper disclosure of material facts and the original assessment was completed in ignorance of the facts
340	Innovative Foods Ltd	[2018] 96 taxmann. com 250 (Kerala)/ [2018] 409 ITR 415 (Kerala)	147	Change of opinion: When the AO neither discussed nor there was any opinion with respect to issues related to prior period depreciation claimed during relevant assessment year and prepayment premium of loan to be capitalized, reassessment proceedings initiated in respect of these issues was not mere change of opinion
341	Instant Holdings Ltd	[2014] 44 taxmann. com 386 (Mumbai - Trib.)/[2013] 151 TTJ 137 (Mumbai - Trib.)	147	No opinion: When the AO had not formed any opinion in the original assessment about transaction of purchase or sale of shares or resultant loss or head under which same should be assessed and accepted returned income, reopening of assessment is justified

S.N.	CASE	CITATION		SECTION	GIST / IMPORTANT POINT FOR CONSIDERATION
342	OPG Metals & Finsec Ltd	[2014] 41 taxmann. com 21 (Delhi)/ [2014] 225 Taxman 108 (Delhi)(MAG.)/ [2013] 358 ITR 144 (Delhi)		147	Fresh Material: If information regarding all transactions was not subject matter of earlier reassessment and details provided fresh material; second reassessment notice was not based upon mere change of opinion
343	Tivoli Investment and Trading Co. (P.) Ltd	[2014] 49 taxmann. com 479 (Mumbai - Trib.)/[2014] 150 ITD 659 (Mumbai - Trib.)/ [2015] 168 TTJ 651 (Mumbai - Trib.)		147	True and full disclosure: If assessment was made adopting a rental value and then the AO noticed that for earlier years, the assessment was done at higher value after including interest free deposit and the rental value increased in the intervening period, initiation of reassessment is valid.
344	Usha International Ltd	[2015] 56 taxmann. com 157 (Delhi - Trib.)/[2015] 153 ITD 558 (Delhi - Trib.)/ [2015] 68 SOT 141 (Delhi - Trib.)(URO)/ [2015] 170 TTJ 197 (Delhi - Trib.)		147	Audit Objections: Communication of existence of law or factual inconsistencies by internal audit party, does not operate as a hindrance in initiation of re-assessment proceedings but Initiation of re-assessment proceedings on basis of an interpretation to provisions of law by audit party is forbidden
345	Vipan Khanna	[2002] 122 Taxman 1 (Punjab & Haryana)/ [2002] 255 ITR 220 (Punjab & Haryana)		147	Reassessment proceedings are open only qua items of underassessment and finality of assessment proceedings on other issues remains unchanged
346	Sukhlal Ice & Cold Storage Co	[1993] 199 ITR 129 (Allahabad)		147	Validity of second notice u/s 148, when first notice was illegal: When first notice u/s 148 was held to be illegal and without jurisdiction

S.N.	CASE	CITATION	SECTION	GIST / IMPORTANT POINT FOR CONSIDERATION
				subsequent notice issued under section 147 by setting out necessary reasons and removing defects would be valid
347	Govindaraju N	[2015] 60 taxmann.com 333 (Karnataka)/ [2015] 233 Taxman 376 (Karnataka)/ [2015] 377 ITR 243 (Karnataka)/ [2015] 280 CTR 316 (Karnataka)	147	After initiation of reassessment proceedings, the earlier assessment order would be deemed to have been set aside and the AO has the power to pass fresh assessment order with regard to the entire income which has escaped assessment and levy tax on the entire income
348	Narayanappa S	[1967] 63 ITR 219 (SC)	147	Adequacy or sufficiency of reasons is not justiciable: When the ITO has reasonable belief that there was non-discourse of material fact which has bearing on the question of under assessment, it is not for the Court to investigate whether the grounds were adequate or whether the reasons were sufficient
349	Phool Chand Bajrang Lal	[1993] 69 Taxman 627 (SC)/[1993] 203 ITR 456 (SC)/[1993] 113 CTR 436 (SC)	147	Jurisdiction u/s 147: ITO acquires jurisdiction to reopen assessment under section 147(a) read with section 148 only if on the basis of specific, reliable and relevant information coming to his possession subsequently, he has reasons, which he must record, to believe that by reason of omission or failure on the part of the assessee to make a true and full disclosure of all material facts necessary for his assessment during the concluded assessment proceedings, any part of

S.N.	CASE	CITATION	SECTION	GIST / IMPORTANT POINT FOR CONSIDERATION
				his income, profit or gains chargeable to income-tax has escaped assessment. He may start reassessment proceedings either because some fresh facts come to light which were not previously disclosed or some information with regard to the facts previously disclosed comes into his possession which tends to expose the untruthfulness of those facts. In such situations, it is not a case of mere change of opinion or the drawing of a different inference from the same facts as were earlier available but acting on fresh information. Since, the belief is that of the ITO, the sufficiency of reasons for forming the belief, is not for the Court to judge but it is open to an assessee to establish that there in fact existed no belief or that the belief was not at all a bona fide one or was based on vague, irrelevant and nonspecific information.
350	Sun Engineering works P Ltd	[1992] 64 Taxman 442 (SC)/[1992] 198 ITR 297 (SC)/[1992] 107 CTR 209 (SC)	147	Reopening of assessment cannot be for the benefit of the assessee
351	Choksi Vachharaj Makanji & Co	[2016] 76 taxmann.com 17 (Gujarat)/ [2016] 243 Taxman 465 (Gujarat)	147	Information from Investigation wing about bogus purchases from entry operators: A completed reassessment can be reopened in case of a manufacturer of diamond ornaments, when information about accommodation entries provided by entry operators regarding fake

S.N.	CASE	CITATION		SECTION	GIST / IMPORTANT POINT FOR CONSIDERATION
					purchases of raw diamonds made by assessee was received from Investigation Wing
352	Dayanidhi Maran	[2018] 98 taxmann. com 202 (Madras)		147	Non-communication of reasons in notice u/s 148: When the reassessment notice is based on preliminary information, non-quoting of reasons in the notice u/s 148 would not vitiate the reassessment proceedings and filing of Writ was premature
353	Chettinad Corporation P Ltd	[1993] 200 ITR 320 (SC)		147	Reassessment proceedings u/s 147 are open only qua items of underassessment
354	New Delhi Television Ltd	[2017] 84 taxmann. com 136 (Delhi)/ [2018] 405 ITR 132 (Delhi)/[2017] 298 CTR 230 (Delhi)		147	Prima facie belief that own unaccounted money is introduced through sham transactions: When assessee received through its subsidiary in a sham transaction of issue of Step UP Coupon Bonds and created a complex structure of various subsidiaries abroad, AO was justified in reopening assessment by forming a prima facie opinion that amount so received represented assessee's own unaccounted money
355	Kantamani Venkata Narayana and Sons	[1967] 63 ITR 638 (SC)		147	The notice issued by the Income-tax Officer did not specifically refer to. section 34(1)(a) of the Income-tax Act: it did not set out the clause under, which it was issued. But on that account the proceeding under section 34 is not vitiated.

S.N.	CASE	CITATION	SECTION	GIST / IMPORTANT POINT FOR CONSIDERATION
356	Vicky Rajesh Jhaveri	[2016] 76 taxmann. com 96 (Gujarat)/ [2016] 243 Taxman 573 (Gujarat)/ [2017] 396 ITR 265 (Gujarat)/[2017] 293 CTR 291 (Gujarat)	147, 10(38)	Information on share transactions in sale of a fake company: Reopening was justified when details are available and verification of accommodation entries was done in share transaction in respect of sale of share of a fake company. SLP against this decision is dismissed as reported in [2016] 76 taxmann. com 97 (SC)/[2016] 243 Taxman 515 (SC)
357	Pushpak Bullion Pvt Ltd	[2017] 88 taxmann. com 603 (Gujarat)	147, 68	In a case where return was processed under section 143(1) and thereafter during search on group of accommodation entry operators, it was found that assessee took accommodation entries of bogus share capital from that group, reopening of the assessment was justified
358	Gujarat Ambuja Exports Ltd.	[2017] 86 taxmann. com 69 (Gujarat)/ [2017] 250 Taxman 482 (Gujarat)	147, 69C	Mere reflection of purchases in books and return of income is no disclosure: When purchases made by assessee from a proprietary concern were bogus and entries were in nature of accommodation entries, merely because assessee had disclosed such entries in return filed and also showed such purchases in books of accounts would hardly be sufficient to advance arguments of full and true disclosure by assessee

S.N.	CASE	CITATION	SECTION	GIST / IMPORTANT POINT FOR CONSIDERATION
359	Vijaykumar Datla Dr	[1996] 58 ITD 339 (Hyderabad)	147, 142(1)	Initiation of reassessment is valid in a case where the assessee failed to file return suo motu and the AO did not issue notice u/s 142(1) during the relevant assessment year
360	Rajesh Jhaveri Stock Brokers Pvt Ltd	[2017] 88 taxmann.com 603 (Gujarat)/ [2017] 394 ITR 65 (Gujarat)	147, 143(1)	Intimation under section 143(1)(a) cannot be treated to be an order of assessment. Notice for reopening had been issued in the case of assessment which was not framed after scrutiny. The Assessing Officer would have considerable latitude in issuing notice for reopening and if it was found that he had tangible material to form a belief that income chargeable to tax had escaped assessment, it would not be appropriate to strike down the notice.
361	Nova Promoters & Finlease Pvt Ltd	[2012] 18 taxmann.com 217 (Delhi)/ [2012] 206 Taxman 207 (Delhi)/[2012] 342 ITR 169 (Delhi)/ [2012] 252 CTR 187 (Delhi)	148	Prima facie belief of AO is enough that income escaped assessment is enough at the stage of reopening and merits of the matter are not relevant
362	Abhishek Jain	[2018] 94 taxmann.com 355 (Delhi)	148	Jurisdiction of an Assessing Officer cannot be called in question by an assessee after expiry of one month from date on which he was served with a notice for reopening assessment under section 148 In terms of section 124(3)(b)

S.N.	CASE	CITATION	SECTION	GIST / IMPORTANT POINT FOR CONSIDERATION
363	Home Finders Housing Pvt Ltd	[2018] 93 taxmann.com 371 (Madras)/ [2018] 404 ITR 611 (Madras)/[2018] 303 CTR 269 (Madras)	148	Non-disposal of objections of the assessee by the AO through a speaking order (Non-compliance of direction of Supreme Court in GKN Driveshafts (India) Ltd. v. Income Tax Officer [2002] 125 Taxman 963) would not make the reassessment proceedings ab initio void. SLP against this decision was dismissed by Supreme Court as reported in [2018] 94 taxmann.com 84 (SC)/ [2018] 256 Taxman 59 (SC)
364	Dhir G.G Dr	[2017] 80 taxmann.com 198 (Allahabad)/ [2017] 247 Taxman 121 (Allahabad)/ [2017] 394 ITR 164 (Allahabad)/ [2017] 295 CTR 291 (Allahabad)	153A	Relevance of cash book filed after one year to explain seized cash: Cash seized from large number of bank lockers in name of assessee and his family members and after one year, the assessee for first time produced a computer printed cash book relating to his professional income. The sources of income were meagre and even production of cash book in course of block assessment proceedings was a case of poor afterthought
365	Elegant Homes Pvt Ltd	[2002] 124 Taxman 819 (Rajasthan)/ [2003] 259 ITR 232 (Rajasthan)/ [2002] 177 CTR 261 (Rajasthan)	153A	Unexplained credits in regular cash book seized during search: Regular cash book seized during a search and seizure operation revealed cash credits in names of various parties. Assessee did not file return till date of search and even after search did not disclose such amount and showed income as nil. Assessee also failed to prove genuineness of cash credits. Cash credits in question had to be treated as undisclosed income

S.N.	CASE	CITATION	SECTION	GIST / IMPORTANT POINT FOR CONSIDERATION
366	Gopal Lal Bhadraka	[2012] 27 taxmann. com 167 (Andhra Pradesh)/[2012] 346 ITR 106 (Andhra Pradesh)/[2012] 253 CTR 80 (Andhra Pradesh)	153A	Assessing Officer can take into consideration material other than what was available during search operation for making an assessment of undisclosed income of assessee u/s section 153A/153C
367	St. Francis Clay Décor Tiles	[2016] 70 taxmann. com 234 (Kerala)/ [2016] 240 Taxman 168 (Kerala)/ [2016] 385 ITR 624 (Kerala)/[2016] 287 CTR 187 (Kerala)	153A	Neither under section 132 or under section 153A, phraseology 'incriminating' is used by Parliament: Any material unearthed during search or any statement made during course of search by assessee is a valuable piece of evidence in order to invoke section 153A
368	N.K. Proteins Ltd.	[2004] 4 SOT 479 (Ahmedabad)/ [2004] 83 TTJ 904 (Ahmedabad)	153C, 143(3)	What the ITO can assess in regular assessment can also be assessed in block assessment (paragraph 56). The block assessment of undisclosed income and its being charged to a higher rate of tax prescribed, was independent of the pending regular assessments and it operated in a different field from the assessment of undisclosed income which was not and would not have been disclosed for the purposes of the Act. Undisclosed income, by this chapter, is classified separately for the purposes of assessment and is required to be worked out in the manner prescribed therein and treated to a higher rate of tax. This process did not disturb the assessments already made, of the previous years, and was only intended to sniff out what had

S.N.	CASE	CITATION	SECTION	GIST / IMPORTANT POINT FOR CONSIDERATION
				remained hidden and would not have been disclosed by the assessee. Therefore, there is no overlap in the nature of the assessment made under chapter of undisclosed income and the regular assessment made under Section 143(3) of the Act
369	Dayawanti	[2016] 75 taxmann. com 308 (Delhi)/ [2017] 245 Taxman 293 (Delhi)/[2017] 390 ITR 496 (Delhi)/ [2016] 290 CTR 361 (Delhi)	153A, 132(4), 145	Value of Statements recorded during Search: Statements recorded during search operations could be relied upon to make addition to assessee's income. Where inferences drawn in respect of undeclared income of assessee were premised on materials found as well as statements recorded by assessee's son in course of search operations and assessee had not been able to show as to how estimation made by Assessing Officer was arbitrary or unreasonable, additions so made by Assessing Officer by rejecting books of account was justified
370	Lal Chand Jaiswal	[2013] 40 taxmann. com 372 (Allahabad)/ [2014] 221 Taxman 53 (Allahabad) (MAG.)	153A, 144, 132	Extrapolation to whole year based on seized entries for few days: Where documents seized represented entries for few days, estimation of net profit is not to be restricted only to those few days; it is to be made on basis of turnover for whole year

S.N.	CASE	CITATION		SECTION	GIST / IMPORTANT POINT FOR CONSIDERATION
371	Rajnik & Co	[2001] 117 Taxman 675 (Andhra Pradesh)/[2001] 251 ITR 561 (Andhra Pradesh)/[2001] 171 CTR 117 (Andhra Pradesh)		153A, 144, 132	Extrapolation to whole year based on seized entries for few days: When there was abundant material on record not only in the form of loose slips/sheets showing the suppressed turnover relating to the day-to-day suppressions but also by way of admission in the sworn statement of a partner of the firm, showing that the day-to-day suppressions were carried on throughout the assessment years for the entire block period, estimation was justifiable
372	Keerthi Housing Pvt Ltd	[2013] 2013-TIOL-201-ITAT-HYD		153A, 153C	AO need not confine to seized material: While completing assessment u/s 153C of the Act, the Assessing Officer will not be confined to the seized materials only but can consider all the material as may be available before him.
373	Ajay Kumar Sharma	[2002] 124 Taxman 814 (Rajasthan)/ [2003] 259 ITR 240 (Rajasthan)/ [2002] 177 CTR 539 (Rajasthan)		153A, 153C	In search assessment, entries in regular books can be taxed: Merely because some entries are shown in regular books of account, that does not prohibit Assessing Officer to tax that amount in block period, if that amount has not been taxed in regular assessment
374	Gopakumar E N	[2016] 75 taxmann.com 215 (Kerala)/ [2017] 244 Taxman 21 (Kerala)/[2017] 390 ITR 131 (Kerala)/[2017] 293 CTR 450 (Kerala)		153A	Additions can be made in assessment u/s 153A even without any incriminating material against assessee in search u/s 132

S.N.	CASE	CITATION		SECTION	GIST / IMPORTANT POINT FOR CONSIDERATION
375	Anil Kumar Bhatia	[2012] 24 taxmann.com 98 (Delhi)/ [2012] 211 Taxman 453 (Delhi)/[2013] 352 ITR 493 (Delhi)		153A, 153C	Assessing Officer is empowered to reopen those proceedings under section 153A without any fetters and reassess total income taking note of undisclosed income, if any, unearthed during search
376	Continental Warehousing Corporation (Nhava Sheva) Ltd.	[2015] 64 taxmann.com 34 (SC)/[2015] 235 Taxman 568 (SC)		153A, 153C	SLP granted against High Court's ruling that no addition can be made in respect of assessments which have become final if no incriminating material is found during search or during 153A proceeding
377	P. Sasikumar	[2016] 73 taxmann.com 173 (Kerala)/ [2016] 387 ITR 8 (Kerala)/[2016] 290 CTR 456 (Kerala)		153A	Assessee has to file return for specified period of six years u/s 153A even if no documents are unearthed, nor any statement was made by assessee during course of search u/s 132 or any material is received
378	Bharat Ginning & Pressing Factory	[2013] 32 taxmann.com 322 (Ahmedabad - Trib.)/ [2013] 60 SOT 93 (Ahmedabad - Trib.) (URO)/[2013] 155 TTJ 343 (Ahmedabad - Trib.)		153C	For proceeding u/s 153C, it is not necessary that the books of account should be incriminating. Separate satisfaction not required when AO is same for both persons: When books of account of the assessee firm were seized from the place of the partner of the firm, the AO is fully empowered to initiate proceeding under section 153C against the firm. When the AO of the both the firm and partner are same, separate satisfaction is not required to be recorded.

S.N.	CASE	CITATION	SECTION	GIST / IMPORTANT POINT FOR CONSIDERATION
379	Rajesh Sunderdas Vaswani	[2016] 76 taxmann. com 311 (Gujarat)	153C	If AO of the searched person recorded that ledger of assessee was found during search evidencing payments in cash and cheque, prima facie material exists to suggest satisfaction u/s 153C
380	Instronics Ltd	[2017] 82 taxmann. com 357 (Delhi)	153C	When satisfaction was recorded by the AO of the searched person that certain seized documents belong to the assessee, no separate satisfaction is required in the file of the assessee when the AO is the same for both parties
381	V.H. Yahiya	[2015] 56 taxmann. com 169 (Kerala)/ [2015] 231 Taxman 43 (Kerala)/[2014] 369 ITR 194 (Kerala)/[2015] 281 CTR 102 (Kerala)	153C	When search at premises of a person revealed undisclosed income of assessee, notice issued/s 158BD to the assessee being "any other person" was a proper notice.
382	Panchajanyam Management Agencies and Services	[2012] 20 taxmann. com 584 (Kerala)/ [2011] 333 ITR 281 (Kerala)/[2011] 239 CTR 424 (Kerala)	153C	Validity of an assessment is not affected by reason of the Assessing Officer's failure to record his satisfaction under section 158BD, which is only for the purpose of transferring the file and once the file is transferred, the transferring officer become functus officio and the jurisdiction for all purposes is transferred to the officer to whom file is transferred and who has jurisdiction to assess the assessee, about whom details are obtained in the course of search of another assessee.

S.N.	CASE	CITATION	SECTION	GIST / IMPORTANT POINT FOR CONSIDERATION
383	RRJ Securities Ltd.	[2017] 79 taxmann. com 115 (SC)	153C	SLP granted against High Court's ruling that since the hard disk containing working papers belonging to assessee seized from the premises of his Chartered Accountant did not contain any incriminating material, proceedings u/s 153C against assessee are not valid.
384	Hindustan Lever Ltd	[2019] 104 taxmann. com 215 (Calcutta)	154	When the binding precedent that blending of tea leaves was not manufacturing or production activity was not applied and deduction was wrongly allowed u/s 80I, there is error apparent on face or record in the assessment order and the same can be rectified u/s 154
385	Hind Wire Industries Ltd	[1995] 80 Taxman 79 (SC)/[1995] 212 ITR 639 (SC)/[1995] 124 CTR 219 (SC)	154	Further rectification of a rectification: The word 'order' in the expression 'from the date of the order sought to be amended' in section 154(7) as it stood at the relevant assessment year had not been qualified in any way and it did not necessarily mean the original order. It could be any order including the amended or rectified order.
386	Rastriya Ispat Nigam Ltd	[2016] 74 taxmann. com 112 (Andhra Pradesh)/[2015] 377 ITR 420 (Andhra Pradesh)	154, 143(3), 147	In a case of issue of notice u/s 154, subsequent to completion of assessment u/s 143(3) and subsequent reassessment u/s 154, limitation for issuing notice u/s 154 would start from date of reassessment order as doctrine of merger would apply

S.N.	CASE	CITATION	SECTION	GIST / IMPORTANT POINT FOR CONSIDERATION
387	JRD Stock Brokers (P) Ltd.	[2015] 63 taxmann.com 143 (Delhi)/ [2015] 375 ITR 600 (Delhi)/[2015] 276 CTR 362 (Delhi)	158BFA	When the assessee admitted in the course of search that part of the sum claimed to be received from share business included accommodation entries, levy of penalty was justified. SLP against the decision was dismissed by Supreme Court as reported in [2017] 79 taxmann.com 184 (SC)
388	Alex Cherian	[2009] 185 Taxman 308 (Kerala)/[2010] 320 ITR 49 (Kerala)	179	When concerned authority recorded a finding about satisfaction of basic ingredients prescribed u/s 179 after referring to available facts, Writ against the order has no merit.
389	H. Ebrahim	[2009] 185 Taxman 11 (Karnataka)/ [2011] 332 ITR 122 (Karnataka)/ [2009] 227 CTR 646 (Karnataka)	179	It is not necessary that all three ingredients, viz., gross neglect, misfeasance and breach of duty are to be satisfied for invocation section 179
390	N. Surya Prakash Rao	[2015] ITA No. 1579/ HYD/2014 of ITAT, Hyderabad dated 31/03/2015	179	Order of the AO passed u/s 179(1) is not appealable
391	Biharilal Jaiswal	[1996] 84 Taxman 236 (SC)/[1996] 217 ITR 746 (SC)/[1996] 130 CTR 143 (SC)	185	Despite prohibition under law, any agreement to the contrary to transfer, sub-let or enter partnership with respect to the privilege/ business under the said licence is unlawful and void. In this case the law was Excise law

S.N.	CASE	CITATION	SECTION	GIST / IMPORTANT POINT FOR CONSIDERATION
392	Eli Lilly & Co. (India) (P.) Ltd	[2009] 178 Taxman 505 (SC)/[2009] 312 ITR 225 (SC)/[2009] 223 CTR 20 (SC)	192, 9(1) (ii)	Where home salary/special allowance payment made by foreign company abroad is for rendition of services in India and no work is found to have been performed for foreign company, such payment would certainly come under section 192(1), read with section 9(1)(ii)
393	Noida Commercial Co Op Bank Ltd.	[2015] 64 taxmann. com 158 (Delhi - Trib.)	194A	Co-operative society engaged in banking business has to deduct TDS on payment of interest to its members if amount exceeds prescribed limit
394	Bhagani Nivedita Sah. Bank Ltd	[2003] 87 ITD 569 (PUNE)(SMC)	194A	Co-operative bank has to deduct TDS on payment of interest to its members on time deposits if amount exceeds the prescribed limit
395	Saraswat Co Op Bank Ltd	[2015] 54 taxmann. com 297 (Panaji Trib)	194A, 201	Where assessee co-operative bank had made interest payments in excess of Rs. 10,000 on term deposits to its depositors, assessee would be liable to deduct TDS on said payment
396	United Breweries Ltd	[2015] TaxPub(DT) 3258 (Visakhapatnam-Trib)/(2015) 066 (II) ITCL 0455/(2015) 155 ITD 0482/ (2016) 175 TTJ 0470/ (2016) 131 DTR 0127	194J	Brand fee is subject to TDS u/s 194J as Royalty

S.N.	CASE	CITATION		SECTION	GIST / IMPORTANT POINT FOR CONSIDERATION
397	Transmission Corpn. of A.P. Ltd	[1999] 105 Taxman 742 (SC)/[1999] 239 ITR 587 (SC)/[1999] 155 CTR 489 (SC)		195	There was no substance in the contention of the appellant that the expression 'any other sum chargeable under the provisions of the Act' would not include cases where any sum payable to the non-resident is a trading receipt which may or may not include 'pure income'. The language of section 195(1) for deduction of income-tax by the payee is clear and unambiguous and casts an obligation to deduct appropriate tax at the rates in force.
398	Pushpa Vijoy	[2012] 19 taxmann. com 157 (Kerala)/ [2012] 206 Taxman 22 (Kerala)/[2012] 247 CTR 575 (Kerala)		199	Assessee is entitled to credit for tax as per TDS certificates only in the year in which the corresponding income is assessed to tax
399	Rahee Jhajharia E to E JV	[2017] ITA No. 1848/Kol/2017 of ITAT, Kolkata dated 21/12/2017		199	Credit for TDS can be granted only in the year in which the corresponding receipt is assessed to tax
400	Surendra S. Gupta	[2018] 93 taxmann. com 456 (Mumbai - Trib.)/[2018] 170 ITD 732 (Mumbai - Trib.)		199	Credit for TDS has to be given in assessment year in which income has actually been assessed/offered to tax and not in year of deduction itself
401	Kingfisher Airlines Ltd	[2014] 49 taxmann. com 49 (Karnataka)		201	When the assessee deducts TDS on salaries but does not deposit in Government Account within prescribed time, AO was justified in declaring the assessee as a defaulter

S.N.	CASE	CITATION	SECTION	GIST / IMPORTANT POINT FOR CONSIDERATION
				u/s 201. The power to declare an assessee as defaulter is with the AO and not with the DGIT(Systems)
402	Reliance Industries Ltd	[2015] 59 taxmann.com 259 (Bombay)/ [2015] 233 Taxman 307 (Bombay)/ [2015] 377 ITR 74 (Bombay)/[2015] 279 CTR 128 (Bombay)	201, 221	Obligation to deduct and pay tax upon assessee is unconditional and financial stringency would not justify deducting tax from amount paid to payee and not paying it to revenue. Proviso to section 201(1), which bars imposition of penalty under section 221 unless Assessing Officer is satisfied that failure to deduct and pay tax was without good and sufficient reasons, would have no application where assessee had deducted tax but fails to pay
403	Aayush NRI LEPL Health Care (P.) Ltd	[2017] 87 taxmann.com 83 (Visakhapatnam - Trib.)/[2017] 167 ITD 432 (Visakhapatnam - Trib.)/[2018] 191 TTJ 1003 (Visakhapatnam - Trib.)	201(1A)	Levy of interest under section 201(1A) is automatic and mandatory
404	Nawab Mir Barkat Ali Khan Bahadur	[1988] 36 Taxman 133 (Andhra Pradesh)/[1988] 172 ITR 13 (Andhra Pradesh)/[1988] 73 CTR 170 (Andhra Pradesh)	220(2)	On issue of notice u/s 148, the original assessment order will not become void and non est. Consequently, interest under section 220(2) has to be levied from date of original assessment order to date of reassessment order.

S.N.	CASE	CITATION	SECTION	GIST / IMPORTANT POINT FOR CONSIDERATION
405	Emaar MGF Land Ltd	[2014] 46 taxmann. com 151 (Delhi)/ [2014] 365 ITR 293 (Delhi)/[2014] 269 CTR 217 (Delhi)	226(3)(vi)	When there is facial invalidity or falsity in assertion of the garnishee with respect to its liability to the assessee, AO can scrutinize the statement of the garnishee to ascertain whether it is false and take proceeding to another direction, if it is false
406	Rajesh Kourani	[2017] 83 taxmann. com 137 (Gujarat)/ [2017] 249 Taxman 402 (Gujarat)/ [2017] 297 CTR 502 (Gujarat)	234E	Section 234E is a charging provision and fee prescribed therein could be levied even without a machinery provision (section 200A) for computation of fee
407	Om Prakash Jakhotia	[2019] 107 taxmann. com 283 (Delhi)/ [2019] 414 ITR 176 (Delhi)	245D	When an assessee files an application u/s 245C declaring income lower than the amount declared as undisclosed income in search proceedings, in view of fact that assessee failed to prove that loan entries were genuine and his statement recorded in course of search proceedings was under coercion, it has to be treated that he did not approach Settlement Commission with clean hands and, thus, impugned order passed under section 245D(1) allowing assessee's application to be proceeded with, was to be set aside
408	Emta Coal Ltd	[2017] 86 taxmann. com 65 (Calcutta)/ [2017] 250 Taxman 527 (Calcutta)/ [2017] 398 ITR 1 (Calcutta)	245D	Settlement Commission can use best judgment in computing figure for settlement, but it has to explain manner in which best judgment figure was arrived at

S.N.	CASE	CITATION		SECTION	GIST / IMPORTANT POINT FOR CONSIDERATION
409	Ajmera Housing Corpn	[2010] 193 Taxman 193 (SC)/[2010] 326 ITR 642 (SC)/[2010] 234 CTR 118 (SC)		245D	Scheme of Chapter XIX - A does not permit revision of income disclosed by assessee in application u/s 245C(1) as 'full and true disclosure' of income, which had not been previously disclosed being is a pre-condition for a valid application. This would amount to withdrawal of old application and filing of new application which is not permissible u/s 245C(3). By revising the application the assessee would be achieving something indirectly what he cannot otherwise achieve directly. A natural corollary is that determination of income by the Settlement Commission has necessarily to be with reference to the income disclosed in the application filed by assessee
410	Jyotendrasinhji v. S.I. Tripathi	[1993] 68 Taxman 59 (SC)/[1993] 201 ITR 611 (SC)/[1993] 111 CTR 370 (SC)		245I	Order of Settlement Commission is conclusive. The only ground upon which either High Court under article 226 or Supreme Court under article 32 or 136 can interfere is when such order is contrary to provisions of Act
411	Nirbheram Deluram	[1997] 91 Taxman 181 (SC)/[1997] 224 ITR 610 (SC)/[1997] 139 CTR 484 (SC)		251	Appellate power of CIT(A) is not confined to matters considered by AO. Additions made by AAC on account of items (in this case unexplained hundi loans) which were not considered by AO would be justified

S.N.	CASE	CITATION	SECTION	GIST / IMPORTANT POINT FOR CONSIDERATION
412	Shivangi Steel Pvt. Ltd.	[2014] 42 taxmann. com 393 (Agra - Trib.)/[2014] 147 ITD 166 (Agra - Trib.)/ [2014] 164 TTJ 134 (Agra - Trib.)	251, 254	Rule 29 - Admission of Additional Evidence: In spite of large number of adjournments, if the assessee did not produce any document or made any submissions (oral or written) with regard to grounds, ex parte order passed by CIT(A) is valid. In such a case, the plea for admission of additional evidence was liable to be rejected by ITAT
413	Welspun India Ltd.	[2019] 104 taxmann. com 267 (Mumbai - Trib.)/[2019] 69 ITR(T) 617 (Mumbai - Trib.)	251, 69C	Cross Examination: In a case addition was made on bogus purchases (of mobile hand sets) based on information from State VAT Department that assessee received accommodation entries, the addition cannot be deleted on the mere ground that cross-examination of persons whose statements were recorded by VAT department was not offered to the assessee
414	Arvinder Singh	[2017] 79 taxmann. com 332 (Delhi)/ [2016] 380 ITR 179 (Delhi)	251, 254, 260A	When reason for extraordinary delay of 1271 days in filing appeal was not convincing, delay cannot be condoned
415	Jute Corporation of India	[1990] 53 Taxman 85 (SC)/[1991] 187 ITR 688 (SC)/[1990] 88 CTR 66 (SC)	251, 254	An appellate authority has all the powers which the original authority may have in deciding the question before it subject to the restrictions or limitation, if any, prescribed by the statutory provisions
416	Kanpur Coal Syndicate	[1964] 53 ITR 225 (SC)	251, 254	CIT(A) has plenary powers in disposing of an appeal and scope of his power is conterminous with that

S.N.	CASE	CITATION		SECTION	GIST / IMPORTANT POINT FOR CONSIDERATION
					of AO. He can do what AO can do and also direct the AO to do what he has failed to do
417	Kapoorchand Shrimal	[1981] 7 Taxman 6 (SC)/[1981] 131 ITR 451 (SC)/[1981] 24 CTR 345 (SC)		251, 254	Appellate authority has the jurisdiction as well as the duty to correct all errors in the proceedings under appeal and to issue, if necessary, appropriate directions to the authority against whose decision the appeal is preferred to dispose of the whole or any part of the matter afresh unless forbidden from doing so by the Statute.
418	Sama Surya Prakash	[2013] 35 taxmann.com 206 (Visakhapatnam - Trib.)		251, 254	Merely because AO drifted from his main observations to estimate expenditure on ad-hoc basis, Commissioner (Appeals) cannot allow the expenditure
419	KMC Constructions Ltd	[2013] 36 taxmann.com 416 (Hyderabad - Trib.)		251, 254	If consequential orders passed by Assessing Officer are <i>de hors</i> directions of Tribunal, remedy for assessee lies in fresh proceeding commencing with such consequential orders and not in proceedings that culminated with order of Tribunal
420	Gurjargravures P Ltd.	[1978] 111 ITR 1 (SC)		251, 254	When neither any claim for exemption was made before ITO, nor was there any material on record supporting such claim, the Tribunal was not competent to hold that AAC should have entertained the question of relief claimed by the assessee.

S.N.	CASE	CITATION	SECTION	GIST / IMPORTANT POINT FOR CONSIDERATION
421	Sandip M. Patel	[2012] 22 taxmann.com 288 (Ahmedabad)/ [2012] 137 ITD 104 (Ahmedabad)/ [2012] 150 TTJ 338 (Ahmedabad)	253(4)	An independent legal issue is beyond scope of adjudication through cross objection under section 253(4). When validity of invocation of section 153C not a ground raised in appeal, the assessee cannot raise the ground in Revenue's appeal by invoking rule 27 or otherwise
422	Bathina Technologies (India) Ltd	[2913] ITA Nos. 1272 & 1273/Hyd/2012 dated 03/01/2013	253	In case of a public limited company extraordinary delay in filing appeal cannot be condone merely on the ground that the MD was sick: The assessee is a public limited company managed by a Board of Directors and the activities are not controlled by a single person. Even if it is presumed that the Managing Director is sick, the other directors were not prevented in filing appeal. The assessee being a public limited company is to hold board meetings and AGM and is required to file various returns before ROC, Income Tax, Commercial Tax, ESI and PF. Careful consideration of the facts indicates that the assessee has not come with clean hands and its action cannot be said to be bona-fide. Thus it is guilty of <i>suppressive vari</i> .
423	Esha Bhattacharjee v. Managing Committee of Raghunathpur, Nafar Academy	[2013] 5 CTC 547 Supreme Court	253	Supreme Court laid down detailed guidelines on condonation of delay

S.N.	CASE	CITATION	SECTION	GIST / IMPORTANT POINT FOR CONSIDERATION
424	Ajmeer Sherriff & Co	[2015] 61 taxmann. com 301 (Madras)/ [2015] 234 Taxman 168 (Madras)/[2015] 375 ITR 15 (Madras)	253	Delay not condoned for reasons that (i) allegation regarding ill-health of managing partner and multiple medical complications was bereft of details and every day's delay had not been explained, (ii) even if one of partners was not well, other partners could have taken steps to file appeal in time and (iii) assessee exhibited gross negligence/ procrastinating attitude
425	J.B. Advani & Co. (P.) Ltd	[1969] 72 ITR 395 (SC)	253	As application filed was completely barren of any explanation for delay, which had to be properly and satisfactorily explained, order of Commissioner was affirmed.
426	Shankar Appayya Govakar vs Nurudappa Basappa Mali And Ors	[1998] II (1998) ACC 575 Karnataka High Court	253(4), 254, 260A	Supporting the decree is not creating a situation of two conflicting decrees: To support means, an act to maintain something in itself and not an act to dislodge that thing. A finality is attached to the decree against which no appeal is filed. A challenge to a finding on the basis of which the decree has been passed without filing of any appeal or cross-objection may have the effect not of supporting the decree, but allowing a person, who has been negligent in the conduct of his case by neither filing the appeal nor cross-objection with limitation, to challenge the decree indirectly on the pretence of supporting the decree. This will have the effect of nullifying the provisions of

S.N.	CASE	CITATION		SECTION	GIST / IMPORTANT POINT FOR CONSIDERATION
					limitation, which is not the intention of the framers of law (paragraphs 16 and 18 of the decision)
427	Vama Apparels (India) P Ltd.	[2019] 102 taxmann.com 398 (Bombay)		253	Negligence of employee cannot be a cause for long delay: When an extraordinary delay (of 507 days) is sought to be condoned on the ground that ex-employee of assessee who received order of Tribunal put it in his drawer and left company without informing anybody and it was only about a month before filing of instant appeal when his substitute new employee found papers from drawer, it was held that there was no sufficient explanation for delay
428	Amarnath Reddy	[2010] 126 ITD 113 (Chennai)/ [2010] 132 TTJ 377 (Chennai) TM case		253, 37(1)	Tribunal is not precluded from considering a point arising out of an appeal merely because such a point had not been raised or urged by either party at earlier stage of proceeding
429	Godavari Devi Saraf	[1978] 113 ITR 589 (Bom)		254	A Tribunal constituted under a Statute has no jurisdiction to go into the question of constitutionality of the provisions of the Statute
430	N.R. Portfolio (P.) Ltd	[2019] 103 taxmann.com 17 (Delhi)		254	Forum Shopping not permissible: Assessee did not challenge order of ITAT either through appeal or through cross-objection. When High Court allowed revenue's appeal, it was not open to the assessee to seek rectification of Tribunal's order in appeal preferred by revenue

S.N.	CASE	CITATION	SECTION	GIST / IMPORTANT POINT FOR CONSIDERATION
				contending that since rejection of its cross-objection about validity of re-assessment notice was not on merits, Tribunal ought to consider that ground and revive cross-objections. Tribunal entirely mis-appreciated its jurisdiction of correcting apparent mistake. Strictures were passed by High Court in this case.
431	Bharat Biotech International Ltd	[2014] 48 taxmann.com 49 (Hyderabad - Trib.)/[2014] 33 ITR(T) 191 (Hyderabad - Trib.)/ [2014] 151 ITD 747 (Hyderabad - Trib.)/ [2015] 169 TTJ 148 (Hyderabad - Trib.)	254	When Revenue filed appeal and there was no appeal or cross objection by assessee but raised an issued applicability of legal provision (section 25(3)), Tribunal was bound to give findings on applicability of the said provision so as to prevent miscarriage of justice and to ensure substantial justice in relation to subject matter of appeal
432	Samsung Electronics Company Ltd vs Mr. Gyanji Choudhary	[2016] CS(OS) 1602/2006 dated 07/09/2016 of Bombay High Court	254	Extraordinary indulgence not to be granted to a party: The Court has already given enough indulgence to the plaintiffs. The counsel for the plaintiffs forgets that in the present days of Right to Information Act, the happenings, proceedings and the pendency of cases in the Court are there for all to demand and see. The issue of long delays in disposal of cases is today in public eye and is eroding the faith in the legal system of the country and which erosion can lead to disastrous consequences.

S.N.	CASE	CITATION	SECTION	GIST / IMPORTANT POINT FOR CONSIDERATION
433	Ravinder Kaur Vs. Ashok Kumar	[2003] 8 SCC 289	254	Raising a frivolous dispute to abuse the process of Court: When a frivolous dispute (in regard to the description or identity or boundary of the suit schedule property) is made as a bogey to delay the eviction by the abuse of the process of court, Courts of law should be careful enough to see through such diabolical plans of the judgment debtors to deny the decree holders the fruits of the decree obtained by them. Any error on the part of the judicial forum would encourage frivolous and cantankerous litigations causing large delay and bringing bad name to the judicial system.
434	Showa Corporation	[2018] 90 taxmann.com 349 (Delhi)	254	Departmental representative or assessee should not take repeated adjournments on dates of hearing of case
435	Dharti Dredging & Infrastructure Ltd	[2013] 38 taxmann.com 85 (Hyderabad - Trib.)	254	In garb of an application for rectification under section 254(2), assessee cannot be permitted to reopen and re-argue whole matter
436	Deepak Chhabra	[2006] 154 Taxman 215 (Delhi)/[2006] 203 CTR 102 (Delhi)	254	Judgment against a dead person is a nullity.
437	Amba Bai & Others Vs Gopal & Others	[2001] Appeal (civil) 4156 of 1998 dated 8 May, 2001 of Supreme Court	254	When appellant died during pendency of the appeal, and his legal heirs did not take any steps to prosecute the Appeal, the decree passed by the First Appellate Court is deemed to be final

S.N.	CASE	CITATION	SECTION	GIST / IMPORTANT POINT FOR CONSIDERATION
438	Ballarpur Industries Ltd	[2019] 104 taxmann.com 394 (SC)	254	As Tribunal is the last Court of appeal on facts, its finding on question of fact is of significance. If Tribunal did not correctly appreciate the reasoning of AO/CIT(A) in drawing respective conclusions, the matter has to be remitted back to Tribunal for fresh adjudication
439	Sunderji Lalji Bheda-HUF Sunderji Lalji Bheda-HUF	[2012] MA No.282/Mum/2012 In ITA No.2900/Mum/2010 of ITAT, Mumbai dated 28/09/2012	254	Rule 27 - It was open to a respondent in appeal who had not filed cross objection with regard to the portion of the order which had gone against him to urge in opposition to the appeal a contention which if accepted by the court would have necessitated the total dismissal of the appeal, but the order in so far as it was against him would stand. He may support the order on any ground decided against him. The respondent would be entitled to raise a new ground, provided it is a ground of law and does not necessitate any other evidence to be recorded, the nature of which would not only be a defence to the appeal itself, but may also affect the validity of the entire assessment proceedings. If the ground succeeds, the only result would be that the appeal would fail.
440	Hazarimal Nagji & Co	[1962] 46 ITR 1168 (Bombay)	254	The powers of the Appellate Tribunal are similar to the powers of the appellate court under the CPC. If a respondent only wants to maintain the decree of the lower court which is in his favour, he

S.N.	CASE	CITATION		SECTION	GIST / IMPORTANT POINT FOR CONSIDERATION
					is entitled to support it on fresh grounds and the appellate court also will have jurisdiction to permit him to do so, provided that the fresh grounds which he wants to urge do not require a further investigation into facts which are not already on record
441	R.S.S. Shanmugam Pillai & Sons	[1974] 95 ITR 109 (Madras)		254	Tribunal can straightaway reject additional evidence which is not quite relevant or not necessary for proper disposal of appeal
442	UOP LLC	[2007] 108 ITD 186 (Delhi)/[2007] 12 SOT 499 (Delhi)/ [2007] 110 TTJ 619 (Delhi)		254	There is no bar for revenue to produce any additional evidence suo motu before Tribunal under Rule 29
443	Hukumchand Mills Ltd	[1967] 63 ITR 232 (SC)		254	Rules 12 and 27 are not exhaustive of powers of Tribunal and are merely procedural in character which do not control or circumscribe power of Tribunal under the Act. In an appeal filed by the assessee, it is open for the Department to support the findings of CIT(A) on any of the grounds decided against it. ITAT can consider alternate plea of Revenue at any stage of appeal.
444	Brooke Bond India Ltd	[1991] 59 Taxman 82 (Cal)		254	Tribunal was right in not admitting assessee's additional ground as the claim was never made before lower authorities and it involved extensive factual inquiry

S.N.	CASE	CITATION		SECTION	GIST / IMPORTANT POINT FOR CONSIDERATION
445	Begum Noor Banu	[1993] 69 Taxman 565 (Andhra Pradesh)/[1993] 204 ITR 166 (Andhra Pradesh)/[1993] 115 CTR 448 (Andhra Pradesh)		254	Tribunal has no jurisdiction to grant relief on consideration of an additional ground raised before it by assessee for first time when the ground was related to an item of assessment which was not disputed at any earlier stage
446	S. Nelliappan	[1967] 66 ITR 722 (SC)		254	Tribunal has power to grant leave to urge grounds not set forth in memorandum of appeal, and in deciding appeal Tribunal is not restricted to grounds set forth in memorandum of appeal or taken by leave of Tribunal
447	L. Chandra Kumar	(1997) 3 SCC 261 (7 judge bench)		254	Tribunals shall not entertain any question regarding the <i>vires</i> of their own parent statutes following the settled principle that a Tribunal which is a creature of an Act cannot declare that very Act to be unconstitutional (paragraph 94 of the decision).
448	Mahalakshmi Textile Mills Ltd	[1967] 66 ITR 710 (SC)		254	There is no restriction on the Tribunal to limit to determination of questions raised before the departmental authorities. All questions whether of law or of fact which relate to the assessment of the assessee may be raised before the Tribunal.
449	B.R. Bamasi	[1972] 83 ITR 223 (Bombay)		254	Rule – 27: An assessee would be entitled to raise a new ground in an appeal filed by Department before Tribunal provided it is a ground of law and does not necessitate any other evidence to be recorded,

S.N.	CASE	CITATION	SECTION	GIST / IMPORTANT POINT FOR CONSIDERATION
				nature of which would not only be a defence to appeal itself, but may also affect validity of entire assessment proceedings. However, if the ground succeeds, only result would be that appeal would fail and Tribunal has no power to disturb or to set aside order in favour of Department against which appeal had been filed inasmuch as of assessee having not himself taken any proceedings to challenge order in appeal, Tribunal could not set aside order appealed against.
450	Andisamy Chettiar	[2015] CA 14055/2015 (Supreme Court) dated 08/12/2015	254	Rule 29 of ITAT Rules - The words "or for any other substantial cause" must be read with the word "requires", which is set out at the commencement of the provision, so that it is only where, for any other substantial cause, the appellate court requires additional evidence, that this rule would apply as noticed by the Privy Council in Kessowji Issue v. G.I.P. Rly. [ILR (1907-08) 31 Bom 381]
451	Ram Prasad Sharma	[1979] 2 Taxman 469 (Allahabad)/ [1979] 119 ITR 867 (Allahabad)	254	In a case of failure of assessee to produce evidence before the ITO despite repeated opportunities, the appellate authorities were justified in refusing to allow production of fresh evidence at the appellate stage and therefore they did not act arbitrarily or capriciously

S.N.	CASE	CITATION		SECTION	GIST / IMPORTANT POINT FOR CONSIDERATION
452	Kanniappan Murugadoss	[2017] 79 taxmann. com 244 (Chennai - Trib.)/[2017] 164 ITD 260 (Chennai - Trib.)		254	Mere fact that evidence sought to be produced is vital does not amount to a substantial cause for admission at appellate stage, especially when evidence was available to party at initial stage and was not produced by him
453	A K Babu Khan	[1976] 102 ITR 757 (Andhra Pradesh)		254	Rule 29 of ITAT Rules - a party guilty of remissness and gross negligence is not entitled to adduce additional evidence when he did not file evidence earlier even after ample opportunity
454	K. Venkataramaiah Vs. A Seetharama Reddy & Others	[1963] 1963 AIR 1526, 1964 SCR (2) 35		254	Substantial Cause: The appellate court has power to allow additional evidence not only if it requires such evidence "to enable it to pronounce judgment" but also for "any other substantial cause." There may be cases where even though the court finds that it is able to pronounce judgment on the state of the record as it is and so it cannot strictly say that it requires additional evidence "to enable it to pronounce judgment," it still considers that in the interest of justice something which remains obscure should be filled up so that it can pronounce its judgment in a more satisfactory manner.
455	Ram Siromani Tripathi	[2019] 102 taxmann. com 329 (SC)		254, 251, 143	Reason that Counsel of appellant was out of station could not be a ground to allow request for adjournment

S.N.	CASE	CITATION	SECTION	GIST / IMPORTANT POINT FOR CONSIDERATION
456	Ganjikunta Kishore Babu (HUF)	[2017] M.A. No. 85/ Hyd/2016 in ITA No. 839/Hyd/2015 of ITAT, Hyderabad dated 28/02/2017	254(2)	An order of the Tribunal reaches finality the moment it is passed. It cannot be touched thereafter. The scope of section 254(2) is limited and confined only to rectify mistakes which are apparent from record like clerical errors, grammatical or arithmetical mistakes or mistakes of like nature, which can be detected without any necessity to re-argue the matter or to reappraise the facts
457	Ideal Engineers	[2001] 118 Taxman 915 (Andhra Pradesh)/[2001] 251 ITR 743 (Andhra Pradesh)/[2001] 171 CTR 471 (Andhra Pradesh)	254(2)	No Review by Tribunal of its orders: When Tribunal rejected earlier two petitions of assessee on merits, impugned order amounted to reviewing its earlier order, which is beyond the scope of powers of Tribunal and the rectification order under section 254(2) was unsustainable
458	Sri Mathuradasji Ayodhyabai Rathi Charitable Trust	[2011] 13 taxmann. com 50 (Hyderabad)/ [2011] 47 SOT 501 (Hyderabad)	254(2)	Application u/s 254(2) cannot be filed even when the order of ITAT is on basis of a wrong conclusion. It is always endeavour of Tribunal that while passing order it considers all arguments as well as written synopsis submitted by parties
459	R. W. Promotions (P.) Ltd	[2015] 60 taxmann. com 58 (Bombay)/ [2015] 233 Taxman 125 (Bombay)/ [2015] 376 ITR 126 (Bombay)/ [2015] 277 CTR 401 (Bombay)	254(2)	Power of ITAT u/s 254(2) can be invoked by assessee/Revenue even when the order of Tribunal is challenged before High Court u/s 260A

S.N.	CASE	CITATION	SECTION	GIST / IMPORTANT POINT FOR CONSIDERATION
460	Srinivas Sashidhar Chaganty	[2017] 88 taxmann.com 883 (Hyderabad - Trib.)/[2017] 59 ITR(T) 100 (Hyderabad - Trib.)	254(2)	Section 254(2) refers to period of limitation reckoning from end of month in which order is 'passed' and not from 'date of receipt of order'
461	Madireddy Venkat Reddy	[2013] 38 taxmann.com 60 (Hyderabad - Trib.)	254(2)	Power to rectify a mistake under section 254(2) cannot be used for recalling entire order
462	Vertex Homes (P.) Ltd	[2014] 42 taxmann.com 445 (Hyderabad - Trib.)	254(2)	Power to rectify a mistake under section 254(2) cannot be used for recalling entire order as it would amount to review which is beyond scope of power of ITAT
463	Ecom Gill Coffee Trading (P.) Ltd	[2012] 23 taxmann.com 235 (Karnataka)/ [2012] 209 Taxman 190 (Karnataka)/ [2014] 362 ITR 204 (Karnataka)/ [2012] 252 CTR 281 (Karnataka)	254(2A)	Tribunal cannot extend interim order of stay beyond statutory period of 365 days
464	Maruti Suzuki (India) Ltd	[2014] 44 taxmann.com 166 (Delhi)	254(2A)	In view of third proviso to section 254(2A), Tribunal cannot extend stay beyond period of 365 days from date of first order of stay and the remedy for the assessee in such a case is the form Writ before High Court
465	Assistant Collector of Central Excise Vs Dunlop India Ltd	[1985] 1985 AIR 330, 1985 SCR (2) 190	254(2A)	Where matters of public revenue are concerned, it is of utmost importance that interim orders are not to be granted merely because prima facie case has been shown.

S.N.	CASE	CITATION	SECTION	GIST / IMPORTANT POINT FOR CONSIDERATION
				More is required. The balance of convenience must be clearly in favour of the making of an interim order and there should not be the slightest indication of a likelihood of prejudice to the public interest.
466	Kumar Cotton Mills (P.) Ltd	[2005] 2005 taxmann.com 752 (SC)/[2005] 180 ELT 434 (SC)	254(2A)	Stay beyond 365 days can be granted by Tribunal but we should not be understood as holding that any latitude is given to the Tribunal to extend the period of stay except on good cause and only if the Tribunal is satisfied that the matter could not be heard and disposed of by reason of the fault of the Tribunal for reasons not attributable to the assessee
467	Pepsi Foods (P.) Ltd	[2015] 57 taxmann.com 337 (Delhi)/ [2015] 232 Taxman 78 (Delhi)/[2015] 376 ITR 87 (Delhi)/ [2015] 277 CTR 470 (Delhi)	254(2A)	Where delay in disposing of appeal is not attributable to assessee, Tribunal has power to grant extension of stay beyond 365 days in deserving cases. SLP against the decision dismissed by Supreme Court as reported in [2017] 79 taxmann.com 251 (SC)/[2017] 246 Taxman 223 (SC) as infructuous as the main case itself was decided by ITAT but the question of law was kept open
468	Comverse Network Systems India (P.) Ltd	[2019] 103 taxmann.com 314 (SC)/[2019] 262 Taxman 99 (SC)	254(2A)	SLP filed against decision of High Court was dismissed as infructuous as main case was already decided by ITAT. (In its decision, High Court concluded that wherever appeal could not be decided by Tribunal

S.N.	CASE	CITATION	SECTION	GIST / IMPORTANT POINT FOR CONSIDERATION
				due to pressure of pendency of cases and delay in disposal of appeal was not attributable to assessee in any manner, interim protection of stay could continue beyond 365 days in deserving cases)
469	Doshi Accounting services P Ltd	[2019] 101 taxmann.com 62 (Ahmedabad - Trib.)(SB)/ [2019] 175 ITD 1 (Ahmedabad - Trib.) (SB)	254(2A)	While Hon'ble Courts have read down the provisions of Section 254(2A) extending the scope of stay beyond one year, on account of ground realities about delay in disposal of appeals without the fault of the assessee, this fact does not belittle or overshadow unambiguous intent of legislature for expeditious hearing in such cases
470	New Jehangir Vakil Mills Ltd	[1959] 37 ITR 11 (SC)	260A	High Court has to confine itself to the questions of law arising out of the order of ITAT: It is not open to High Court to raise new question and to require Tribunal to entertain fresh line of enquiry, hear parties in regard to same and record fresh finding of fact which would enable either assessee or Revenue to advance a case which had never been made by it before Income-tax authorities or Tribunal and which, therefore, could not be said to arise out of order of Tribunal
471	Softbrands India Pvt. Ltd.	[2018] 94 taxmann.com 426 (Karnataka)/ [2018] 406 ITR 513 (Karnataka)	260A, 92C	Picking of comparables for TP Adjustments, applying of filters, etc., do not give rise to any substantial question of law requiring interference under section 260A

S.N.	CASE	CITATION	SECTION	GIST / IMPORTANT POINT FOR CONSIDERATION
472	TIBCO Software India P Ltd.	[2019] 101 taxmann.com 296 (Bombay)/ [2018] 409 ITR 576 (Bombay)	260A, 92C	Transfer Pricing particularly with regard to exclusion and inclusion of certain comparables to determine Arm's Length Price (ALP) would not necessarily give rise to purely legal questions or substantial questions of law
473	Spinacom India (P.) Ltd	[2018] 97 taxmann.com 516 (SC)/[2018] 258 Taxman 128 (SC)	260A, 254	Time period for filing an appeal under section 260A does not get suspended on account of pendency of an application before Tribunal under section 254(2)
474	Sirpur Paper Mills Ltd	[1970] 77 ITR 6 (SC)	263	The power conferred by section 25 (of WT Act) is not administrative: it is quasi-judicial. The expression "may make such inquiry and pass such order thereon" does not confer any absolute discretion on the Commissioner. In exercise of the power the Commissioner must bring to bear an unbiased mind, consider impartially the objections raised by the aggrieved party, and decide the dispute according to procedure consistent with the principles of natural justice; he cannot permit his judgment to be influenced by matters not disclosed to the assessee, nor by dictation of another authority.
475	Puja Synthetics Pvt Ltd	[2018] ITA. No. 440/JP/2017 of ITAT, Jaipur dated 09/03/2018	263	Where the AO shuts his eyes and the PCIT discovers the glaring discrepancies leading to non-satisfaction of cardinal test of identity, creditworthiness and genuineness of the transactions

S.N.	CASE	CITATION		SECTION	GIST / IMPORTANT POINT FOR CONSIDERATION
					<p>during the course of his examination of records, there is no infirmity or illegality in him exercising his revisionary jurisdiction u/s 263 of the Act. (This is a case where information was received from Investigation Wing that the assessee company has taken accommodation entries from Praveen Jain, an entry operator).</p>
476	Kumar Rajaram	<p>[2016] 67 taxmann. com 110 (Chennai - Trib.)/[2016] 157 ITD 772 (Chennai - Trib.)/ [2016] 178 TTJ 168 (Chennai - Trib.)</p>		263	<p>Role of AO: Unlike the Civil Court which is neutral in giving a decision on the basis of evidence produced before it, the role of an AO is not only that of an adjudicator but also of an investigator. He cannot remain passive in the face of a return, which is apparently in order but calls for further enquiry. He must discharge both the roles effectively. The arbitrariness in decision-making would always need correction regardless of whether it causes prejudice to an assessee or to the State Exchequer. While making an assessment, the ITO has a varied role to play. He is the investigator, prosecutor as well as adjudicator. His duty to act fairly requires that when he enquires into a substantial matter like the present one, he must record a finding on the relevant issue giving, howsoever briefly, his reasons therefor. If the Assessing Officers are allowed to make assessments in an arbitrary manner, as has been done in the instant case, the administration</p>

S.N.	CASE	CITATION	SECTION	GIST / IMPORTANT POINT FOR CONSIDERATION
				of revenue is bound to suffer. If without discussing the nature of the transaction and materials on record, the Assessing Officer has made certain addition to the income of the assessee, the same would be considered erroneous by any appellate authority as being violative of the principles of natural justice which require that the authority must indicate the reasons for an adverse order. There is no reason why the same view should not be taken when an order is against the interests of the revenue. As a matter of fact such orders are prejudicial to the interests of both the parties, because even the assessee is deprived of the benefit of a positive finding in his favour, though he may have sufficiently established his case.
477	Varanasi Khanta Rao	[2015] 59 taxmann. com 175 (Andhra Pradesh)/[2015] 234 Taxman 454 (Andhra Pradesh)/[2015] 377 ITR 602 (Andhra Pradesh)	263	Once Commissioner has got power to point out errors which have effect on revenue, Tribunal cannot sit as an appellate authority on said order of Commissioner passed under section 263
478	Venus Woollen Mills, Ludhiana	[2019] 105 taxmann. com 287 (Punjab & Haryana)/[2019] 412 ITR 188 (Punjab & Haryana)	263	Note by AO that books were verified without actually checking correctness of books: When AO did not apply mind to correctness of books of account but made a note that books of account were produced and test checked revisional order passed u/s 263 was upheld

S.N.	CASE	CITATION	SECTION	GIST / IMPORTANT POINT FOR CONSIDERATION
479	Amitabh Bachchan	[2016] 69 taxmann. com 170 (SC)/[2016] 240 Taxman 221 (SC)/[2016] 384 ITR 200 (SC)/[2016] 286 CTR 113 (SC)	263	What is required u/s 263 is an opportunity of hearing to the assessee. There is no specific requirement for issue of a mandatory show cause notice affecting the initiation of the exercise in the absence thereof or requiring the Commissioner to confine himself to the terms of the notice and foreclosing consideration of any other issue or question of fact.
480	Dawjee Dadabhoy & Co	[1957] 31 ITR 872 (cal)	263	Prejudicial to the interests of the Revenue: The words are not defined but it must mean that the orders or assessment challenged are such as are not in accordance with law, in consequence whereof the lawful revenue due to the State has not been realized or cannot be realised. It can mean nothing else.
481	Virbhadra Singh (HUF)	[2017] 86 taxmann. com 113 (Himachal Pradesh)/[2017] 251 Taxman 150 (Himachal Pradesh)/ [2018] 400 ITR 530 (Himachal Pradesh)/ [2017] 298 CTR 393 (Himachal Pradesh)	263	When the AO accepted the revised returned income and completed the assessment without any inquiry, Commissioner was well within his power under section 263 to direct fresh assessment
482	Shoreline Hotel (P) Ltd.	[2018] 98 taxmann. com 234 (Bombay)	263, 69C	Where on basis of information received from Sales Tax authorities, Assessing Officer found that assessee was beneficiary of bogus purchase bills and assessee could not produce any material purchased

S.N.	CASE	CITATION		SECTION	GIST / IMPORTANT POINT FOR CONSIDERATION
					by it nor it could ensure presence of supplier, Assessing Officer was unjustified in limiting addition under section 69C on basis of GP ratio
483	Orissa Rural Housing Development Corpn Ltd	[2012] 17 taxmann.com 186 (Orissa)/ [2012] 204 Taxman 673 (Orissa)/ [2012] 343 ITR 316 (Orissa)/[2012] 247 CTR 137 (Orissa)		264, 246A	Remedy available to an assessee under section 264 is an alternative remedy, who does not want to avail remedy by way of appeal and assessee is not permitted to pursue both remedies either simultaneously or one after another
484	S. V. Angidi Chettiar	[1962] 44 ITR 739 (SC)		271(1)(c)	Satisfaction before conclusion of the assessment proceeding under the Act, and not the issue of a notice or initiation of any step for imposing penalty is a condition for the exercise of the jurisdiction.
485	Madhusudanan K P	[2001] 118 Taxman 324 (SC)/[2001] 251 ITR 99 (SC)/[2001] 169 CTR 489 (SC)		271(1)(c)	By virtue of the notice under section 271 the assessee is put to notice that if he does not prove that his failure to return his correct income was not due to fraud or neglect, he shall be deemed to have concealed the particulars of his income or furnished inaccurate particulars thereof and, consequently, be liable to the penalty. There is no need for specific invocation of the Explanation to section 271 while issuing the notice
486	Sheraton apparels	[2002] 123 Taxman 238 (Bombay)/ [2002] 256 ITR 20 (Bombay)/[2002] 175 CTR 651 (Bombay)		271(1)(c)	Diaries seized during search cannot be regarded as books of account maintained by assessee as contemplated under Explanation 5 to section 271(1)(c) for recording source of income

S.N.	CASE	CITATION	SECTION	GIST / IMPORTANT POINT FOR CONSIDERATION
487	Earthmoving Equipment Service Corporation	[2017] 84 taxmann. com 51 (Mumbai - Trib.)/[2017] 166 ITD 113 (Mumbai - Trib.)/ [2017] 187 TTJ 233 (Mumbai - Trib.)	271(1)(c)	<p>Mere non-ticking of the relevant clause in notice would not invalidate the penalty proceedings:</p> <p>The penalty was initiated for furnishing of inaccurate particulars but in the notice, the relevant clause has not been ticked off. However, from the quantum order it is seen that the AO clearly initiated the penalty proceedings, after due deliberation, for furnishing of inaccurate particulars which shows due application of mind qua penalty proceedings. Section 292B comes to the rescue of the revenue in such a case as in substance and effect the notice was in conformity with the intent and purpose of the act.</p>
488	Sundaram Finance Ltd	[2018] 93 taxmann. com 250 (Madras)/ [2018] 403 ITR 407 (Madras)	271(1)(c)	<p>Plea that the notice was defective because the ground on which penalty proceedings are initiated is not evident from the notice:</p> <p>After recording a finding that the relevant columns are marked, the Hon'ble Court held the assessee had at no earlier point of time raised the plea that on account of a defect in the notice, they were put to prejudice. All violations will not result in nullifying the orders passed by statutory authorities. If the case of the assessee is that they have been put to prejudice and principles of natural justice were violated on account of not being able to submit an effective reply, it would be a different matter. This was never the plea of the assessee either before</p>

S.N.	CASE	CITATION	SECTION	GIST / IMPORTANT POINT FOR CONSIDERATION
				<p>the Assessing Officer or before the first Appellate Authority or before the Tribunal or before this Court when the Tax Case Appeals were filed and it was only after 10 years, when the appeals were listed for final hearing, this issue is sought to be raised. Thus on facts, it could be safely concluded that even assuming that there was defect in the notice, it had caused no prejudice to the assessee and the assessee clearly understood what was the purport and import of notice issued under Section 274 r/w, Section 271 of the Act. Principles of natural justice cannot be read in abstract and the assessee, being a limited company, having wide network in various financial services, should definitely be precluded from raising such a plea at this belated stage. By claiming depreciation on machinery which either did not exist or was never supplied, the assessee had not only concealed particulars of its income, but had also furnished inaccurate particulars of income. SLP against this decision was dismissed by Supreme Court as reported in [2018] 99 taxmann.com 152 (SC)/[2018] 259 Taxman 220 (SC).</p>
489	MAK Data (P) Ltd.	[2013] 38 taxmann.com 448 (SC)/[2013] 358 ITR 593 (SC)/ [2013] 263 CTR 1 (SC)	271(1)(c)	<p>Voluntary disclosure does not release assessee from mischief of penal proceedings under section 271(1)(c)</p>

S.N.	CASE	CITATION	SECTION	GIST / IMPORTANT POINT FOR CONSIDERATION
490	Vandana Gupta	[2018] 92 taxmann. com 229 (Delhi)	271(1)(c)	Mere voluntary offer of a sum during survey in absence of any explanation for source of income, invites concealment penalty when original return was silent about said sum
491	Ajay Jain	[2013] 32 taxmann. com 270 (Delhi - Trib.)/[2013] 21 ITR(T) 41 (Delhi - Trib.)/[2013] 57 SOT 64 (Delhi - Trib.) (URO)	271(1)(c)	Where surrender is only after detection of concealment by AO, there is failure on part of the assessee to discharge initial onus laid down penalty is confirmed
492	Kaushalya	[1994] 75 Taxman 549 (Bombay)/ [1995] 216 ITR 660 (Bombay)	271(1)(c)	Rules of natural justice cannot be imprisoned in any straight-jacket formula. For sustaining a complaint for failure of principles of natural justice on the ground of absence of opportunity, it has to be established that prejudice was caused to the concerned person by procedure followed. The issuance of notice is an administrative device for informing the assessee about proposal to levy penalty in order to enable him to explain as to why it should not be done. Mere mistake in the language used or mere non-striking off of inaccurate portion could not by itself invalidate the notice. Entire factual background would fall for consideration in the matter and no one aspect would be decisive.

S.N.	CASE	CITATION	SECTION	GIST / IMPORTANT POINT FOR CONSIDERATION
493	Madhusudhanan K P	[2002] 125 Taxman 265 (Kerala)/ [2000] 246 ITR 218 (Kerala)/[2001] 165 CTR 353 (Kerala)	271(1)(c)	Explanation of assessee for purpose of avoidance of penalty must be an acceptable explanation and it should not be a fantastic or fanciful one
494	Dharamendra Textile Processors	[2008] 174 Taxman 571 (SC)/[2008] 306 ITR 277 (SC)/[2008] 219 CTR 617 (SC)	271(1)(c)	The Explanations appended to section 271(1)(c) entirely indicate the element of strict liability on the assessee for concealment or for giving inaccurate particulars of income while filing return. The penalty under that provision is a civil liability. Willful concealment is not an essential ingredient for attracting civil liability, as is the case in the matter of prosecution. It is a well-settled principle, in law, that the Court cannot read anything into a statutory provision or a stipulated condition which is plain and unambiguous. A statute is an edict of the Legislature. The language employed in a statute is the determinative factor of the legislative intent.
495	Palki Investments & Trading co P Ltd.	[2016] 71 taxmann.com 322 (Bombay)/ [2016] 288 CTR 473 (Bombay)	271(1)(c), 41(1)	Reflecting a non-existent liability as an existing liability and not offering same to tax amounted to furnishing inaccurate particulars of income
496	Shriya Bhupal	[2018] 95 taxmann.com 230 (Andhra Pradesh)	281	Petitioner's contention that revenue should go to Civil Court to get a declaration in terms of section 281(1) was not borne out of scheme. The entire burden to show that the transfer falls within the two clauses of the proviso to sub-section (1) of

S.N.	CASE	CITATION	SECTION	GIST / IMPORTANT POINT FOR CONSIDERATION
				Section 281 is upon the assessee. It is up to the assessee under the amended provision, to go to the Civil Court and establish that his case falls under the proviso.
497	Premium Capital Market & Investment Ltd.	[2006] 151 Taxman 194 (Madhya Pradesh)/[2005] 275 ITR 260 (Madhya Pradesh)/[2005] 198 CTR 680 (Madhya Pradesh)	282, 254	Irregular service of notice: Assessee cannot raise the plea of irregular service for the first time before ITAT that too through additional ground, after participating in proceedings, contesting issue on merits but not raising any objection on invalidity or illegality or irregularity of service of said notice by affixture either before AO or the CIT(A)
498	Uday Shankar Triyar	[2005] 1 SCC 75	292B	Non-compliance with any procedural requirement relating to a pleading, memorandum of appeal or application or petition for relief should not entail automatic dismissal or rejection, unless the relevant statute or rule so mandates. Procedural defects and irregularities which are curable should not be allowed to defeat substantive rights or to cause injustice. Procedure, a hand-maiden to justice, should never be made a tool to deny justice or perpetuate injustice, by any oppressive or punitive use
499	B.N. Bhattacharya	[1978] 112 ITR 423 (Calcutta)	292B	In a case where proper and substantial efforts were made to find the person and serve the notice, it could not be said that the notice is not served properly.

S.N.	CASE	CITATION	SECTION	GIST / IMPORTANT POINT FOR CONSIDERATION
				In the instant case, that notices for the subsequent years and previous years had been served by registered post and these had been accepted. The process server stated that he went on two different dates at two different places but he could not find the respondent nor get any information about the time and place where the respondent could be found.
500	Sudev Inudstries Ltd	[2018] 94 taxmann.com 373 (Delhi)/ [2018] 256 Taxman 317 (Delhi)/[2018] 405 ITR 325 (Delhi)	292B, 148	Improper service of notice: Assessee challenged validity of reassessment proceeding on ground that service of notice by Inspector at factory premises on security guard was not proper service under provisions of section 282(2). The plea of improper service of notice was raised for first time before Tribunal, where as one of the directors of the assessee appeared before the AO in response to notice issued under section 148. It was held that section 292B would apply to the case and assessment proceedings could not be regarded as invalid for want of proper service of notice. SLP against this decision is dismissed as reported in [2018] 99 taxmann.com 109 (SC)
501	Sinkaram Chettiar	[2018] I.T.A. Nos.368 -373/ Coch/ 2017 dated 02/08/2018	292B, 271(1)(c)	Defective service of notice: When the issue that notice u/s 274 is defective was not at all raised by the assessee on an earlier occasion and the assessee has duly appeared before the lower authorities

S.N.	CASE	CITATION	SECTION	GIST / IMPORTANT POINT FOR CONSIDERATION
				and participated in the penalty proceedings, the assessee cannot have any grievance before ITAT on this issue
502	Syamal Baran Mondal	[2011] 11 taxmann. com 236 (Calcutta)/ [2011] 200 Taxman 107 (Calcutta)/ [2011] 244 CTR 631 (Calcutta)	292B, 271(1)(c)	Section 271 no where mandates that recording of satisfaction about concealment of assessee's income must be in specific terms and words. Satisfaction of Assessing Officer must reflect from order either with expressed words recorded by Assessing Officer himself or by his overt act and action
503	Laxman Das Khandelwal	[2019] 108 taxmann. com 183 (SC)	292BB	If the assessee had participated in the proceedings, by way of legal fiction, notice would be deemed to be valid even if there be infractions as detailed in said Section. The scope of the provision is to make service of notice having certain infirmities to be proper and valid if there was requisite participation on part of the assessee. It is, however, to be noted that the Section does not save complete absence of notice. For Section 292BB to apply, the notice must have emanated from the department. It is only the infirmities in the manner of service of notice that the Section seeks to cure. The Section is not intended to cure complete absence of notice itself.

S.N.	CASE	CITATION		SECTION	GIST / IMPORTANT POINT FOR CONSIDERATION
504	Akashdeep Vs Manpreet Estates LLP, Mum	[2019] 105 taxmann. com 187 (PBPTA - AT)		2(9), 24	Prohibition of Benami Properties Act: Onus of proving a benami transaction rests on shoulders of I.O. who is making charge and such burden has to be strictly discharged based on legal evidence
505	Ahmedabad Manufacturing and Calico Printing Co. Ltd	[1963] 48 ITR 154 (SC)		Amendment, retrospective effect	Amendment to take effect from the date on which it comes into force: The date on which the amendment comes into force is the date of the commencement of the amendment. Under ordinary circumstances, an Act does not have retrospective operation. But this rule is not unalterable. The legislature may affect substantial rights by enacting laws which are expressly retrospective or by using language which has that necessary result. When this happens the provisions thus made retrospective, expressly or by necessary intendment, operate from a date earlier than the date of commencement and affect rights which, but for such operation, would have continued undisturbed
506	Roshan Di Hatti	[1977] 107 ITR 938 (SC)		Burden of Proof	The onus of proving the source of a sum of money found to have been received by an assessee is on him. If he disputes the liability for tax, it is for him to show either that the receipt was not income or that if it was, it was exempt from taxation under the provisions of the Act. In the absence of such proof, the revenue is entitled to treat it as

S.N.	CASE	CITATION		SECTION	GIST / IMPORTANT POINT FOR CONSIDERATION
					taxable income. where the nature and source of a receipt whether it be of money or of other property, cannot be satisfactorily explained by the assessee, it is open to the revenue to hold that it is the income of the assessee and no further burden lies on the revenue to show that income is from any particular source.
507	Syed Abdulkhader vs Rami Reddy & Ors	[1979] 1979 AIR 553, 1979 SCC (2) 601		Document	A document will be considered as a whole for interpretation of particular words or directions. An ordinary authority given in one part of the instrument will not be cut down because there are ambiguous and uncertain expressions elsewhere.
508	Baban Singh Vs Jagdish Singh	[1966] 1967 AIR 68, 1966 SCR (3) 552		False Evidence	The definition of the offence of giving false evidence applies to the affidavits. When the appellants made declarations in their affidavits which were tendered in the High Court to be taken into consideration they intended the statements to appear in evidence, and so appearing, to cause the court to entertain an erroneous opinion regarding the compromise Their offence came within the words of ss. 191/192 of Indian Penal Code and 479-A of CrPC

S.N.	CASE	CITATION		SECTION	GIST / IMPORTANT POINT FOR CONSIDERATION
509	Om Prakash Mittal	[2005] 143 Taxman 373 (SC)/[2005] 273 ITR 326 (SC)/[2005] 194 CTR 97 (SC)		Fraud and Misrepresentation to obtain decision	If revenue has material to show that order was obtained by fraud or misrepresentation of facts, it certainly can move the authority passing the order (in this case Settlement Commission) for decision on that issue and it cannot be called by any stretch of imagination to be review of earlier judgement or subsequent Bench sitting in appeal over earlier Bench's decision
510	American Hotel and Lodging Association Educational Institute	[2007] 158 Taxman 146 (Delhi)/[2007] 289 ITR 46 (Delhi)/ [2006] 206 CTR 601 (Delhi)		Interpretation	When the object of provision is to plug in leakage and prevent evasion of tax, a construction which would defeat and obliterate it from the statute book should be eschewed. If two constructions are possible, then the one that would preserve its workability and efficacy is to be preferred to one which will render it otiose. The courts will have to reject that construction which will defeat the plain intention of the Legislature, even though there may be some inexactitude in the language used.
511	Ravi Agrawal Vs Union of India	[2019] 101 taxmann.com 70 (SC)		Judicial Power	Court cannot give a direction to Parliament to amend or make a statutory provision in a specified manner; Court can only determine, in exercise of its power of judicial review, as to whether such a provision passes muster of Constitutional Scheme. UOI to have a relook into this provision by taking into consideration all the,

S.N.	CASE	CITATION		SECTION	GIST / IMPORTANT POINT FOR CONSIDERATION
					aspects including those highlighted by the Court in the judgment, and explore the possibility of making suitable amendments.
512	Andhra Cements Co. Ltd	[1998] 101 Taxman 559 (Andhra Pradesh)/[1998] 232 ITR 364 (Andhra Pradesh)/[1999] 152 CTR 270 (Andhra Pradesh)		Law applicable for A.Y	Act as it stands amended on the first day of April of any financial year must apply to the assessment, and any amendments in the Act which come into force after the first day of April of a financial year, would not apply to the assessment for that year, even if the assessment is actually made after the amendments come into force.
513	Karimtharuvi Tea Estate Ltd	[1966] 60 ITR 262 (SC)		Law applicable for A.Y	Income-tax Act, as it stands amended on the first day of April of any financial year must apply to the assessments of that year. Any amendments in the Act which come into, force after the first day of April of a financial year, would not apply to the assessment for that year, even if the assessment is actually made after the amendments come into force.
514	Rama Shanker	[2005] 144 Taxman 917 (Allahabad)/ [2005] 277 ITR 69 (Allahabad)		Law applicable for A.Y	Law as stands on first day of assessment year is applicable unless and until any amendment made in Act or notification issued therein is specifically made applicable from an anterior date
515	State of Punjab v. Surinder Kumar	[1992] 194 ITR 434 (SC)		Precedent	Precedent is a judicial decision which contains in itself a principle. A decision is available as precedent only if it decides a question of law

S.N.	CASE	CITATION		SECTION	GIST / IMPORTANT POINT FOR CONSIDERATION
516	Ambika Prasad Mishra v. State of U.P	[1980] AIR 1980 SC 1762		Precedent	Every new discovery or argumentative novelty cannot undo or compel reconsideration of a binding precedent. In this view, other submissions sparkling with creative ingenuity and presented with high-pressure advocacy, cannot persuade us to reopen what was laid down for the guidance of the nation as a solemn proposition by the epic fundamental rights case
517	Assistant Collector Central Excise Vs Dunlop India Ltd	[1985] 1985 AIR 330, 1985 SCR (2) 190		Precedent	In the hierarchical system of Courts which exists in our country it is necessary for each lower tier, including the High Courts to accept loyally the decisions of the higher tiers. The better wisdom of the Court below must yield to the higher wisdom of the Court above. The label per incuriam is relevant only to the right of an appellate court to decline to follow one of its own previous decisions, not to its right to disregard a decision of a higher appellate court or to the right of a judge of the High Court to disregard a decision of the Supreme Court
518	Godavari Devi Saraf	[1978] 113 ITR 589 (Bom)		Precedent	An Authority like Tribunal acting anywhere in country has to respect law laid down by High Court, though of different State, so long as there is no contrary decision of any other High Court on that point.

S.N.	CASE	CITATION		SECTION	GIST / IMPORTANT POINT FOR CONSIDERATION
519	Prashanti Medical Services & Research Foundation	[2019] 107 taxmann. com 382 (SC)		Prom- issory Estoppel	Constitutional validity of any provision and especially taxing provision cannot be struck down on a plea based on equity or/and hardship to taxpayers. A plea of promissory estoppel is not available to an assessee against the exercise of legislative power and nor any vested right accrues to an assessee in the matter of grant of any tax concession taxing provision cannot be struck down on a plea based on equity or/and hardship to taxpayers. A plea of promissory estoppel is not available to an assessee against the exercise of legislative power and nor any vested right accrues to an assessee in the matter of grant of any tax concession
520	Fibre Boards (P.) Ltd	[2015] 62 taxmann. com 135 (SC)/[2015] 376 ITR 596 (SC)/ [2015] 279 CTR 89 (SC)		Repeal/ Omission	'repeal' can be through 'omission' also and section 24 of the General Clauses Act applies in such cases and the 'omitted' provision would continue
521	Venkateswara Hatcheries (P.) Ltd	[1999] 103 Taxman 503 (SC)/[1999] 237 ITR 174 (SC)/[1999] 153 CTR 105 (SC)		Repeal/ Omission	It is a very well recognized rule of interpretation of statutes that where a provision of an Act is omitted by an Act and the said Act simultaneously re-enacts a new provision which substantially covers the field occupied by the repealed provision with certain modification, in that event such re-enactment is regarded having force continuously and the modification or changes are treated as

S.N.	CASE	CITATION		SECTION	GIST / IMPORTANT POINT FOR CONSIDERATION
					amendment coming into force with effect from the date of enforcement of re-enacted provision.
522	Raja Bahadur Visheshwara Singh	[1961] 41 ITR 685 (SC)		Res Judicata	There is no such thing as res judicata in income-tax matters.
523	Distributors (Baroda) (P.) Ltd	[1985] 22 Taxman 49 (SC)/[1985] 155 ITR 120 (SC)/[1985] 47 CTR 349 (SC)		Reversal of own decision	There may be circumstances where public interest demands that the previous decision be reviewed and reconsidered. The doctrine of stare decisis should not deter the Court from overruling an earlier decision, if it is satisfied that such decision is manifestly wrong or proceeds upon a mistaken assumption in regard to the existence or continuance of a statutory provision or is contrary to another decision of the Court.
524	Badridas Kothari vs Meghraj Kothari	[1967] AIR 1967 Cal 25		Wager - Section 30 - Indian Contract Act	Wager is not an enforceable contract: where the circumstances as to contracts for sale, purchase, and delivery of goods are such as to warrant the legal inference that the parties never intended any actual transfer but only to pay or receive differences, the contracts must be deemed to be by way of wager. A wager is not enforceable u/s 30 of the Indian Contract Act



**INCOME TAX DEPARTMENT
ANDHRA PRADESH & TELANGANA**